Failure Foreseeable and Foreseen:
An Analysis of the Limitations and Failings of the British Policy-Making Process; with reference to the 1991 Child Support Act

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Abstract

The 1991 Child Support Act is seen as one of the most controversial and notorious policy failures in Britain, being described as *'the most incompetent and inhuman agency ever set up by a British government'* (Ingrams, 1997). Its first year in operation was marked by administrative chaos, error, and failure. This thesis will demonstrate that this failure was 'foreseeable' and 'foreseen'. This thesis is both an examination of the British policy-making process, and the 1991 Child Support Act. Analysis focuses primarily on policy formation, assessing the reasons behind why policy-makers pursued certain actions, and ultimately how a foreseeable and foreseen policy failure was able to gain cross-party support.

It examines the role of power, imbalance of resources, and inter-Departmental and inter-Ministerial battles. Parliamentary processes, together with a detailed assessment of Parliamentary discussions, are also addressed. The existence of dual origins, and the role of 'policy transfer', or as this thesis argues, 'incoherent dual-policy transfer' are examined. The thesis re-introduces the stages approach as an appropriate framework for examining policy-making in general, and analysing policy failure in particular. It draws on evidence gained through interviews, official documents, unpublished consultation responses, Parliamentary debates, and materials from pressure groups and think-tanks, as well as academic literature.

Examination of the policy formation process shows that the Child Support Act had two separate paths of origin. These conflicting origins led to 'incoherent dual-policy transfer', whereby the policy pursued by Newton and Mackay was undermined by Thatcher and the Treasury. It also demonstrates that the Bill's flaws were magnified by ineffective legislative process. It ends by illustrating the roots behind the 1991 Child Support Act's failure, and the ultimate failings of the British policy-making process. The larger implications for these findings is the presentation of the idea of 'perfect legislation', which shows us what leads to, and thus provides a criteria for avoiding, policy failure.

Acknowledgements

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Chapter One – Research Design, Intellectual Justification, and Literature Review

1.1 Introduction

The overriding aim of this chapter is to provide the intellectual basis and methodological approach for our study of the policy making process of the 1991 Child Support Act. The approach taken in our case study emphasises the need for an understanding of the field of policy analysis and its plethora of methods, frameworks and models. Throughout this chapter we explicitly state and justify our research design: an interpretivist approach presented within the stages framework or heuristic. The thesis is anchored in 'critical realism' in that it acknowledges the tradition of behaviourism within political science, yet believes that it is important to also capture the 'unobservable' power dynamics that are at play within the political system. This chapter surveys and assesses the literature in the field of policy analysis from its origins to the present day. It then turns to the literature inside the field, mapping a history of policy analysis, discussing the developments within the field and addressing the various debates between scholars, particularly regarding attempts at creating an overarching theory and 'concrete' knowledge. It then discusses the various approaches to policy analysis before stating the approach taken in this thesis.

It then moves to the prime focus of this chapter: the stages heuristic. It introduced the framework, accounting for its position in the field, before examining the criticisms that the approach has been subject to by various academics. It then rebuts many of these criticisms and argues that the 'stages heuristic' has not outlived its use in policy analysis. This thesis argues that its usage allows a multi-theory and multi-method approach, therefore providing a multi-dimensional insight into policy analysis. It ends by introducing the case study and reviewing the literature on the 1991 Child Support Act and Child Support Agency, before outlining the scope and research design of the thesis, placing particular emphasis on how it will utilise the stages heuristic.

1.2 Approaches to Policy Analysis

Before we engage in our study, it is important to define our approach to what is generally termed 'policy analysis'. This allows us to highlight the way that policy analysis is addressed in this thesis, to indicate what literature it will be drawing upon, and stress the purpose of the study. Lasswell stated that within policy analysis, there are two 'separable though entwined frames of reference': *knowledge of policy and the policy process* and *knowledge in the policy process* (1970, 3). This distinction has remained in policy analysis, yet has largely been re-termed and advanced by

Gordon, Lewis and Young (1977). They point towards a typology of seven classifications of policy analysis, which fall under the category of 'analysis *of* policy' or 'analysis *for* policy'. These distinctions are clearly illustrated in **Figure 1.1:**

| Study of Policy Content | Study of the Policy Process | Study of policy outputs | Evaluation | Information for Policy Making | Process Advocacy | Policy Advocacy |

Analyst political actor   Political actor as analysis

Analysis of Policy
(Knowledge *of* policy and the policy process)

Analysis for Policy
(Knowledge *in* policy and the policy process)
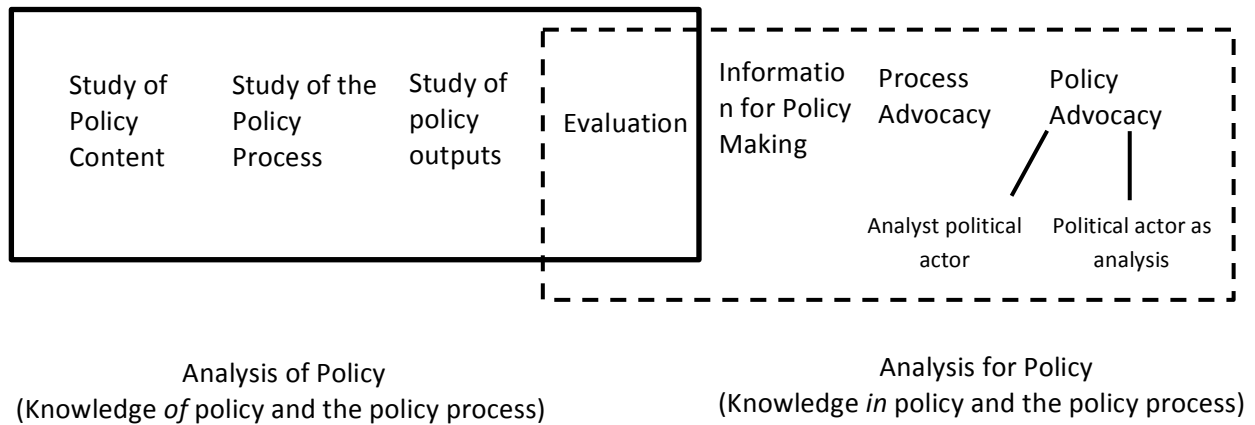
Figure 1.1. Types of study of public policy-making (adapted from Hogwood and Gunn, 1981)

This study is concerned with three elements. Firstly assessing the process by which the policy was made, looking at the actions taken by various actors and institutions at each stage; secondly providing an understanding of how a policy whereby failure was foreseeable and foreseen was able to obtain cross-party support, and lastly; highlighting what lessons about our policy-making process we can draw from this (**'information for policy making'** and **'process advocacy'**). Although our main focus is a **'study of the policy process'**, we are inescapably required to also study the **'policy content'**, as the latter is the result of the former (Ham and Hill, 1993, 9). Whilst frequently insightful, analysis of policy content, which focuses on the origins, objectives, operation and impact of a policy, remains highly descriptive and detached (Hogwood and Gunn, 1984, 26). We also acknowledge that an understanding of '**policy outputs'** is also required, to assess where the policy process allowed the passage of a failed policy, we need to address the policy's outputs in order to assess its failure. Therefore we believe that we cannot disregard insights that can be obtained through these classifications. Yet this thesis's approach moves beyond merely describing the content and outputs of the policy, and instead aims at providing a conceptualised understanding of the process by which it was made.

Therefore this thesis does not situate itself under the category of 'analysis *of* policy' nor 'analysis *for* policy' (as highlighted in **Figure 1.1**). Whilst it notes the practicality of the separation, it instead views the above seven typologies, and two categories, as entwined, and the separation

artificial. Instead it suggests that the field of policy analysis should be reconnected, as the below figure suggests (**Figure 1.2**).

Policy Analysis

Figure containing: Study of Policy Content | Study of the Policy Process | Study of policy outputs | Evaluation | Information for Policy Making | Process Advocacy | Policy Advocacy | Analyst political actor | Political actor as analysis

Analysis **of** Policy
(Knowledge *of* policy and the policy process)

Analysis **for** Policy
(Knowledge *in* policy and the policy

Figure 1.2. Reconnecting the study of policy analysis

Figure 1.1 suggests that the only unifying section is evaluation, instead the approach adopted in this thesis suggest that there is, and in most cases should be, overlap between all seven categories. Whist separation is a useful visual tool, the study of policy analysis, in the view taken by this thesis, is that of both 'analysis of policy' and 'analysis for policy'. The field of policy analysis should use its knowledge of policies, and policy-making process, to improve the policy-making process and/or the policies. This thesis uses a study of the policy process, drawing on policy content and policy outputs, to gain information for policy-making. What this thesis does not attempt to do is enter the realm of policy advocacy. Whilst our study does contain normative and prescriptive ideas regarding the policy-making process, it does not contain normative ideals regarding child maintenance policy.

1.3. Theories and Models in the Field of Policy Analysis: An Overview

1.3.1.   Brief History of the Field of Policy Analysis

This section provides a brief overview of the history of the field or policy analysis. Tracing the origins and development of the field enables us to understand the methodologies utilised, the conceptual changes that have occurred and the developing approaches to theory-building within the field.

The origins of public policy analysis which focused primarily upon the policy process can largely be linked to four scholars: Harold Lasswell, David Easton, Charles Lindblom, and Herbert Simon (Parsons, 1995, 21). Each of these scholars promoted the creation of the field and authored influential works that provided the foundations of the field, and remain highly influential in policy analysis today. It is therefore important to provide an overview of their work.

Lasswell is commonly seen as the founder of the field having originally pioneered much of its work. Certainly his influence on the development of policy analysis has been vast. Lasswell called for an approach that was multi-method, multi-discipline, problem-orientated, and which was concerned with mapping the contextuality of the policy process, policy options, and policy outcomes (1951, 1956, 1970, 1971). Lasswell advocated the creation of a sub-field that was not confined by disciplinary or methodological boundaries, but instead utilised whatever approach appeared appropriate in order to gain both knowledge *of* and knowledge *in* the policy process. In his 1956 book *The Decision Process,* Lasswell proposed the 'stages approach' as a conceptual map to aid policy analysis – an approach which many suggest remains the predominant paradigm in policy analysis research.

Simon also produced one of the most influential and far-reaching theories in policy analysis, that of 'bounded rationality' (1957, 1982); a theory that is deemed influential across various disciplines. Simon approaches policy analysis in a similar vein to that of Lasswell, by breaking the decisions process into a sequence of stages. However he argued that rational thinking was the key component driving the policy process. Easton's contribution is also highly significant, and frequently referred to in the introduction of most textbooks on policy analysis. Easton's (1953, 1965) 'black box' model focused on conceptualising the relationship between external inputs and policy out-puts in the policy process. Lindblom (1959, 1968, 1979) rejected the approaches put forward by Lasswell, Easton, and Simon and instead suggested that the policy process could best be conceptualised by an act of 'muddling through'. Lindblom rejected the view that rationalism was the driving force of policy making and that we could divide the policy process into stages, instead suggesting that we view the process in terms of 'incrementalism'. Alongside Lasswell's 'stages approaches', Lindblom's 'incrementalism' can be seen as one of the most influential approaches in policy analysis.

Following on from the pioneering work by the 'four founders' of the field, policy analysis soon saw contributions by scholars such as: Jones (1970), Dye (1972), Anderson (1975), Jenkins (1978), Rhodes (1979) and Wildavsky (1979). However, although there appeared to be a newly devoted field to the study of policy analysis, Hill argues that little of the work during the period

between 1950 and 1980 focused on gaining an *academic* understanding of the policy process (2009, 6). As Hill commented: 'the desire to examine how the policy process works was in many respects a minor concern' (2009, 6). Instead this period was dominated by works of prescription, rather than description, with scholars focusing on stating how the process could be improved rather than undertaking an academic inquiry into studying how it operates in practice. This thesis suggests that the field of policy analysis moved to the other extreme, academic inquiry void of suggestions of how the system could improve. Referring back to the earlier **Figure 1.1**, work was concerned with 'analysis of policy' but ignored 'analysis for policy'. This thesis utilizes, and advocates, a merger of the two approaches, cultivating knowledge to develop real world application.

The field's prescriptive tendencies can be seen to have emerged largely as a result of the external economic and social circumstances of the time. As the new and fragile field was emerging in post-war America it quickly saw itself absorbed into President Lyndon B. Johnson's 'War on Poverty' (deLeon, 1998). Rather than being a means to cultivate knowledge, policy analysis was quickly deemed a mechanism to solve society's problems. Hill argues that this period was dominated by the assumption that policy solutions could be found to remedy social problems if policy analysts used rational and empirical techniques to tackle policy design difficulties (2013, 6). Hill goes on to argue: 'only a minority – radical analysts on the 'Left' who doubted that modern governments really had the will to solve problems, and radical analysts on the 'Right' who were sceptical about their capacity to do so – raised doubts and suggested that more attention should be paid to the determinants of policy decisions' (2013, 6).

It was not until the early 1980s, with work such as Ham and Hill's *The Policy Process in the Modern Capitalist State* (1983), that the field of policy analysis began to concentrate fully on knowledge *of* policy and the policy process (Hill, 2013, 6). The 1980s saw a move towards the academic pursuit of understanding the nature of the policy process. Rather than seeking to solve policy problems directly, academics began to advocate the development of knowledge *of* the policy process that in turn would provide insights which could be developed to create successful policies. The field expanded with the development of theories such as: Institutional Rational Choice (Ostrom, 1986, 1990; Moe, 1984), Advocacy Coalition Framework (Sabatier & Jenkins-Smith, 1988, 1993), Multiple Streams (Kingdon, 1984; Zahariadis, 1992, 1995, 1999), and Punctuated Equilibrium (True, Jones, & Baumgartner, 1999; Baumgartner & Jones, 1993). However these approaches largely focused on analysing, but then predicting, the policy process; many of the theories were then applied to case studies to be empirically tested, hence falling under the positivist paradigm by attempting to search for causal theories.

Yet it can also be suggested that it was not until the 1990s that the field of policy analysis actually started to embrace Lasswell's vision of a multidisciplinary and multi-methodological approach. As Fischer states: 'In contrast to the multidisciplinary methodological framework of Lasswell, the field has been shaped by a more limiting methodological framework derived from the neo-positivist/empiricist methods that dominated the social sciences of the day' (2003, 4). A review of the literature in the field of policy analysis has demonstrated that it is largely dominated by a positivist paradigm, a factor that has indeed limited our understanding of public policy and the policy process.

Since the late 1980s, and more particularly the 1990s, there has been an expansion of a vast array of literature and research that has managed to break out of the restricting paradigm of positivism, with scholars such as Fischer and Forester (1993), Schön and Rein (1994), Roe (1994), Schneider and Ingram (1997), Fischer (1998), Hajer (2003), and Brunner (1991) developing post-positivist, constructivist and post-modern perspectives. These works move beyond the restrictions of positivism and instead embrace the importance of values, interpretation, and discourse. As deLeon and Martell argue, this approach to policy analysis was developed in response to the field's shortcomings in analysis and provided a more effective way of 'dealing with diverse, interconnected, value-laden policy issues' (2006, 55). This strand was based on a more encompassing epistemological perspective that rejected the belief that empiricism was the only valid form of knowledge, and also moved away from utilising theories to identify causal mechanisms.

1.3.2 Theories and Models in the Field of Policy Analysis

Before we look at the plethora of theories and approaches within policy analysis and the central arguments surrounding them, we need to acknowledge the complex nature of public policy. There are a number of factors that shape and influence policies; as Anderson emphasises, 'there is not a single process by which public policies are formed. They do not come off an assembly line as do automobiles or television sets' (1994, 36). These factors are often complex in nature and coalesce to imbue separate policies with their own distinct traits. The policy area is one such factor: different fields of policy produce variations in policy making styles, and these variations impact on which theoretical models provide the most useful explanatory framework. Typically each area of public policy, be it foreign policy, economic policy, environmental policy or social policy, has distinct processes, involving different actors, norms, procedures, techniques, and resources. In each policy process, actors are involved that hold different positions, character traits and personalities. Different actors impact on the policy process in their own idiosyncratic manner. For example a Transport

Minister with a strong viewpoint on High Speed Rail is more likely to have a greater impact on the shape of a policy in that field than a minister with little interest in the subject. Other actors, such as Civil Servants, may also bring their own operational methods to policy formation: for example conducting consultations with interest groups A, B and C which may produce a different outcome than if consultations had been with groups D, E and F. The motivations of actors must also be examined to see what effect they have on the policy outcome: ten different actors in a policy process may have ten separate motives or objectives for being involved. We need to note the impact of actors' personalities on the policy making process as well as their operational styles. Both styles and personalities are frequently dictated by an actor's political leaning, the impact of power, the degree of resources available to the individual, the position of the government, political relationships and economic, social and international circumstances.

We must also examine circumstances unique to that policy, including degree of path dependency, impact of a department upon the policy and the degree of consultation undertaken. If we take into consideration the range of variables involved in the policy-making process in different policy sectors we begin to see how difficult it is to create or choose an appropriate theory that is able to encompasses the variety and complexity of all the above.

Since the origins of the sub-field of public policy analysis, social and political scientists have developed a variety theories and models to explain the policy process. The field now enshrines a rich array of theories, models, approaches, metaphors, and concepts from numerous disciplines (Parsons, 1995, 64). Some examples of these include:

- **Stagist Approaches:** Approaches which view the policy process as a series of stages, (for example, Lasswell, Simon, Easton, Jones, Anderson, Hogwood and Gunn)
- **Pluralist-elitist Approaches**: Approaches which focuses on the distribution of power amongst actors and its impact on polices (for example, Dahnl, Bachrach and Baratz, Cobb and Elder, Schattnsneider, Lukes, and Crenson)
- **Socio-economic Approaches**: Approaches that focus on the impact of economic and social conditions on the formation of policies (for example, Wilensky, Hofferbert, and Downs)
- **Policy Discourse Approaches:** Approaches which focus on an analysis of language (For example, Fischer and Forester, Stone, Edelman, Rein and Schön)
- **Neo-corporatist/Institutionalist Approaches:** Approaches which focus on the subsystem within the process (for example, Richardson and Jordon, Heclo, Smith, Rhodes, Baumgartner and Jones, Sabatier and Jenkins-Smith)

Each of these approaches, whilst highly insightful and often relevant, either provides specific lenses through which to view the world, or limit its analysis to one aspect of the policy process. In Allison's (1971) novel study of the Cuban Missile Crisis, he highlighted the impact of placing different approaches onto a particular case study and demonstrated that there was no single best approach. As Jenkins states, 'the nature of the policy problem is such that a variety of approaches are required to deal with the complexity of the process' (1978, 20).

The use of a single approach lacks the multi-dimensional aspect needed in policy analysis, restricting our insight to a contained area leading to a partial account, and tainting our understanding by only highlighting those factors that fit inside that approach or theory (Cairney, 2007, 46). We need to acknowledge that each approach provides a separate focus and contains an idiosyncratic strength in explaining certain phenomena in certain instances (Anderson, 1975, 25). Yet they are not catch-all approaches that should be in competition with one another. As Dye notes we need to avoid falling into the trap of relying upon a single approach or theory. Although often a particular policy appears to lend itself to explanation by a single approach, most, if not all, policies are best understood as a combination of theories and approaches (1978, 20). Therefore we 'should not permit oneself to be bound too rigidly or too dogmatically to a particular model' (Anderson, 1975, 25). It can be argued that some academics within the field of policy analysis have indeed made the error of dogmatically advocating a theory or model of their choice. Here they have mistaken the main purpose of policy analysis and replaced the pursuit of explanation and insight with attempts to validate a particular model or theory: their objectives have become misplaced.

In recent years, several scholars have urged for a move away from a use of mid-range theories in pursuit of an integrated, comprehensive theory (Parsons, 1995, 184). Sabatier argued that there was a need to search for 'better theories', whilst John (1999) stated that we need to create a 'synthesised approach'. However this desire to move towards a synthesised approach has largely restricted itself to operate inside the limited realms of positivist methodology. As John states, 'most of all, the researcher needs a framework or a theory to make sense of the policy process <u>as a whole</u>' (1999, 37). Many academics (see for example Sabatier and Jenkins-Smith (1999), John (1999), and Parsons (1995)) have pointed towards four approaches that embodied this desire to create a comprehensive or "synthesised" approach: Punctuated Equilibrium, Advocacy Collation Framework, Multiple Streams, and Network Approaches. These four approaches are labelled synthetic as they bring together much of the research already existing within mid-range theories and models, especially drawing on the work on institutions, networks, socio-economic process, choices, and ideas

(John, 1999). Acknowledging the limitations of previous work, they embrace several mid-range theories and models and move towards what Sabatier termed 'better' theories.

Yet to think that one theory could embrace the depth and complexity of all mid-range theories to create a comprehensive theory is as naïve as thinking that one of the above theories can alone explain the entire policy process. As Anderson states, 'given the diversity and complexity in policy making processes, the development of some sort of 'general theory' which has broad explanatory power is an unrealistic aspiration' (1994, 34). No one theory or model can capture the complexity involved in what Easton term the 'web of decision' (Easton, 1953, 130). It is neither possible nor desirable to develop a unified theory of the entire policy process. If we are however lucky enough to stumble across it we would discover that it is too general and broad and that it would in fact not provide us with any valuable insight. This thesis instead endorses a move away from striving towards 'better', over-arching theories, and instead utilise Lasswell's stages approach as a tool to embrace the wealth of knowledge that has been acquired by mid-range theories. This does not mean that we simply reject models such as the Advocacy Coalition Framework and Multiple Streams; rather we suggest that they can be utilised within the stages heuristic (which we demonstrate in our case study) rather than being an alternative to it. This Chapter will now turn to an in-depth look at the stages approach.

1.4. Stages and Cycles: A Framework of the Policy Process

Although no originality is claimed by any one academic for the stages approach, it can be traced back to over half a century ago. In 1956, in his seminal work *The Decision Process,* Harold Lasswell identified the seven 'stages' of the 'decision process':

- Intelligence
- Promotion
- Prescription
- Invocation
- Application
- Termination
- Appraisal

Lasswell proposed that the use of a conceptual map 'must provide a guide to obtaining a generalistic image of the major phases of any collective act' (Lasswell, 1971, 28). Here Lasswell

provided the basis for arguably the most dominant concept and model within public policy. Since 1956 the stages, or cycle, approach has been the basis for extensive research development within public policy. Whilst Lasswell's original formation appeared somewhat abstract, couched in system theory terms, and detached from the world of institutes and actors (Nakumura, 1987), it nevertheless provided the foundations for subsequent development by numerous scholars. Throughout the 1970s and the 1980s, Lasswell's 'conceptual map' was adapted and advanced by various alternatives proposed by scholars who made it more amenable to practical application and increased its association with institutional actors. (see, Mack, 1971; Rose, 1973; Brewer, 1974; Anderson, 1975; May and Wildavsky 1978; Jenkins, 1978; Brewer and Deleon, 1983). Hogwood and Gunn advanced the categories proposed by Lasswell by identifying the following stages: deciding to decide, deciding how to decide, issue definition, forecasting, setting objectives and priorities, options analysis, policy implementation, evaluation and review, and lastly policy maintenance, succession and termination (1984, 4).

While there remain various typologies of the stages approach, this thesis's application of the framework to the Child Support Act will utilise the operationalised typology of:

- Problem Definition
- Agenda Setting
- Policy Formulation
- Legislative Stage
- Implementation
- Operation
- Evaluation
- Reform[1]

This thesis immediately acknowledges that the policy-making process is often not a rigid, linear activity therefore presents the stages approach as cyclical. This more accurately depicts the fluidity and integration between the stages, and the existence of feedback loops within the cycle. As we will see in our case study of the 1991 Child Support Act it is important to view the process as a cycle.

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[1] This study does not assess the Evaluation or Reform stages due to the parameters of the thesis.

Figure 1.3. The Cycle of Policy Making
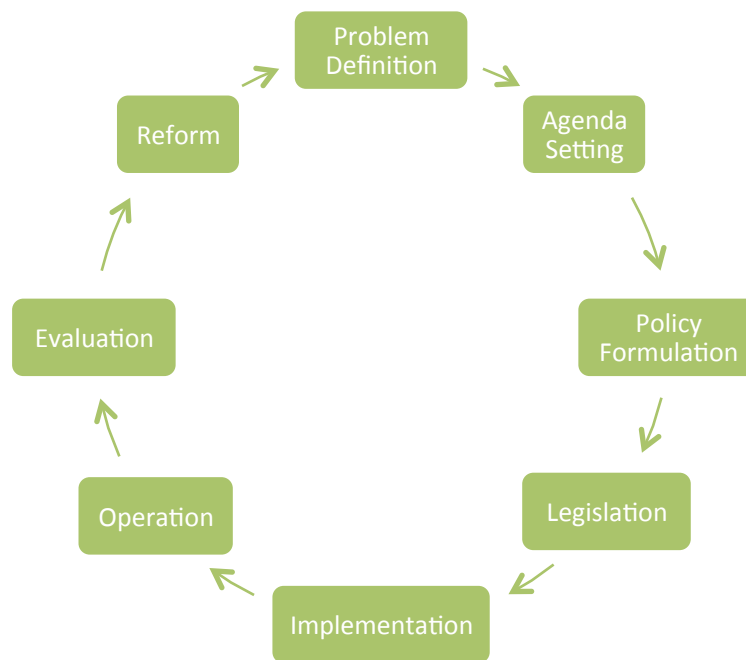
We argue that the above provides a conceptual understanding of the policy process which is fundamental in order to undertake further analysis. By using the 'conceptual map', or framework, we are able to explore the policy process in greater depth. Whilst fully accepting that certainly there are overlaps between each stage, and, indeed, that not all policies adhere to the logical-flow indicated above, each stage does contain distinct characteristics, procedures, institutes and actors (deLeon, 1999, 21) that warrant their separation.

The significance of the stages approach, or as Sabatier labels it the 'stages heuristic,' (1999) is vast, not only as a device to study the development of individual polices but also as it encouraged an entire generation of research inside the individual stages (deLeon, 1999, 21). The stages framework provided a starting point around which future research, literature, and theories were organised. As a result, this has led to the development of a considerable volume of influential work, particularly relevant to particular stages:

- **Problem Definition**: Fischer, F. and Forester, J. (1993) *The Argumentative Turn in Policy Analysis and Planning*; Schön, D. A. & Rein, M., (1994): *Frame Reflection: Toward the Resolution of Intractable Policy Controversies*; Rochefort D. A., and Cobb, R.W. (Eds.) (1994) *The Politics of Problem Definition*; Fischer, F. (2003) *Reframing Public Policy: Discursive Politics and Deliberative Practices*; Dery, D. (1984), *Problem Definition in Policy Analysis*.; Spector, M. and Kitsuse, J.I. (1977) *Constructing Social Problems.*

- **Agenda Setting**: Kingdon, J. (1995) *Agendas, Alternatives and Public Policies*; Cobb, R.W. and Elder, C.D., (1971) 'The Politics of Agenda-Building: An Alternative Perspective for Modern Democratic Theory', *Journal of Politics*, 33: 892-915; Cobb, R.W. and Elder, C.D., (1972) *Participation in American Politics: The Dynamics of –Agenda-Building*; Nelson, B.J. (1984) *Making an Issue of Child Abuse*; Cobb, R.W., Ross, J.K. and Ross, M.H. (1976) 'Agenda Building as a Comparative Political Process', *American Political Science Review*, 70: 126-38.

- **Policy Formulation**: Rose, R. (1991) 'What Is Lesson-Drawing?', *Journal of Public Policy*, 11,1, 3-33; Rose, R. (1991) *Lesson-Drawing in Public Policy: A Guide to Learning Across Time and Space*; Dolowitz, D. and Marsh, D. (1996) 'Who Learns What from Whom: a Review of the Policy Transfer Literature', in *Political Studies*, vol. 44, 343–57; Dolowitz, D. and Marsh, D. (2000) 'Learning from Abroad: the Role of Policy Transfer in Contemporary Policy-Making', in *Governance*, vol. 13 (1), 5-24; Rhodes, R.A.W. and Dunleavy, P. (Eds.), (1995) *Introducing the Core Executive in Prime Minister, Cabinet and Core Executive.*

- **Legislation**[2]: Norton, P. (1993) *Does Parliament Matter*; Dunleavy, P. (1995) 'Policy Disasters: Explaining the UK's Record' in *Public Policy and Administration*, June 1995, 10: 52-70.

- **Implementation**: Hill, M. and Hupe, P. (2009) *Implementing Public Policy*; Pressman, J.L. and Wildavsky, A. (1984) *Implementation;* Mazmanian, D.A. and Sabatier, P.A. (eds) (1981) *Effective Policy Implementation*; Barrett, S. M. and Fudge, C. (1981b) *Policy and Action: Essays on the Implementation of Public Policy*; Hjern, B. (1982) 'Implementing Research: The Link Gone Missing', *Journal of Public Policy*, 1 (3): 301-8; Hjern, B. and Hull, C. (1982) *Implementing Research as Empirical Constitutionalism.*

- **Evaluation**: Fischer, F. (1995) *Evaluating Public Policy;* Rossi, R. Lipsey, M. W. and Freeman, H. (1979, 1993) *Evaluation: A Systematic Approach*; Palumbo, D.J. (1987) *The Politics of Program Evaluation; Public Policy and Program Evaluation*; Vedung, E. (2008) *Public Policy and Program Evaluation.*

The stages approach provides an effective way to conceptualise complex and elaborate political phenomena. Through emphasising the separate stages, as opposed to individual institutes such as the government or civil service or attempting to utilise a single theory, it provides a basis for us to disaggregate the policy process in such a way that it becomes amenable to more detailed analysis (Hill, 2009, 142). For decades the stages approach remained the dominant method not only to

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[2] Legislation studies appears to be a gap in the literature, this is something that we will address in Chapter Six, which looks at the legislative stage.

conduct public policy research but also to analyse individual polices. However by the late 1980s several scholars led the rejection of the approach, claiming that it had outlived its place in policy analysis and needed to be removed.

1.4.1. The Attack on the Stages Approach

Nakamura (1987), Sabatier (1988, 1991), Sabatier and Jenkins-Smith (1993, 1999), and John (1999) are four of the most severe critics of the stages approach. Their criticisms suggested that the 'stages heuristic' was misleading, seriously limited as a basis for research and prevented scientific progress. Throughout this section we will discuss the critique held amongst scholars towards the 'stages heuristic'.

Sabatier and Jenkins-Smith (1993, 1-4) set out six major criticisms of the stages approach. We will utilise their criticisms in our defence of the approach as they encompasses those most widely voiced by scholars who reject the approach.

1. *"The stages model is not really a causal model at all."*
2. *"The stages model does not provide a clear basis for empirical hypothesis testing."*
3. *"The stages heuristic suffers from descriptive inaccuracy in posing a series of stages…"*
4. *"The stages metaphor suffers from a built-in legalistic, top-down focus."*
5. *"The stages metaphor inappropriately emphasizes the policy cycle as the temporal unit of analysis."*
6. *"The stages metaphor fails to provide a good vehicle for integrating the roles of policy analysis and policy orientated learning throughout the public policy process."*

1.4.2. A Defence of the Stages Approach

Certainly we cannot deny that the stages approach is not without its limitations. Yet a large proportion of the criticism placed upon the stages approach is unjustified, inappropriate, and often naïve. Sabatier and Jenkins-Smith's focus on a 'scientific' pursuit has ensured that their criticisms of the stages approach have become drenched in overtly blinkered positivist epistemology. Their detachment from the intentions and strengths of the stages approach has allowed them to create a set of criticisms which are not applicable to the approach; they in fact attack a straw man, as will become evident if we examine each of Sabatier and Jenkins-Smith's criticisms in turn:

"The stages model is not really a causal model at all."

Sabatier and Jenkins-Smith criticise the stages approach for failing to identify a set of causal drivers. They approach and evaluate the stages model as a causal theory, although they themselves label it the "stages heuristic", not a causal theory. This is the underlying root of each of Sabatier and Jenkins-Smith's criticisms, as well as the stark error in their attack. Scholars who author, utilise and defend the stages approach have never purported that the stages approach was a theoretical model (deLeon, 1999, 24). The stages approach does not adhere to be an all-embracing theory of the policy process, but instead constitutes a framework that allows us to analyse the complexity of reality and the multiplicity and complexity of the policy making process and politics (Hogwood and Gunn, 1984, 4), but only with the proviso that we deploy it accurately, namely as a heuristic device (Parsons, 1995, 80). Just as we should not utilise the stages approach outside its realms, we should not assess the stages heuristic outside of its realms as do Sabatier and Jenkins-Smith. This overlaps with their next criticism, which is that:

"The stages model does not provide a clear basis for empirical hypothesis testing."

Sabatier and Jenkins-Smith's main shortcoming here is their narrow use of empirical theory (e.g. attempting to generate hypotheses that produce prediction) (deLeon, 1995, 24). The empiricist epistemology embedded in their criticism perceives the purpose of policy analysis to be that akin to natural science. They focus on the pursuit of prediction rather than insight (an emphasis on explanation rather an understanding), therefore confining themselves to a narrow form of knowledge. As Brunner stated, 'the purpose of the policy sciences as a 'science' is to realise more of the potential for free choice through the sharing of insight; the purpose is not prediction' (1991, 80-81). Sabatier and Jenkins-Smith are allowing their empiricist epistemology to act as an academic straightjacket. The above criticism cannot, in effect, be placed onto the stages model. As stated above, advocates of the stages model (as well as its various architects) are aware that the heuristic device is not suitable to formal hypothesis testing or prediction (deLeon, 1995, 24). A model should not be criticised for not doing something that it never intended to do; the criticism is therefore invalid.

Although the stages model is criticised for its inability to generate hypothesis testing, we need to note that hypothesis testing itself within the field of policy analysis can be seen as an unrealistic and often inappropriate task. The political world is rarely appropriate for effective hypothesis testing. As John rightly states, 'it is almost impossible to find experimental conditions to

uncover the exact relationships between political variables' (1999, 11). John also argues that while association and correlation are often easy to identify, and appear to be explanatory, it 'can in fact be spurious because they are caused by some other factor not accounted for or impossible to measure' (1999, 11). Sabatier and Jenkins-Smith ignore this, instead advocating perceived confirmation over gathering accurate insight. The notion of generating a testable hypothesis is symptomatic of the researcher's positivist/empiricist epistemology; therefore the criticism is misplaced, in light of a constructivist/interpretivist perspective.

"The stages heuristic suffers from descriptive inaccuracy in posing a series of stages…"

This is a criticism propagated by many scholars, not restricted to Sabatier and Jenkins-Smith (see for example Lindblom and Woodhouse, 1968; Nakamura, 1987). Whilst placing policy-making into a series of stages may appear to understate a reality that is frequently more complex, fluid and chaotic, it is not an unreasonable or impractical way to understand the process (Anderson, 1996, 39; Parsons, 1995, 81). As deLeon observes (1998), too often the policy process is viewed as a seamless web of public policy transactions. There is great benefit and accuracy in viewing the policy process as a seamless web of activity; however the idea can be overplayed. While there is certainly overlap between the stages, we cannot ignore the existence of certain concrete fractions that a policy goes through, for example the legislative stage. Although policy formation and problem definition still occurs at the legislative stage, it does contain distinct features that oblige we utilise distinct areas of research. As Dorey states 'the fact that policy making is frequently complex or messy actually makes it even more useful to provide a simplified model that identifies some of the constituent elements of "the policy process", precisely so that the complex or messy reality can begin to be understood' (2005, 6).

In analysing public policy, we need to be able to organise our ideas and concepts. If we simply approached the policy process as a seamless web of actions without defined points or discrete stages, we risk becoming lost and limiting our insight. Due to the complexity of the real world, and the nature of politics and policy-making, we need methods to simplify the multiplicity of factors involved, and the stages heuristic provides these. Of course, when using such models we need to acknowledge their limitations. This thesis is not suggesting that the entire policy process can be reduced to neat stages but rather it is a device to be utilised to order our analysis.

Parsons (1995, 60-1) emphasizes this point superbly when he points to the use of Beck's model of the London Underground map. The London Underground map is an example of a

simplification of a highly complex system which is used as a useful tool of exploration; the stages model should be seen in the same light. Furthermore, just as we cannot criticise the London Underground map for not providing a tourist with information on how to locate tube stations on the surface, we cannot criticise the stages approach for failing thoroughly to explain the policy process. Just as Beck's model should not be used as a street-level map, stages should not be used as a theoretical explanation of the policy process.

"The stages metaphor suffers from a built-in legalistic, top-down focus."

Utilised on its own, the stages model does produce a 'built-in legalistic, top-down focus'. Yet this again is only when it is deployed incorrectly as a theory rather than used as a heuristic device. As Parsons argues, 'on its own the simple policy cycle is as inadequate a tool as its critics suggest' (1995, 81). However, we need to reiterate that this is not a stand-alone critique of the policy making process. When deployed appropriately, the stages model becomes far more wide-ranging than a mere list of stages. Instead it allows us to place particular emphasis on the context of problems, role of values, role of power, impact of institutions and importance of all actors, by providing a conceptual mapping tool that researchers can use to apply various models, theories, concepts, and explanations. If we utilise the stages model in this way, the above criticism becomes void. For example within the stages approach we can utilise much of the work that has been evolved by academics such as Hjern (1982), Hjern and Hull (1982), and Barrett and Fudge (1981a, 1981b, 1981c) on bottom-up implementation studies that focuses on the importance of street-level bureaucrats and the integration between policy formation and implementation. We will demonstrate that this is particularly true in our case study of the 1991 Child Support Act.

We need to emphasize (as we did at the outset) that the stages approach should be viewed, and typically is, as a cycle; this moves us away from a hierarchical approach and deflects the criticism. It does not enforce a hierarchical understanding, for example, it can be used to understand policies that have been enacted top-down, as well as adequately explain policies that have derived from public protest and through consultation. The flexibility of the stages approach allows us to use it as we wish.

"The stages metaphor inappropriately emphasizes the policy cycle as the temporal unit of analysis."

Here Sabatier and Jenkins-Smith claim that the stages approach is limited because it takes us down a very restricted linear path. Yet just because the stages are listed in a certain order, and the institutional analysis suggests they take place in order, does not mean they in reality are sequential. The stages approach is better viewed as a cycle and should not be viewed as finite. A use of the stages approach, as a way to order themes, does acknowledge that the stages can interact and overlap, as well as varying in degree of sequence and does not necessarily have a clear end point. It depends on the policy, the system, the context, and the individuals.

Sabatier and Jenkins-Smith can also be seen to criticise the stages approach for failing to acknowledge that policy making occurs within multiple levels of government and often with interacting cycles (Parsons, 1995, 7). While different levels of government certainly have their own time-frames and agendas, they do not operate independently. While it may be the case, for example, where different levels engage in problem definition at differing times, the policy itself can still be seen to operate in an overall general cycle. Once government begins to act on an issue, other levels of government get incorporated into the process. Therefore it allows us to look deeper at relationships between the multiple levels of government and various external actors involved in the process. For as Hogwood and Gunn claim, the stages approach lends itself 'to the identification and study of interactions, not only among the various stages in the process but also among various participating organisations' (1984, 25).

"The stages metaphor fails to provide a good vehicle for integrating the roles of policy analysis and policy orientated learning throughout the public policy process."

This criticism is largely confined to Sabatier and Jenkins-Smith, and links heavily with their advocated alternative, the Advocacy Coalition Framework (ACF). ACF holds that policy orientated learning is central to the understanding of policy change. Although we do not deny that the role of policy orientated learning is an important factor in the policy process, we argue that it is only one of the factors that drives policy change. Policy making is not simply a rational action whereby policy makers modify their stance based solely on knowledge and insight. This criticism can also be viewed as self-serving; they are simply stating what their ACF approach does, and inappropriately criticises the stages approach for not doing so. Although we argue that policy orientated learning, an ACF

approach, is not always the driving force for change and adaption, nevertheless we acknowledge its utility and can be explored with in the stages approach.

Whilst depicted as a cycle, the stages approach does allow us clearly to demonstrate instances of feedback, and learning that occur throughout the process. As illustrated in Figure 1.3:

Figure 1.4. Feedback in the Policy Cycle
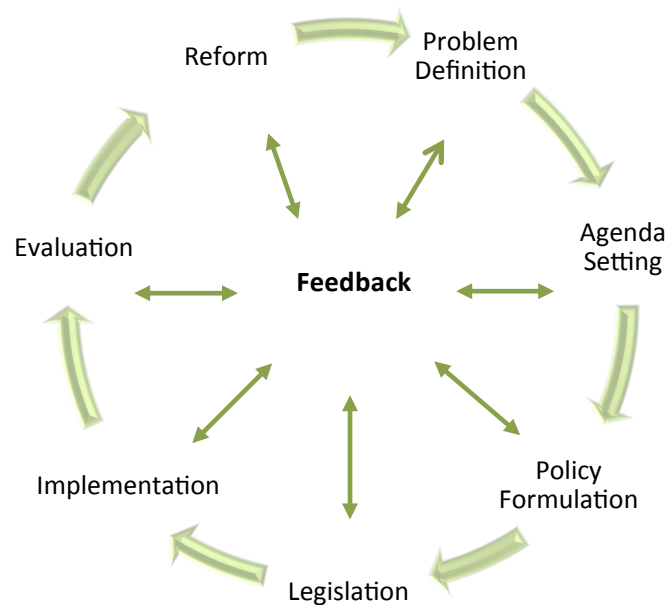
For example, it allows us to demonstrate that experience acquired at either the legislative stage or implementation stage may result in policy makers redefining the issue or re-setting objectives. As Hogwood and Gunn suggest, the stages approach allows us to see policy making through a continuous film rather than still photographs (1984, 24); thus the approach is not as rigid as its critics like to suggest.

1.4.2.1 Conclusion: a Rebuttal of the Criticisms

The potential root of the misdirected/unjust criticism of the stages approach is a fundamental misunderstanding as to what it claims to do, in particular the epistemological attacks by Sabatier *et al*. If one takes the stages approach as epistemology, providing the limits of where valid knowledge and data can emerge, then these criticisms are deserved. However, if we instead see the cycle as highlighting the realm or world which should be studied, where policy making takes place – stages as ontology – then these criticisms unravel.

1.4.3 Has Policy Analysis Outlived the Stages Approach?

In Sabatier and Jenkins-Smith's leading book *Theories of the Policy Process* (1993), they assert that the stages heuristic has outlived its usefulness and that we need to search for what they term 'better theories'. This assertion was contained in the criticisms which we rebutted above. They argue that the field of policy analysis can be advanced by adopting a multiple-lens strategy whereby academics compare and test the strengths and limitations of each theoretical lens. Yet the proposed lenses that Sabatier and Jenkins-Smith advocate are limited to ones within the positivist/empiricist paradigm: effectively they allow us to choose any lens, as long as it falls within a range of shades of their choosing. We should also note that what they are also doing is playing one theory or framework off against another as a zero-sum scenario, rather than acknowledging the contribution to knowledge that each makes. As Dye rightly stated, we need to move away from viewing theories in competition with each other (1978, 7). One reviewing the literature on the policy process could easily become absorbed and lost within the vast fields of theoretical warfare; there seems to be a preoccupation with defending or challenging theories, while producing insights seems to have taken a backseat for many academics.

Given the vast array, and detailed nature, of frameworks and models that are available to enhance our understanding, we need a heuristic device to comprehend the complexity of the process and thus allow us to utilise these analytical tools. As Simon (1957) rightly professed, there are cognitive limits to human rationality and therefore a need to reduce complex processes into manageable sections. This does not reduce the overall insight that one is able to gather, rather it allows us to increase and sustain our deep analysis. As stated above, we cannot always address the policy process as a seamless web of integrated actions, if we are to do so we are at great danger of losing depth and insight. We should avoid a search for an overarching theory as advocated by scholars such as John (1999), Sabatier (1999) and Lindblom and Woodhouse (1993), and instead pursue a multi-theory, multi-model approach (Cook, 1985).

The strength of the stages approach is that it provides a rational structure within which we are able to consider the multiplicity of reality. The heuristic device provides a platform within which we can layer different frames, theories, concepts and methodological approaches. Without such a research platform, we would not have garnered such deep and intricate knowledge of both individual policies themselves and of each particular stage of the policy process. As deLeon suggests, 'given the idiosyncratic episodes addressed by most policy research, we might well be better served to devote ourselves to the quest for a series of mid-range theories' (1999, 28). If we were to strive

for a single hypothesis-generating theory, typical to economics, we would overlook the vast complexity of reality (Parsons, 1995, 80).

Sabatier and Jenkins-Smith's labelling of the 'stagist' model as a 'heuristic device' is not a slur that deprives the approach of any relevance regarding the study of public policy. In fact, as stated above, Sabatier and Jenkins-Smith are unwittingly realising the strengths of the approach and simultaneously making their criticisms obsolete. The stages approach is a heuristic device, rather than a theory of the reality of policy making that claims to understand causal mechanisms. Heuristic devices are pedagogic models that are developed to aid our understanding of complex issues or processes. The stages approach acts as a framework for incorporating various theories, models and devices, thereby serving as a clear way to advance our understanding of policies and the policy process.

Although the policy stages approach was developed more than 50 years ago, the creation of new theories does not challenge the applicability of the approach, nor does its application restrict the advancement of policy research (Rose, 1973, 123; Hogwood and Gunn, 1984, 25). Conversely, rather than viewing the stages heuristic as hopelessly out-dated due to the advancement of more 'sophisticated' synthetic approaches, we propose that it should be considered anew as a progressive framework in which to place both developed, as well as developing, approaches and methodologies towards policy analysis.

Post-positivist and post-modern themes can effectively be incorporated inside the stages approach. For example the work of Habermas (1970, 1984), Rein and Schön (1977, 1993) and Fisher and Forester (1993), can be effectively deployed inside the stages framework. This contrasts with models such as Sabatier and Jenkins-Smith's ACF, which are unable and often unwilling to encompass other developments in policy research (deLeon, 1999, 27; Parsons, 2003, 129). As deLeon argues, 'policy scholars such as Sabatier could be seen as possibility inhibiting the advancement of the policy sciences by clinging tenaciously to the problematic tenets of positivist thought and procedures' (1999, 27). This demonstrates that the stages heuristic advances policy analysis, allowing us to be not only multi-theoretical but also multi-methodological, allowing us to view the policy process from a positivist, post-positivist or interpretivist lens.

The stages model may not explain how the entire policy process works and may not enable us to verify or falsify empirical hypotheses, but if we integrate into it mid-range theories, concepts, and models we are able to gather a deeper understanding. Although it may appear tempting, and many

scholars fall into the trap of lusting after 'grand universal theories', it is often dangerous and to the detriment of our understanding. deLeon (1998) fittingly brings to our attention the famous quote by John Maynard Keynes, 'It is better to be roughly right than precisely wrong' (quoted by deLeon, 1999, 29). The stages approach ensures that we can indeed be roughly right rather than precisely wrong.

1.5. The 1991 Child Support Act – A Brief Overview

The Child Support Agency (CSA) was established in April 1993 as a result of the 1991 Child Support Act. It was conceived by the Thatcher-Major Governments as a response to the rapidly growing number of lone parents. The policy was perceived as an attempt at social engineering, aiming to ensure that all parents contributed financially towards their children. It was hoped that the policy would reduce both child poverty and, more prominently, the burden on the social security budget that lone parents created. Yet throughout its lifetime, the CSA was faced with constant reforms and adaption in the face of enormous hostility and its failure to reach targets. As one distinguished journalist, Richard Ingrams, stated, it is 'about the most incompetent and inhuman agency ever set up by a British Government' (*The Observer*, 5 January 1997). These criticisms were echoed not only throughout the media, but also by pressure groups, politicians, think tanks, and the public; from every quarter the CSA was routinely subject to strong criticism. The 1991 Child Support Act proved to be one of the most controversial and criticised policies in modern British politics, attracting vast media coverage and intense debate. The formulation and passage of the Act can be seen as a model example of bad piece of legislation and the inadequacy of the legislative stage, while the Agency itself can be viewed as a complete failure.

1.5.1. Existing Relevant Literature

The 1991 Child Support Act, whilst being arguably one of Britain's biggest policy failures, it has received relatively little academic attention within the field of politics and policy analysis, especially when compared to other policy failures, such as the Poll Tax (Community Charge). The attention that it has received is somewhat sporadic, and frequently focuses on either the social or legal implications of the policy. While there is a wealth of knowledge focusing both on the sociological impact of the policy (often with prescriptive tendencies), and on the policy from a legal perspective, there is a lacunae in the policy analysis literature. An in-depth analysis of the policy-making process that led to the development and passage of deeply flawed policy has largely been neglected, this thesis attempts to fill that gap. We will now turn to examine the existing literature.

The most comprehensive piece of work on the Child Support Agency within academic studies is *Child Support in Action* (Davis *et al,* 1998). The authors of this piece of work reside in the field of legal studies; therefore the book approaches the policy from a legal perspective. The book is drawn from a major empirical research project undertaken by the authors who focused on gaining materials from the Agency's case files in order to monitor cases from both the perspective of the Agency and from that of client/legal advisers. *Child Support in Action,* whilst not focusing on the policy-making process of the policy, or written from a policy analysis perspective, not only provides us with a thorough analysis from a legal outlook but also provide us with a gripping and valuable insight in the experiences of actors within the process through its primary research.

There are also other texts focusing of the legal aspects, and foreseen implications, of the 1991 Child Support Act by Bird (1991, 1993) and Wikeley (2006). *Child Support Law and Policy* by Wikeley (2006), provides a highly detailed analysis of the law and practice governing child support, a text that not only serves as invaluable aid to practitioners wrestling with the complexity of the system, but also provides a thoroughly engaging historical and social policy understanding of child maintenance systems across jurisdictions and over time. This text provides a vital source of reference throughout the thesis.

Another notable piece of work that discusses the 1991 Child Support Act from within academia is Dunleavy's 1995 article entitled *'Policy Disasters: Explaining the UK's Record'.* In his seminal article on policy failure, Dunleavy highlights six major policy disasters that have occurred in Britain, one of them being the Child Support Agency (CSA). Dunleavy claims that the CSA was inadequately resourced at the outset, operated with inflexible rules which could not take into account existing complex arrangements between separated parents, and pursued unrealistic targets for recouping expenditures. Dunleavy proceeds to provide us with five main factors which he believes are involved in generating policy disasters (such as the CSA), namely: scale aggregation, overly speedy legislation, political hyper-activism, the 'arrogance' of Whitehall, and ineffective internal checks and balances. Through applying Dunleavy's criteria for policy disasters to the CSA we are provided with an insight into why the Agency failed. In several chapters throughout this thesis we will be referring back to the work of Dunleavy, and his understanding of policy disasters.

Dorey (2000) applies Dunleavy's criteria specifically to the CSA, providing them with more validity and demonstrating their relevance, successfully bridging the gap between Dunleavy's theory and its applicability to the CSA. Dorey addresses each of Dunleavy's points and highlights that the

CSA met each of the factors that Dunleavy claimed leads to policy failure. For example, 'political hyper-activism' was evident in the 1991 Child Support Act. Hence Dunleavy's criteria constitute a highly appropriate starting point for analysing the failure of the CSA.

Coming from a different angle, but again inside the field of policy analysis, is the work by Dolowitz and Marsh on policy transfer. Dolowitz claims that 'the origins of the Agency are to be found in policy transfer from the USA' (2001, 373). He suggests that the CSA's failure was due to 'inappropriate', 'uninformed', and 'incomplete' transfer from America. This thesis will utilise the work by Marsh and Dolowitz on policy transfer to understand the inherent failings of the Child Support Act. Yet this thesis suggests that while an application of policy transfer does provide a good insight, it is nevertheless limited. The thesis aims to build upon the insight provided by Marsh and Dolowitz, by suggesting that the view that 'inappropriate', 'uninformed', and 'incomplete' transfer from America occurred is in fact only partially accurate; the Government did not look exclusively at the child support schemes in America with the intention of transferring the entire policy. It builds upon Dolowitz and Marsh's work by suggesting that 'dual policy transfer' took place, and indeed here lay its links to failure.

We also need to note the valuable and vast contribution made by Millar through her work on family policy and child maintenance; she was awarded an OBE in 2001 for her prolific social policy research. Millar is very widely published on the topic of child support and has looked at the Child Support Agency in several of her publications (1991, 1992a, 1992b, 1993, 1994). Although she approaches the CSA from a slightly different perspective, a social rather than political approach, her work provides an important understanding of the social context of the policy which is utilised in this thesis. She has also undertaken research on child maintenance commissioned by the DSS. Other academics from the field of social policy have also produced work on the Child Support Agency (see for example: Bradshaw, Corden, Glendinning). This thesis aims to build on their social policy understanding of the CSA by assimilating their work into our political, policy analysis perspective.

Garnham and Knights' *Putting the Treasury First: The Truth about Child Support* (1994) is the first book to focus entirely upon the 1991 Child Support Act. Although written in the immediate aftermath of the policy's introduction, it provides us with valuable insight, drawing primarily on first-hand experiences of many lone parents and information gathered from the Child Poverty Action Group's Child Support Monitoring Network. The book focuses particularly on the operation of the Agency in its first years as well as addressing the impact of the policy on tackling child poverty. We should note however that this was work produced by CPAG rather than in an academic study. The

purpose of the book therefore is prescriptive and highly normative regarding policy content; for example the concluding chapter of the book sets out the pressure group's 'radical proposals for immediate reform'. Therefore, although the book provides us a valuable insight, with highly useful primary research, we need to note its agenda when utilising it.

We should also note the contribution made by the Channel Four television documentary series *'Can't Pay, Won't Pay'* (2000). These series of documentaries serve as one of the most useful sources of information on the CSA. They contain unique footage of interviews with Ministers, MPs, Civil Servants, and Agency staff, each providing valuable insight into the creation of the policy and the operation of the Agency. This thesis utilises the information, and insight, gathered by the documentary at several sections[3].

Charities, pressure groups and think tanks have also provided us with a body of literature on the CSA. *The Children's Society, Family & Parenthood, Families Need Fathers, Policy & Practice*, and *Family Policy Studies Centre* have all provided a vital contribution to an evaluation of the CSA. Again, it must be note that they primarily focus on sociological empirical evidence regarding the negative impact the CSA has upon families. Whilst this work is highly normative and produced from a sociological and prescriptive angle, it remains vital to enhancing our understanding of the CSA.

We should also note that the CSA has already been the prime focus of three Doctoral theses. The first of these being by Collette Roberts in 1998 (University of Nottingham) entitled, *Another Disaster Foretold? The Case of the Child Support Agency*. However, rather than specifically assessing the 1991 Child Support Act, Roberts provides us with a historical record of child maintenance. The thesis is a wide-ranging, a two volume exploration of pressure group and media reactions to child maintenance systems and the operation of CSA. The thesis provides a cursory glance towards many potential topics, ranging from providing background histories of several voluntary organisations and protest groups (including a history of their membership and leadership), to a breakdown of each CSA Business Paper and digestion of political party manifestos. Yet, whilst broad in scope, the analysis is limited and offers little to advance our understandings of the making, or the failings, of the Child Support Agency itself; whilst an interesting historical record, the scope of the study limits its analytical depth.

In 2003, Francine Beadsworth (University of Essex) completed a thesis entitled *The Child Support Agency: Origins, Operation and Failure*. Whilst the title appears strikingly similar to this

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[3] A copy of this documentary was obtained from the producer.

thesis, a closer reading of it shows that the approach is very different. Beadsworth writes from a prominently feminist perspective and focuses primarily on the social context of the policy (discussing categories of lone-parents, demographic trends, history of child maintenance and family policy) rather than focusing on the policy making process. We should also note that Beadsworth's research design does not apply a theoretical understanding of policy making. Similarly to Roberts, Beadsworth does not engage with the work within political science or policy analysis, nor does she provide us with a cause behind the failure, but, rather, provides a history of child maintenance (dating back to the Poor Law), and an overview of the CSA's operational failure. As we stated at the start, our approach to policy analysis is primarily concerned with the process by which the policy was developed, looking at the actions taken by various actors and institutions at each stage, which led to the creation, and passage, of a flawed policy. Therefore there are vast differences not only in approach but also research design, scope, methodology, and objectives.

Lastly, in 2005 Brian Sheffield (Durham University) produced a thesis entitled, *The Child Support Agency under new public sector management: an analysis of child support after separation within a next steps agency.* Sheffield provides us with an excellent understanding of the operation and management of the Child Support Agency from a business and management perspective. The emphasis is upon the CSA as a Next Steps Agency, analysing the internal organisation and operational performances within the themes of new public sector management that were injected in the policy. Whilst Sheffield's work fills a similar gap in the literature, it should be seen as complimentary. As my thesis focuses on the developed of the 1991 Child Support Act and Sheffield focuses on the Agency's continuing operation (including its operation after several reforms), I would argue that our theses would make valuable companion pieces to anyone seeking to understand the 1991 Child Support Act in its entirety.

1.6 Scope of the Research

1.6.1. How This Thesis Intends to Use the Stages Approach - Organisation of Thesis

This thesis adheres to the framework provided by the stages heuristic. As argued above, the stages approach will allow us to apply multiple theories and approaches to develop a deep holistic understanding that is not constrained by any agenda other than to gather insight and knowledge. The stages approach will allow us to be multi-model and multi-methodological and multidimensional. This thesis adopts a post-positivist, interpretivist approach similar to that of Cook (1985) in his disillusionment with literature and methods of evaluation studies. Akin to Cook, we maintain that there is no singular method or approach that can be used; instead we need to seek the

benefit of multiple approaches and methods. As reality is multi-faceted, academics need to be armed with a multiplicity of tools. Our approach argues that the stages heuristic can be utilised as a tool-box in which we can organise our tools, using those tools that we believe to be best suited to our case study. It allows us to be multi-dimensional and holistic, drawing on work that helps us to analyse rather than drawing on evidence that fits our pre-determined analysis. This speaks true of the origins to the field and the objectives of Lasswell.

Therefore this thesis, whilst aware of the limitations and perceived naivety of the stages approach, rejects the view that the stages heuristic has outlived its usefulness and instead maintains that its application is the most effective framework within which to gather insight into our case study of the 1991 Child Support Act. Each of the following chapters will correspond to a stage within the policy making process, allowing us to draw on a wealth of knowledge in each stage.

1.6.2 Research Methods

Based on our ontological and epistemological position - that reality is largely socially constructed, knowledge is based on interpretation, and we cannot always seek definitive answers – this thesis largely employs qualitative methods. It draws heavily upon material gathered in interviews, from which it is possible to gather material and insight that has not previously been documented, allowing us to draw on the motives, objectives, and values behind actions. Whilst the depth and richness of this information is evident, researchers who deploy this method are typically challenged over the reliability, validity, and lack of generalizable worth of their material. Yet just as the stated criticism voiced by Sabatier and Jenkins-Smith towards the stages heuristic does not apply, the same can be suggested here. The criticism that qualitative research methods, particularly interviews, do not produce generalisable 'absolute truths' is based on the researcher's positivist/empiricist epistemological position, and is therefore invalid and inappropriate. This thesis does not strive to uncover 'absolute truths' but instead aims to achieve a deeper understanding of the policy making process.

The thesis also draws heavily upon an analysis of the legislative stage, and here it engages in discourse analysis, focusing on the debates in Parliament regarding the 1991 Child Support Bill. The study also engages with a detailed understanding of the consultation process of the White Paper *Children Come First.* In order to do this, contact was made with those organisations that participated in the consultation process to obtain copies of their unpublished consultation responses. The thesis

also draws on information gathered from Freedom of Information requests, Government papers, official documents, documentaries, speeches, debates, and press coverage.

1.5.3. Overview of Thesis

Each chapter focuses on one of the distinct phases of the policy process and will include specific appropriate theories, methods, approaches, and models that are relevant and insightful to our analysis. Whilst these chapters remain focused to a specific stage, integration between stages is acknowledged and highlighted throughout the thesis. What this might appear to lack in 'theoretical elegance' and 'generalisability' will be compensated for by the production of a rich and insightful understanding.

The structure of this thesis reflects largely the 'stages heuristics'; each chapter engages with a specific stage of the process, drawing on and engaging with different bodies of literature.

Chapter Two provides an historical and contextual background to the 1991 Child Support Act. We will begin by looking at trends relating to lone-parent families in Britain. This will include a detailing of the increase in the number of lone-parent families and the increase in the proportion of such families headed by never-married mothers, and also looking at the alleged benefit dependency of such families. It will then highlight how developments such as these provided the impetus for policy change, before examining policy developments around welfare reform and specifically in the area of lone parent families. In so doing, setting the scene and providing a deeper understanding of the context in which the 1991 Child Support Act was formulated and how the 'problem' was constructed.

Chapter Three focuses on the problem definition stage. It begins by providing an introduction to the study of problem definition, before highlighting how we can make use of the insights gained from studies to then analyse the policy frames and resulting definitions of several of the interested actors. It then examines the importance of viewing 'problem representations' as something separate to that of 'problem definition'. It highlights the difference between the two terms before looking at the power of problem representation and how language is skilfully utilised as a tool, before finishing by highlighting its role in the political sphere, the policy making process, and in policy failure.

Chapter Four starts to examine the formation of the 1991 Child Support Act. It assesses the role of Policy Transfer in both the creation and failure of the Act. It examines previous academic work on Policy Transfer, before advocating that the approach could be advanced by introducing the idea of 'dual policy transfer'. It will then apply this advanced approach to the case study of the 1991 Child Support Act, showing that 'dual policy transfer' did indeed take place. It ends by highlighting how these conflicting dual origins laid the foundations for the eventual failure of the policy.

Chapter Five continues the examination of the formation of the 1991 Child Support Act, but here focusing on the role of the core executive. It looks at how divergent agendas gained position within the single policy as a result of the power dynamics that influenced its creation. Here it will examine this imbalance of power whilst also addressing the disagreements which occurred between the Treasury and the DSS. It is necessary to look at the power resources held by both Thatcher and the Treasury to understand why Newton introduced a policy despite not entirely agreeing with the details.

Chapter Six examines the legislative process, assessing it as contributory factors in policy failure. The CSA experienced a plethora of administrative and implementation problems, all of which can be accredited to the policy itself. Here it examines the inadequate consultation process, highlighting the concerns raised by several pressure groups and then the disdain with which they were received by policy makers. It then moves to examine the House of Lords stage, again highlighting the number of concerns that were raised. It will show that many of the problems with the CSA were foreseeable and indeed foreseen. It will then highlight how the House of Commons proved to be an ineffective source of checks-and-balances, by in effect allowing a flawed policy to pass through its chamber.

Chapter Seven assesses the implementation, briefly outlining the work of some of the major scholars in implementation studies. Both the 'bottom-up' and the 'top-down' approaches are discussed and critiqued. The chapter then discusses the position of implementation studies, before setting out the approach and position adopted by this study. It argues that some of the areas typically assigned to the implementation stage, are better situated elsewhere in the policy process. The Chapter ends by outlining 'next-steps' agencies, an approach to implementation utilised by the Thatcher Government which presented unique challenges to the 1991 Child Support Act , and the study of its implementation.

Chapter Eight focuses on the operation and apparent failings of the 1991 Child Support Act, and assess the root of these failings. It will link back to the work done in previous chapters assessing how failings at previous stages, in particular the legislative stage, are manifest when in operation. It argues the failure of the 1991 Child Support Act was foreseeable, foreseen, and ultimately avoidable. It ends by presenting the idea of 'perfect legislation' (as opposed to 'perfect implementation') as an appropriate framework to guide policy-makers through the complexities of policy making, and avoid policy failure.

Chapter Two - The Background, 'Setting the Scene'

2.1 Introduction

The focus of this chapter will be on the historical and contextual background to the 1991 Child Support Act. It begins by looking at trends relating to lone-parent families in Britain. This will include analysis of the increase in the number of lone-parent families and the increase in the proportion of such families headed by never-married mothers, and also looks at the alleged benefit dependency of such families. It will then highlight how developments such as these provided the impetus for policy change, before examining policy developments around welfare reform and specifically in the area of lone parent families. In so doing, it is setting the scene and providing a deeper understanding of the context in which the 1991 Child Support Act was formulated and how the 'problem' was constructed; as Davis *et al* state, 'to understand this fully one needs a historical perspective' (1998, 1), and as Seidman and Rappaport claim, 'the definition of a social problem is time, place, and context bound' (1986, 1). This thesis does not intend to enter into the details, complexity, and debates surrounding developing/changing family circumstances and composition, but aims to provide an impression of the period. These factors therefore are an important area in which to start the analysis.

2.2 The Social Environment - The Growth of Lone Parents

From the 1960s onwards, Britain witnessed a steady growth in the number of lone-parents, the figure almost tripling by the 1990s. In 1961 six *per cent* of all families were headed by lone parents. By 1971 this had increased slightly to eight *per cent*, and by 1987 this had risen further to 14 *per cent* (Bradshaw and Millar, 1991). In a 20 year period, between 1971 and 1991, the number of lone parent families more than doubled, from 570,000 to 1.3 million, which equated to 19 *per cent* of all families with children (Clarke *et al*, 1993, 8). By 1993, one in five mothers with dependent children was a lone parent. We should also note that whilst still remaining relatively small, the proportion of lone fathers also witnessed an increase in this period. Between 1971 and 1993 the number of lone fathers with dependent children doubled from one per cent to two per cent of families (Social Trends 26, 54-55). **Figure 2.1** provides a summary of the growth of lone parent families in this period.

Figure 2.1: Number of Lone Parent Families

Number of Lone Parents

	1961	1971	1976	1984	1987	1989	1991
Number of Lone Parents	324	570	750	940	1050	1230	1314
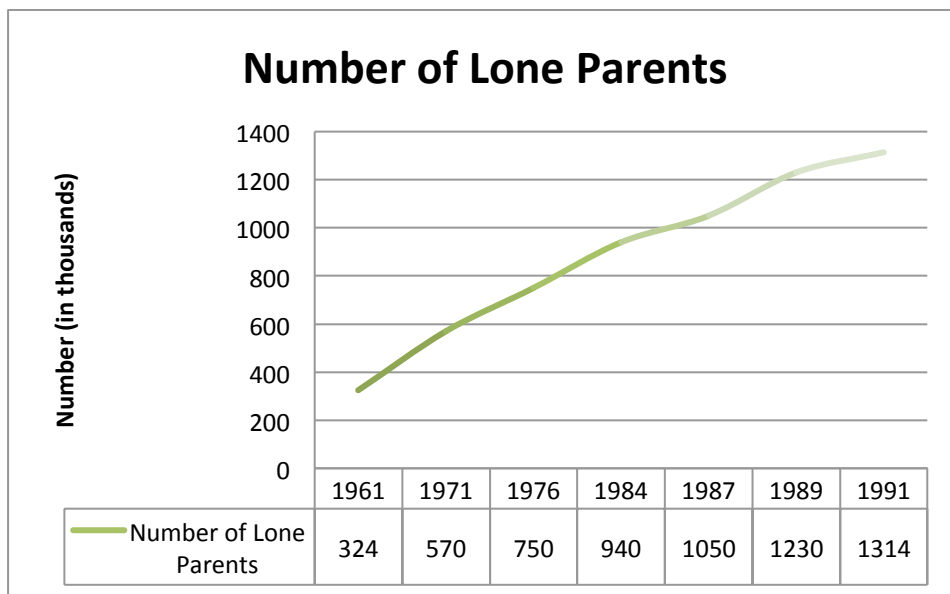
Source: Haskey, J. Populations Trends, OPCS, Spring 1993

However it was not simply the growth in the number of lone-parents that was a significant development between 1960 and late 1980; the period also witnessed a change in the composition and characteristics of the lone-parent population. For example, the below **Figure 2.2** shows the percentage of divorce rates more than double during the period 1971 to 1991.

Figure 2.2: Rates of Divorce: Percentage, per Thousand Marriages

Year	Percentage	Source
1971	6.0	CSO, Social Trends 1991/92
1972	9.5	Allen, 1985
1976	10.0	CSO, Social Trends 1991/92
1979	11.6	Allen, 1985
1981	11.9	CSO, Social Trends 1992
1990	12.6	CSO, Social Trends 1993
1991	13.5	OPCS, 1991

*Adapted from Fox-Harding, L. 1996, 56.

Figures also show that the proportion of lone parents who were widows was dramatically decreasing, whilst the proportions that were divorced or never-married mothers were significantly increasing. Table 2.3 shows the increasing proportions of live births outside of marriage:

Figure 2.3 The Increasing Proportions of Live Births Outside of Marriage

Year	Percentage
1975	9.0
1980	11.5
1985	18.9
1986	21.0
1987	22.9
1988	25.1
1989	26.6
1990	27.9
1991	29.8

* Adapted from CSO Social Trends, 1992

The route to lone-parenthood and its characteristics were changing, not just its numbers; a qualitative as well as a quantitative change. **Figure 2.4** (below) provides a summary of the changing characteristics of lone-parent families between 1971 and 1991.

Figure 2.4: Numbers of Lone-parent Families in 1971 and 1991

Type of family with number (thousand) of dependent children			% of lone parent families	% of all families
	1971	**1991**	**1991**	**1991**
Lone Mothers	500	1,200	92	18
Single	90	440	34	6
Separated	170	250	19	4
Divorced	120	430	33	6
Widowed	120	80	6	1
Lone Fathers	70	100	8	1
Lone Parents	570	1,300	100	19

Source: Haskey, J. Populations Trends, OPCS, Spring 1993

We can see that the growth in the number of lone parents was largely driven by both the increase in the numbers of divorced mothers, and the growth in the number of unmarried mothers which almost quadrupled between 1979 and 1989 (Clarke *et al*, 1993, 8). The developing trends regarding the marital status of lone parents were largely reflecting changes within society: the proportion of lone parents who were widows was decreasing which reflected the changes in mortality rates, while the increasing in proportion headed by divorced mothers or never married mothers reflected relaxing divorce laws and a more liberal attitude towards sex, cohabitation, and family composition. These can be seen as unwelcomed developments for a Conservative Government that was enthusiastically promoting 'traditional' family values.

2.3 The Economic Environment - The Growing Cost of Lone-Parents

Coinciding with the period which saw a rise in the number of lone-parents, the UK witnessed a dramatic increase in public expenditure. The cost of lone-parents was one of the fastest growing items on the Social Security budget, due to the significant increase in the number of such people who were dependent on the welfare state as their main source of income. In 1981-1982, welfare benefits for lone-parents were costing the Treasury £1.3 billion; by 1990-1991, this had risen to £4.3 billion (Barnes *et al*, 1998, 8). While the amount of money spent on benefits across the board was rising, the proportion which was spent on lone-parents was rising at a much faster rate. This was primarily a result of the steadily growing number of women in receipt of Income Support or Family Credit. In 1980 there were 330,000 lone parent families dependent on supplementary benefits; by 1989 the number of lone parent families dependent on Income Support had risen to 770,000 (DSS, 1989). Of these 770,000, less than half were receiving regular maintenance payments from the absent parent (CM1262, Vol 2, i). In 1976 48 *per cent* of lone parents were receiving either Supplementary Benefit or Family Income Supplement; by 1989 the proportion claiming Income Support of Family Credit was 77 *per cent* (Boden and Childs, 1996, 140). The Family Resource Survey stated that during the creation of the 1991 Child Support Bill, approximately 75 *per cent* of lone parents received no regular maintenance from the absent parent and were left entirely reliant on Income Support (The Family Resource Survey, 1993/94).

The welfare bill in this area was also increased not only by the number of lone-parents reliant on the welfare state but the number that remained dependent on welfare for a significant period of time. Due to the economic downturn, this period witnessed a decrease in the number of lone-parents in the labour market. In 1979/1981 figures stood at 49 *per cent* of lone parents in

employment, by 1990/1992 this had reduced to 42 *per cent* (OPCS, 1991). This therefore resulted in an increase in the level of welfare expenditure going to lone-parents.

It is also interesting to note that during this period 'single' lone mother's experienced a different employment trend to that of married mothers. During the 1977-97 and 1989-1991 married mothers experienced increased participation working full time in the labour market, from 15 *per cent* to 22 *per cent*, while lone mothers' participation dropped from 25 *per cent* to 11 *per cent* (General Household Survey, 1994, 200). See below table and chart for breakdown of part and full time trends:

Figure 2.5: Employment Trends - 'Single' Lone Mothers and Married Mothers: Percentages working full time and part time, 1977-1991

	77-79	79-81	81-83	83-85	85-87	87-89	89-91
Single, Lone Mother							
Full Time	25	27	18	9	14	12	11
Part Time	11	11	12	11	13	14	18
Combined Working	36	38	30	20	27	27	29
Married Mother, dependent Children							
Full Time	15	15	14	15	17	21	22
Part Time	37	36	35	37	40	40	40
Combined Working	52	32	49	50	54	59	62

*Source: General Household Survey, 1994.

Figure 2.6 Single' Lone Mothers and Married Mothers: Percentages part time employment, 1977-1991

Part Time Employment

	77-79	79-81	81-83	83-85	85-87	87-89	89-91
Single Mothers	11	11	12	11	13	14	18
Married Mothers	37	36	35	37	40	40	40
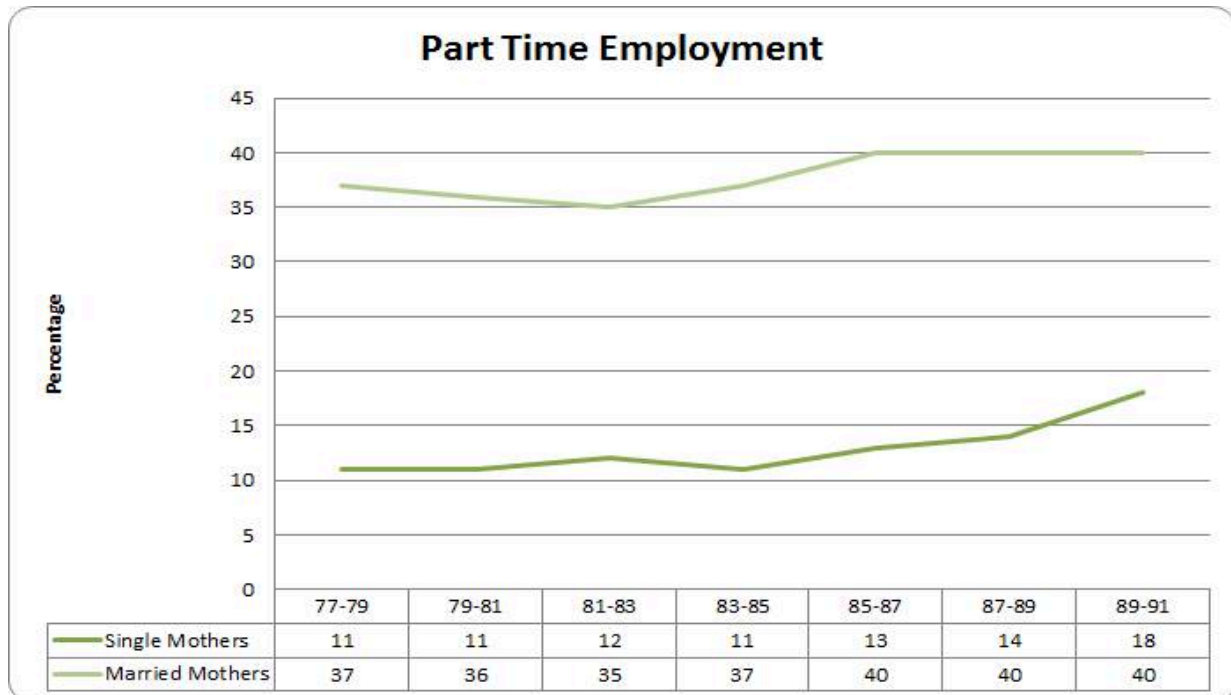
*Source: General Household Survey, 1994.

Figure 2.7 Single' Lone Mothers and Married Mothers: Percentages full time employment, 1977-1991

Full Time Employment

	77-79	79-81	81-83	83-85	85-87	87-89	89-91
Single Mothers	25	27	18	9	14	12	11
Married Mothers	15	15	14	15	17	21	22
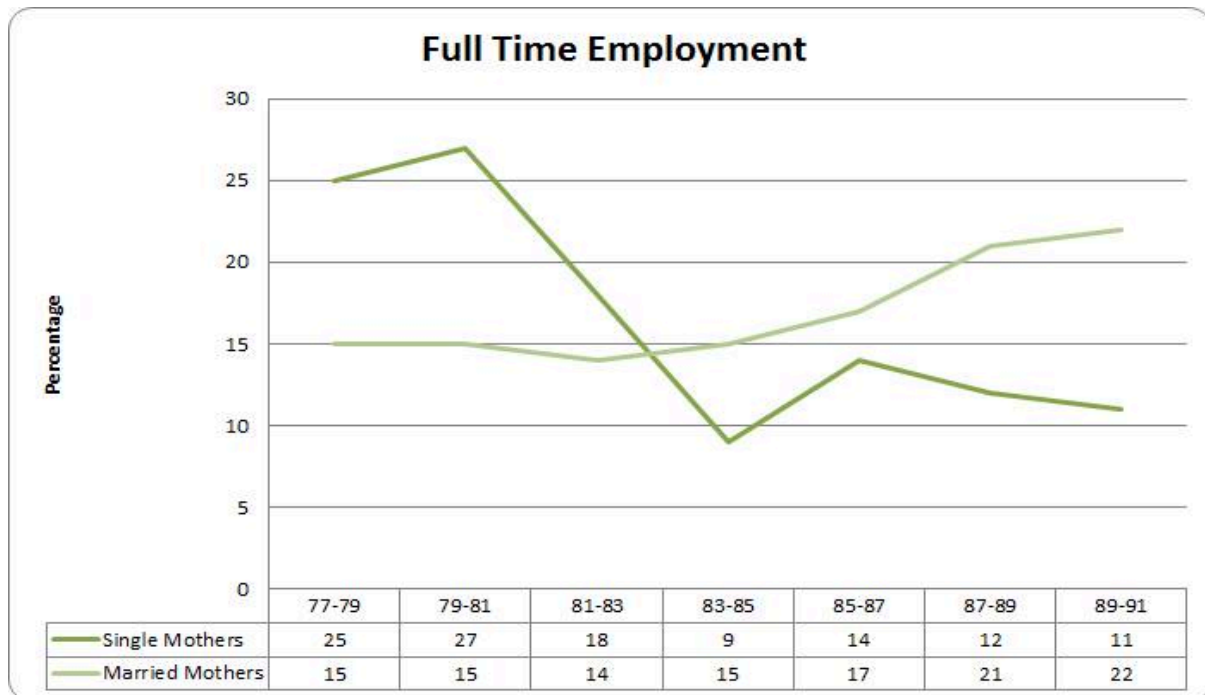
*Source: General Household Survey, 1994.

Figure 2.8 Single' Lone Mothers and Married Mothers: Percentages combined employment, 1977-1991

Combined Working

	77-79	79-81	81-83	83-85	85-87	87-89	89-91
Single Mothers	36	38	30	20	27	27	29
Married Mothers	52	32	49	50	54	59	62
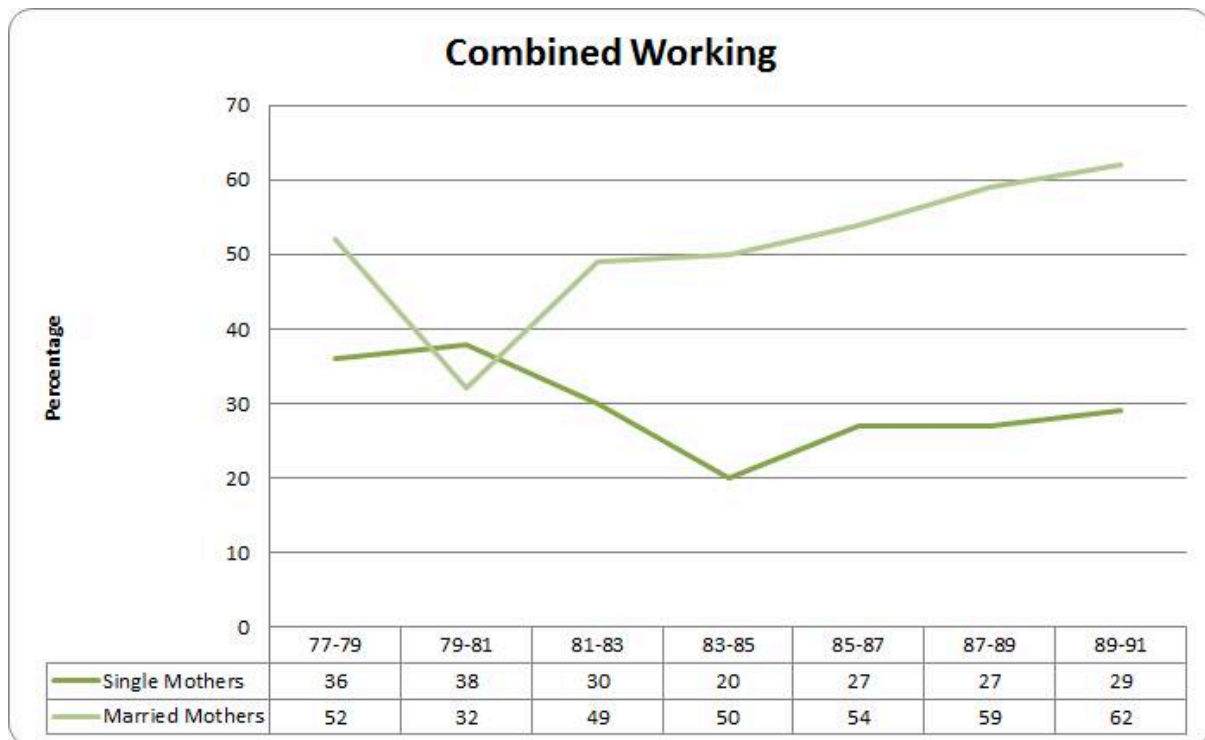
*Source: General Household Survey, 1994.

In the period leading up to the creation of the 1991 Child Support Act there was increase in the number of lone parents, a decrease in the number of lone parents in paid employment, decrease in lone parents receiving financial maintenance form the absent parent, and a marked increase in government expenditure on benefits to lone parents.

The cost of providing financial support to lone-parents was increasing at a time when the neo-liberal Conservative Government was searching for ways to cut the costs and welfare role of the state. It is important to note this backdrop when assessing the creation of the 1991 Child Support Act; lone parents became a target for the Treasury which deemed child support policy as a potential area to curb expenditure. As Michael Whippman stated:

The whole story of policy making in the 80s was to try and find ways of saving money on social security and all ways of saving money on social security are politically unattractive. Child support was seen as the politically more attractive way of doing it but there was no doubt that if we didn't get the money that way we would have to get the money some other way, and so of course it was a policy to save money. (Punctuation added, Whippman, Michael, Policy Director, Department of Social Security, 1994 - 1998, "Can't Pay Won't Pay, 1999)

Alongside these developments, the UK saw growing hostility towards 'single mothers' as a 'moral problem' emanating from many politicians, media sources, social commentators, and think-tanks. Below we will assess some of these developments.

2.4 The Political Environment - Changing Attitudes and Policy Developments

Not only did the period from 1950 to late 1980s experience extensive changes in the number and characteristics of lone parents, it also witnessed changing attitudes towards lone parents which in turn also reflected developing policies towards lone-parents. The below section will briefly summarise influential reports and significant pieces of legislation in the area of child maintenance and lone parenthood in the years preceding the introduction of the 1991 Child Support Act, highlighting their role and significance.

Britain in the 1950s placed a strong emphasis on the ideals of morality and Victorian values towards the pursuit of a traditional family ideal. Popular attitudes frowned upon illegitimacy and sexual relationships outside of marriage, and attached great social/personal stigma to lone-parenthood. Lone-parents were seen as promiscuous and shameful, and becoming one was something that should avoid at all costs. However, the 1960s experienced a relaxing of attitudes towards lone-parents and some advances were made regarding the position of women in society. Lone-parent families began to be viewed with compassion: sympathy and duty replacing stigma and disapproval. The growth in liberal attitudes towards women was also reflected in the introduction of progressive policies during this period, such as the 1969 Divorce Reform Act which made divorce a more viable option to women, by allowing petitions to be filed on the sole grounds of 'irretrievable breakdown'.

In 1969 the Labour Government appointed a Royal Commission to assess the situation of lone-parent families; this signified somewhat of a defining moment in lone-parent policy area and represented the increasing sympathetic, concerned and liberal attitudes in which lone-parents were coming to be regarded. The Royal Commission published its report five years later in July 1974, entitled *The Report of the Committee on One-Parent Families*, commonly known as the 'Finer Report' after the Chairman Morris Finer (Department of Health and Social Security, 1974). The report, which made 230 recommendations, looked at Income Support policy, child maintenance and the administration of family law, and was considered by *The Observer* to be 'one of the major social documents of the century' (quoted in: Macaskill, 1993, 35). The aim of the report appeared to be to raise the status and opportunities of lone-parents, and to ensure that all lone-parents, irrespective of circumstance, were treated alike.

The Finer Report's primary recommendation was for an overhaul of the maintenance system, in order to establish a 'guaranteed maintenance allowance' for which all lone-parents would be eligible. The Finer Committee proposed an assimilation of the maintenance sections of the "three systems of family law" (the Divorce Courts, the Magistrates' Courts, and the Department of Health and Social Security). The 'guaranteed maintenance allowance' would replace established maintenance payments and see the state assume formal responsibility (as the single administrative body) for the collection and allocation of maintenance payments from the absent parent, bringing together the issues of private obligation and public entitlement (Davis *et al*, 1998, 1-2).

However much of the Report was overlooked, so that by 1978, only 38 of the Report's recommendations had been adopted, and 115 had been rejected or disregarded (Macaskill, 1993, 35). The Finer Report can still be seen as having been influential in altering the mind-set of many politicians, and subsequently contributing to the successful enactment of other policies which acknowledged the importance of financial support for lone-parents and the need for progress in the field of lone-parent policies (Millar, 1994, 68), such the extension of Family Allowances, the introduction of the Child Benefit Scheme and One Parent Benefit. Others have also ascribed significant developments in housing, family law, and public law to the Finer Report (Thane and Evans, 2012, 168).

When the Conservative Government entered office in 1979, it promoted the view that Britain was in a deep economic and moral crisis. Thatcher, and those on Right of the Party, believed that economic liberalism and a renewed emphasis on individual responsibility was needed to restore traditional morality to Britain and reduce the burden of the 'nanny state'. The Conservatives viewed the escalating cost of the welfare state for both the state and tax-payers as unacceptable and an area in which restraint was needed. In 1985 the Government undertook a major review of the social security system and related expenditure. They encapsulated this view by the passing of the 1986 Social Security Act, which signified a major turning point in the Government's approach toward benefits recipients. The Act was a significant piece of legislation which radically restructured the social security system, aiming to reduce the costs to the state of welfare dependency by restricting benefits. The Conservative Government (much like the Conservative-Liberal Democrat coalition we have today), maintained that it was necessary to reduce the welfare budget and reform the system in a way that actively encouraged those on benefits to find employment rather than succumb to dependency.

The 1986 Social Security Act had both a direct and indirect impact on lone parents. A large proportion of lone parents were reliant on benefits, hence the reform impacted heavily upon them.

Yet the reforms also had a specific impact on lone parents due to the removal of the element which had hitherto allowed child-care costs to be taken into account for those working part-time and claiming benefits. The reform also saw social grants replaced with a repayable social fund. The 1986 Social Security Act represented a move towards tightening the public purse, and as a result government placed increasing focus on lone-parents as an avenue of expenditure to reel in (Bradshaw and Millar, 1991, 1; Davis *et al*, 1998, 4). This rhetoric was (and has remained) about 'targeting' benefits on those most in need, and who were deemed to be the 'deserving' poor.

As the Conservative Government continued, and as momentum began to grow, the discourse regarding lone-parents, or in particular, lone mothers slowly began to alter. By Thatcher's third term (1987-90), attitudes towards lone-parents began to revert back to those held in the 1950s. Thatcherism spoke strongly of Victorian values, attaching blame to lone-parents. A strong 'moral' tone was injected to numerous speeches, setting the agenda for child support reform. For example, at a speech given to the National Children's Home, Thatcher stated:

> *...children are in danger of seeing life without fathers not as the exception but as the rule...this is a new kind of threat to our whole way of life, the long term implications of which we can hardly grasp...But when one of the parents not only walks away from marriage but neither maintains nor shows any interest in the child, an enormous unfair burden is placed on the other. Nearly four out of five mothers claiming Income Support receive no maintenance from the fathers. No father should be able to escape from his responsibility and that is why the Government is looking at ways of strengthening the system for tracing an absent father and making arrangements for recovering maintenance more effective.* (Thatcher, Margaret, 17 Jan 1990, Speech for National Children's Homes)

Similarly in a statement made to the '300 Group' Thatcher reiterated her concern:

> *Government too must be concerned to see parents accept responsibility for their children. For even though marriages may break down, parenthood is for life. Legislation cannot make irresponsible parents responsible. But it can and must ensure that absent parents pay maintenance for their children. It is not fair for them to expect other families to foot their bills too.* (Thatcher, Margret, during a *Pankhurst Lecture to the 300 Group,* 1990)*.*

Ministers also increasingly pointed towards statistics and indicators of rising lone-parents, and increasingly used negative rhetoric when discussing these. Lone-parents began to be seen as a major

concern, a burden on society and drain on public money. Thatcher's third term was characterised by political hyperactivism, radicalism, and dogma. It did not mirror her previous terms that were marked by incrementalism and quiet concern for support, but instead allowed the momentum of the previous terms to encourage more radical and ambitious attitudes. This can be seen in all areas of social policy not just that of attitudes towards lone parents.

2.5 Lone-parents as the 'Problem'?

As noted above, it is vital that we note the changing attitudes and often radicalising views of politicians and commentators in the approach to the formation of the 1991 Child Support Act. Policy is not made in a vacuum; rather it is influenced by the attitudes and views of the times. By the late 1980s, less sympathetic views towards lone-parents were starting to emerge among many commentators, think-tanks and ministers. In 1988, the then Secretary of State for Social Security, John Moore, made a speech at the Conservative Party Conference which raised concerns regarding the relationship between the availability of state benefits and the rise of lone-parents. He stated:

> *Is the hope of a council flat and guaranteed income a factor in unmarried teenage pregnancy? Is the knowledge that the state will provide a factor in fathers deserting their families? What is to be done about the nearly half a million fathers who pay nothing at all towards the support of their wives and children?* (Quoted in: Thane and Evans, 2012, 172).

To many, lone-parenthood had become an issue which required attention. In 1988 it was announced that there was going to be a Ministerial Review by the Social Security Advisory Committee looking at the dynamics of lone-parents. The 'problem' had moved from the systemic to the institutional agenda.

During her third term, Thatcher and many of her Cabinet colleagues had become greatly influenced by the American right-wing sociologist Charles Murray and his publications such as *Losing Ground* (1989). Murray blamed lone-parent families, and the creation of what he termed 'the underclass', for the increase in crime rates and a growing dependency on the welfare state. This was consistent with the period which saw a move towards right-wing rhetoric and a discourse of 'blame' emerging. Murray claimed that the easy accessibility of benefits was militating against social responsibility and corrupting the moral values of a section within society, creating a class (or underclass) that was morally and socially delinquent and which was in turn having a negative impact on British society: "…they live in a different world from other Britons, and their values are now contaminating the life of entire neighbourhoods." (Murray, 1989, 4).

These views began altering the political landscape by influencing many within the Conservative Government, and in turn affected the frame through which they viewed lone parents. By Thatcher's third term, as attention turned towards social policy, these right-wing views had permeated much of the Conservative Cabinet.

We can also see that right-wing rhetoric and 'blame culture' began to seep into the mainstream media. Newspapers such as *The Daily Telegraph* and *The Times* similarly began to suggest a link between lone-parenthood and the development of an 'underclass' and so called 'moral breakdown'. For example, *The Sunday Times* published an article by Charles Murray on 26 November 1989 which stated that the 'underclass' (those who saw no point in working and lived on welfare) were spawning illegitimate children, which in turn was increasing the crime rate, having a negative impact on society, and creating a cycle of deprivation that would continue for generations. Sections of the media started to portray lone parents as stereotypical teenage mothers living on council estates without the support of the child's father and content to be dependent on the welfare state for 'hand outs'.

2.6. Conclusion

This chapter has 'set the scene' in which the 1991 Child Support Bill was drafted. As we can see, the period preceding the creation of the 1991 Child Support Act was one of considerable change. This is not only marked by the statistical indicators that highlighted an increase in lone-parents, their altering characteristics, and increased reliance on the welfare state, but also a vast change in approach to politics and policy making with the spread of New Right ideas within the Government and popular press. Both these developments fed into the how the 'problem' was defined, how the policy was represented, and subsequently, the methods policymakers used to ensure the Act was successfully passed. Having set the scene, Chapter Three will then focus on the 'problem definition' stage of the policy process cycle, assessing the importance and power of 'problem representations' and 'problem definition'.

Chapter Three - Problem Definition

3.1   Introduction

Having set the scene in the preceding chapter, this chapter will focus on the 'problem definition' stage of the policy process cycle. It begins by providing an introduction to the study of problem definition, before highlighting how we can make use of the insights gained from studies to then analyse the policy frames and resulting definitions of several of the interested actors. It asserts that the creation of the 1991 Child Support Act was born from three definitions of a 'problem' and three frames. The Chapter then examines the importance of viewing 'problem representations' as something separate to that of 'problem definition'. It highlights the difference between the two terms before looking at the power of problem representation and how language is skilfully utilised as a tool, before finishing by highlighting its role in the political sphere, the policy making process, and in policy failure.

3.2 Problem Definition: An Introduction

Problems do not reflect an *a priori* reality; they are instead a construction by interested actors promoting a particular agenda. This approach, that there is no such thing as an innate problem, is a constructivist viewpoint. As Dery highlights, 'the very notion of problem definition suggests a constructionist view, that is, problems do not exist "out there"; they are not objective entities in their own right' but are rather 'the product of imposing certain frames of reference on reality' (1984, 4). Spector and Kitsuse, two of the founders of the constructionist approach to problem definition, labelled those involved in the problem definition process as 'claim makers' (1977, 88).

As discussed in Chapter One, the benefits of approaching the study of public policy from a constructionist or post-modernist stance are vast. If we were to maintain an empirical/objective approach, our understanding would be extremely limited and naïve. It should be highlighted that the emphasis, and often purpose, of those approaching problem definition from an empiricist/objectivist approach is somewhat different to that of a constructivist. Empiricism/objectivism aims explicitly to describe the trends and development of a certain phenomenon, whereas constructivism aims to understand the underlying reasons and processes behind why and how a certain issue is being labelled as a 'problem' warranting action. Therefore the material that this thesis utilises, and the literature from which it draws upon to establish an understanding, is viewed from a constructivist approach. The social constructivist literature highlights the integral connection between power and problem definition, while a post-modern approach focuses on examining the hidden assumptions

within a phenomenon, therefore placing concern on 'deconstructing' the subject or definition and analysing its discourse.

The literature associated with problem definition can be found in a number of disciplines, each with a different slant and emphasis. The way in which we examine problem definition within policy analysis has undergone an evolution, moving from its origins in positivism, through social construction and onto post-modern and post-positivist approaches. The evolution of our understanding has enriched our knowledge base and widened the areas in which we examine problem definition, allowing for a deeper understanding of the roots and underpinnings to problem definition in particular circumstances.

How an issue is defined is of central importance. As stated above, we need to be aware the 'problems' do not simply exist 'out there in the real world' waiting to be identified by an observant passer-by. Instead, they are strategic constructs created through conceptual lenses (Rein and Schon, 1977; Wildavsky, 1979; Lindblom and Cohen, 1979; Schon, 1983; Dunn, 1988; Weiss, 1989). Problems are highly normative; we declare an issue to be a 'problem' based on our moral beliefs, norms and values, and assumptions about what ought to be. Problems are products of our judgement, and how we define a problem also depends on what frame we approach an issue through. As Hogwood and Gunn state 'we each create our own 'reality', and this is nowhere more accurate than in the way we identify 'problems' or 'issues', and interpret and relate them to our mental map of some larger situation.' (1984, 109). This highlights that we cannot simply state that X was the problem, and Y was the policy aimed to tackle that problem. Instead we need to assess, and then understand, why X and Y were labelled in such a way.

3.3 'Problem' Representation

How an issue is presented in the policy process is also of high importance, yet is sometimes taken for granted in policy analysis. We must not limit our understanding by only acknowledging the problems and policies which are defined by political actors, but delve and look at the power behind problem definition, and then problem representation. Not only is it vital that we understand that problems are constructed, but also 'how' and 'why' they are constructed in that way. Hogwood and Gunn state that 'who defines it decides it' (1984, 114). Whilst this is accurate, the complexity of problem definition actually penetrates deeper. The process of constructing a problem can be more manipulative; actors may see the benefits of constructing a problem in a certain way in order to get support for the policy, yet this may not necessarily be what they internally perceive the 'problem' to be. As Rochefort and Cobb highlight, 'issue definition and redefinition can serve as tools used by

opposing sides to gain advantage' (1994, 5). Therefore, we not only have to look at how the problem was constructed, but also what was the value or advantage gained from constructing it in such way.

We need to move beyond simply analysing problem definition (why something is defined as a 'problem' depending on someone's conceptual lens), to understanding also the importance of 'problem representation' (how and why a problem is represented in a certain way). When we look closely we will see that how a problem is defined by an individual or a group is not necessary what it is represented as. How a policy is represented is a strategic tool used by those holding the power strings and is frequently adapted throughout the policy process in order to win support for a policy. As Bacchi states: 'A necessary part of policy analysis hence includes identification and assessment of problem representation, the ways in which 'problems' get represented in policy proposals' (2010, 263). An actor's definition of a problem is something that is static and will typically only change when he or she has undergone a change of moral stance, whilst problem representation is something that is fluid and adaptable throughout the policy making process as actors frequently alter the way they represent a problem depending on audience and political circumstances. As Bacchi highlights, 'we need to keep open the possibility that a particular representation has been selected for purely instrumental reasons, to achieve a particular goal, and has nothing to do with the values of the one making the representation' (1999, 10). It is therefore more accurate to refer to 'Issue Identification', 'Problem Representation' and 'Problem Definition' as separate elements. 'Issue Definition' involves an acknowledgement of an issue, 'Problem Definition' is an internal process of placing the identified issue in the context of the individuals core values, norms and beliefs, and then attaching a theory of cause and effect to the issue. 'Problem Representation' refers to how the 'problem' is represented externally, the created image of the issue. The below figure helps us to understand the layers associated with problem definition, and how these are separate areas.

Figure 3.1: Layers of Problem Definition

Issue Identification:

Social phenomenon/ condition acknowledged

Private: **Problem Definition**

Core values, norms and beliefs

Public: **Problem Representation**

Portrayal/Image of 'problem'
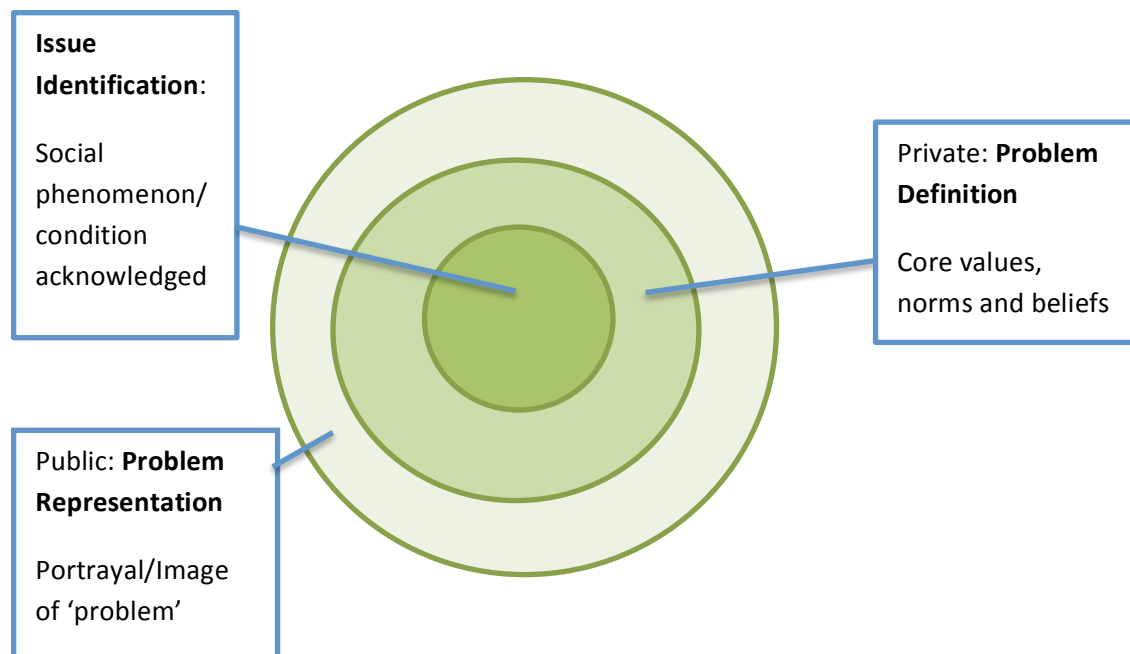
In his book *The Art of Political Manipulation* (1986), Riker describes policy-makers as strategic architects that sculpture a 'problem' and change the nature of the debate in order to win support. Riker puts forward an example of a US Senator who is opposed to plans to dispose of nerve gas in his state. Aware that other Senators would be unlikely to support his rejection of the proposal (as they would be comforted in the knowledge that their state was not chosen), the Senator realised that in order to win support for what he saw as a 'problem' he needed to redefine the issue. Therefore whilst his private 'problem definition' was that of the disposal of nerve gas in his state, his public 'problem representation' has to mask his beliefs and be worded in such a way that will increase the likelihood of support (see F**igure 3.2**).

In this case, Riker shows that the Senator represented the issue as one of power and duty – one that played up the Senate's willingness to ratify treaties that were presented by a 'power-grabbing executive branch'. Baumgartner and Jones refers to this as 'strategic issue redefinition' (1994, 54). As a result of his strategic representation the Senator was able to win support for his attempt to reject the plan. Had the Senator represented the problem as he has internally defined it, then he would have been unlikely to have achieved support for his cause (Riker, 1986, 106-113).

Figure 3.2: Layers of Problem Definition as applied to Riker's Nerve Gas Example
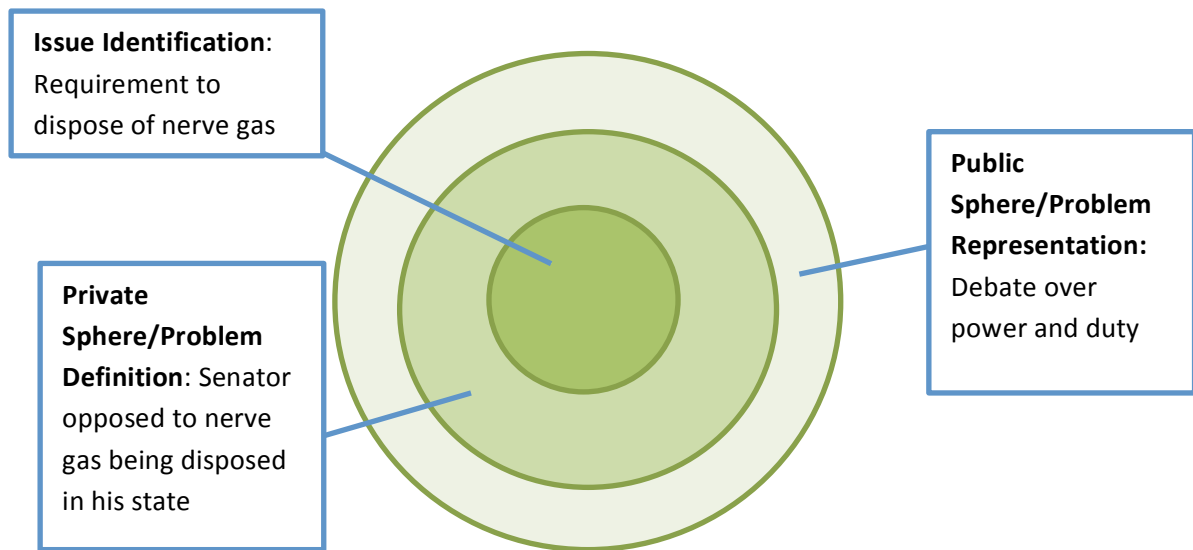
This shows that problem representation, and strategic issue re-definition, are powerful tools that need careful consideration when analysing the policy making process. It is not just 'why' or 'how' an individual comes to define an issue as a problem based on their norms and values, but it is also 'how' they come to represent an issue based on any strategic plan they are utilising. Often (but not always) these two aspects are separate. As Baumgartner and Jones neatly summarise 'policymakers seeking particular policy outcomes attempt to redefine issues to suit their needs, taking advantage of circumstances as they can' (1994, 54), an observation endorsed by Kindgon (1994, 54) when he shows that redefinitions often involve attachments of new solutions to pre-existing 'problems'. (This will be discussed in more detail in Chapter Four, which looks particularly at Kingdon's idea of 'Policy Windows'.)

An element often linked with problem representation is framing. Whilst the two concepts are similar, we must note their differences. Frames or conceptual lenses are tools of definition. They are the way in which actors approach and attach meaning to an issue or set of circumstances (See Fischer 2003; Rein and Schön 1993, 1994). Frames act as a means to contain information around a particular theme. It is both the way in which actors view an issue and how they communicate that perspective to others; in effect, their 'way of seeing'. An actor organises and locates an issue inside their conceptual lenses before then attaching a discourse through which the issue is to be discussed. Frames are in effect boundaries through which an actor interprets a set of circumstances based on an actor's norms and values, interests, and agenda.

However, framing should not be seen as synonymous with strategic problem representation as discussed above. Framing is not akin to 'spinning the facts' or deceivingly emphasizing a false line of

thought in order to achieve a goal; instead it is placing more emphasis upon one element of an issue than another. For example, actors who have concerns about the economic impact of international aid will portray the issue in economic terms – this is framing. Whereas if the real concern of those actors was a 'dislike of foreigners', yet they emphasized publically economic concerns, this would be strategic representation. Framing is portraying an issue within a particular set of boundaries, whereas representation is the act of deliberately falsifying one's frame to conceal true motives.

3.4 The 1991 Child Support Act: Multiple 'Problems', Different Frames, and False Representations

Definitions and representations of problems are neither static nor concrete; they are continually evolving to suit many different factors. In the case of the 1991 Child Support Act, we can identify three 'problems', each of them focusing on different issues and developed from different frames and conceptual lenses, and held, or portrayed by different actors. We will also see that problem definition is a thread that runs, and develops throughout the policy process. During the formation and passage of the 1991 Child Support Bill, different approaches and frames to the problem were emphasised at different stages by different actors. Below will delineate the three alternative frames: those who believed the current child maintenance system was not working for both lone parents, and the state; those who emphasized the 'negative' social and moral impact of an increase in lone-parents; and those who were motivated primarily by a desire to reduce public expenditure. The end of this chapter will highlight the significance, and danger, of having multiple frames and definitions of a problem in the formation of a policy, and how these might contribute towards policy failure.

3.4.1 A System in Need of Change

The White Paper *Children Come First* was published on 29 October 1990, and proclaimed the need for reform by arguing that the erstwhile child maintenance system was 'fragmented, uncertain in its results, slow and ineffective' (Department of Social Security, CM. 1263, 1990, 1). It was widely recognised that the system was in clear need of improvement and reform. It was deemed both inadequate in achieving a sufficient system of child maintenance for the lone parent, and highly exploitive of the state in terms of its heavy burden on public expenditure. The main reason behind this dual inadequacy was that the court system was largely unsuccessful in delivering maintenance effectively; in 1989 only 22 *per cent* of Income Support claimants were receiving maintenance, and only 30 *per cent* of lone parents in total (Bradshaw and Millar, 1991, 78).

In cases where a maintenance arrangement was achieved, the payments were irregular and insufficient. The system through the courts was proving to be highly problematic, as research commissioned by the then Department of Social Security (DSS) discovered:

> *…not all women receive awards, the awards made are low…many awards are not paid or paid irregularly, awards are not increased over time and the arrangements for enforcing maintenance are often not used and are unsatisfactory.* (Bradshaw and Millar, 1991, 78).

As the system was largely based on the discretion of hundreds of individual courts and DSS offices throughout Britain, the outcomes were extremely inconsistent. The court system also enabled maintenance payments to fall into arrears, whereupon the parent 'with care' was left without maintenance and the outstanding monies were never recovered (Garnham and Knights, 1994, 21). In many cases, the system was unable to gather *any* maintenance from the absent parent, leading a Senior Minister in the Thatcher Cabinet (Minister A) to state that, *'an order was just a piece of paper, it doesn't do you any good when you need money – you can't bank it!'* (interviewed by author on 19 July 2011). Inside the Lord Chancellor's Office, a compelling motive for change was the notion that the existing system was devoid of justice (Interviewed by author on 19 July 2011).

Handling maintenance claims in local DSS offices was the responsibility of Liable Relatives Officers, a system which was extremely weak and ineffective. This was largely due to a reduction in the amount of staff time devoted to tracing absent parents and obtaining maintenance payments. Between 1981 and 1988, staff numbers fell by a third from 2,356 in 1981 to 1,578 in 1988 (National Audit Office, 1990, 5). Bradshaw and Millar also noted that Liable Relatives Officers were under great pressure, over-worked, and frequently reallocated around the Department to carry out other benefit related tasks (1991, 79). The administration of the system was also inefficient, time-consuming, and often without reward. The absence of a compulsory element and the lack of a benefit penalty meant that co-operation with the system was low. The circumstances in Britain at the time further reduced the success of Liable Relatives Officers; the 1980s saw an increase in the number of unemployed absent parents and an increase in the number of never-married lone parents – factors which meant that Liable Relatives Officers were increasingly unable to track absent parents, and secure maintenance payments.

The court system was also highly exploitative towards the state, reaping money from the welfare state and accumulating a high legal-aid bill. Prior to the -Child Support Act, settlements were highly expensive for the state due to the 'benefit efficiency' approach often taken by the lawyer. The courts would frequently listen to lawyers attempting to balance the payments in such a way that the

parent with care could maximise their benefits from social security, thus reducing the amount required from the absent parent. A then Minister in the Thatcher Cabinet deplored the method often taken by lawyers and the court to arrive at maintenance arrangements claiming that: 'the courts lent themselves to this, [lawyers] used to say how much benefit do you get and how much can you get out of the system and then [the courts] would award maintenance taking that into consideration' (Minister B, interviewed by author on 19 July 2011). In effect Britain had a highly inefficient and costly publically-funded system which produced inadequate private arrangements, and which exploited the resources of the welfare state. The failing system created a solid case for change and fuelled an attempt to produce a fair and reliable child maintenance system that would benefit the lone parent, the child, and the tax payer. This was the frame, and 'problem identification', that was held by the Department of Social Security and the Lord Chancellor's Office.

3.4.2   Feckless Fathers and the Demonization of Lone Parents

During the 1980s, statistics showed that Britain was witnessing a rise in lone parents, and perhaps more importantly, an increase in the proportion dependent on means-tested benefits. The number of lone-parent families in receipt of state benefit increased by 86 *per cent* between 1981 and 1988, yet the proportion receiving regular maintenance had fallen from 50 *per cent* to 23 *per cent* (NAO, 1990, 5). By 1988, only eight *per cent* of the cost of supporting lone-parent families on benefit was recovered from absent parents and benefits expenditure on loan parents grew from £2.4 billion during 1978/79 to £6.6 billion during 1990/91 (Bradshaw and Millar, 1991, 78). These indicators encouraged the Conservative Government to perceive the child maintenance system as a problem. Social changes pushed child maintenance reform back onto the institutional policy agenda. Here we witness the close relationship between indicators and ideology. As stated above, problems are socially constructed; policy-makers make judgements regarding a set of indicators based on their dominant values, norms and beliefs – indicators themselves do not declare an issue to be a 'problem'. These social indicators conflicted with the Conservatives' 'macro' level ideals, those of neo-liberalism and individualism, in two ways: the ideal of 'family values' and self-reliance was threatened and an increasing social security budget was seen as an unjust drain on state finances and, *inter alia*, the tax-payer – the 'moral majority'.

Statistics showing the increase in lone parents and unmarried mothers produced something of a moral panic, and seemingly exemplified the views of Charles Murray; socio-demographic trends went against normative views about the nature of the family. According to Murray, the welfare system was increasingly to blame for encouraging lone parenthood, by making life as a lone parent on benefit financially viable and attractive lifestyle choice. He went on to claim that 'these women' were socialising their children into accepting a dependency on welfare and therefore creating a cycle

of dependency. Murray also condemned the sexual irresponsibility of young men for fuelling juvenile delinquency. His reasoning was that by denying their children, especially sons, a working male role model in the household, they were increasing the chance that those children would succumb to crime, as adolescent males looked to local gangs and their leaders in the absence of a father figure at home. Murray believed that the traditional nuclear family crucially socialised children into appropriate behaviour and roles, with boys learning the importance of work as the means of financially supporting wife/mother and children. Furthermore, within this sexual division of labour and allegedly innate gender roles, fathers provided the main source of authority and discipline, while mothers were the primary providers of love and affection. Without a father, therefore, boys were more likely to become undisciplined and develop behavioural problems in adolescence (Murray, 1990).

Murray's critique encouraged many senior figures within the Conservative Party to seek to tackle the problem of the 'underclass'. Lone-parent families became the focus of many of the concerns surrounding the erosion of family values and its detrimental impact on society. As Ridley austerely stated, 'single parents were free-riders on the system, directly exploiting the dependency culture' (1991, 91). The Conservative Government's predominant ideology was identifying the current system as a problem. It was in this context that many Conservatives began to look for ways to tackle the 'problem' of lone-parents, many of which they thought were encouraged to actively get pregnant outside of wedlock with the intention of being dependent on the state. In a lecture to the National Children's Homes in January 1990, Thatcher emphasised parents' obligation to their children and stated that, 'No father should be able to escape from his responsibility and that is why the Government is looking at ways of strengthening the system for tracing an absent father and making the arrangements for recovering maintenance more effective' (Thatcher, 1990).

According to this definition of the problem, the blame lies with the 'irresponsible mother' and 'feckless father', both of which were products of the 'underclass'. What we have seen here is the demonization of lone parents with the rhetoric of the 'underclass' closely attached. What we should note is the change in views towards lone parents during the period 1970-1990. Millar (1996) highlights that the perception people held towards lone parenthood in the 1970s was one of poverty (see also: Macaskill1993; Mackay et al, 1972; Bradshaw and Millar, 1991). At this point single parents were not viewed upon as immoral but rather as a vulnerable sector of the society that were at risk at falling below the poverty line. Concern regarding potential deprivation was shown to lone-parents rather than attaching blame to them. (Glendinning and Miller, 1992; NCOPF, 1977; Townsend, 1979). Yet by the late 1980s, attitudes towards lone-parents had been radically transformed (amongst the majority of the governing Party); concern for the plight of lone parents had been replaced with

anxiety about moral decline and the undeserving poor. The perception of lone mothers as the vulnerable females escaping an abusive relationship had been replaced with a perception of young women making a conscious decision to get pregnant in order to willingly and fully 'live off the state'; a lifestyle choice.

Akin to this newly developed perception of lone mothers there was also the demonization of young 'underclass men', who irresponsibly impregnated women yet had no intention to stay with the mother or provide any emotional or financial support to them and their child. These views were largely a result of the changing political ideology of the Conservative Party under Thatcher (with economic liberalism being accompanied by a strong strand of moral absolutism and social authoritarianism), and the impact of both the writings of authors such as Charles Murray, and a desire to imitate America with a New Right stance. These views had transformed the political landscape, and this created the frame through which the Government viewed lone-parents. This was also frequently how the problem was represented to the public and the media.

3.4.3 Strain on the Treasury

Economic issues motivated the bulk of Conservative thinking during this period. Thatcher's preoccupation with wanting to 'roll back the state' and to reduce public expenditure dominated most areas of policy making and reinforced her ideological approach towards social policy. This is particularly true with regard to social security, for as the most expensive area of Government expenditure it was a prime target for attack. As Deakin notes, 'social policy objectives [were] subordinated to the general goals [of] the economy' (1994, 84). Thatcher's neo-liberal economic ambitions to reduce spending largely shaped the policy agenda and were central to the development of social policies. By the late 1980s her focus had reached child maintenance reform and thus elevated it onto the institutional agenda. Thatcher sought a method of privatising the 'problem' and therefore removing the financial strain lone parents were placing on the state. The foundations of this 'frame' were primary economic. It was not so much an attempt to promote traditional family values and recreate a Britain which consisted of 'moral' and 'normal' nuclear families, but rather an attempt to rein in public expenditure. It should be noted that although many Conservatives were both socially authoritarian and economically liberal, often these strands were not compatible with one another or held different emphasis/priorities. In the case of lone-parents, the socially authoritarian ideal of 'moral' nuclear families was subordinated in favour of the economically liberal ideal of saving the Treasury money. This can be seen in the way they constructed the formula which forced the Agency to target middle-class men as they earned a bigger income. This was the frame, and private 'problem identification', that was held by Thatcher and the Treasury.

3.5 What 'Problem' was the 1991 Child Support Act Claiming to Remedy?

Much public policy making is not open and transparent, for the nature of politics is often clouded in rhetoric and strategic representation. Often, the way in which a policy is presented and the true motives of the policy are different; we cannot simply look at a White Paper or the introduction of the agreed policy to get an accurate understanding of what 'problem' policy makers were trying to solve. Instead, to glean such an understanding, we must examine two aspects: *what* the 'problem' was officially presented as, and secondly, *how* the problem was represented throughout the process.

The White Paper *Children Come First* was published on the 29 October 1990. The justification for child maintenance reform was presented in terms of the need to replace a failing system that was 'fragmented, uncertain in its results, slow and ineffective' (DSS, Cmnd. 1263, 1990, i) and to remove the problem of absent parents not honouring their responsibility to their children; little emphasis was placed on wider social and economic aims (Davis *et al,* 1998, 8). The problem was characterized in terms of system failure and the moral responsibilities and obligations of the absent parent. The main principles and objectives which *Children Come First* emphasised were that parents should honour their responsibility to their children when they could afford to do so, and that dependence on the state should be reduced when possible. The emphasis was placed on the moral aspect of parental responsibility; a desire to reduce expenditure, whilst present, was secondary, whilst an attempt to discourage lone-parenthood was absent.

The ensuing 1991 Child Support Act perfectly displays an example of the power of strategic problem representation; the ability to influence the system through its strategic portrayal of a problem. What we see in the case of the 1991 Child Support Act is that the representation of the policy continued to adapt. The official line of emphasis, one of moral responsibility and creating a fairer system which would put children first, allowed little scope for opposition by pressure groups, charities or other parties. The continual re-emphasis of the principle of responsibility and family values almost guaranteed Opposition support, as it set a narrow frame in which the topic was discussed (in this instance, to oppose the proposals would be seen as being opposed to a fairer system that would benefit vulnerable children, which nobody would dare attempt to be).

As stated earlier, the 1991 Child Support Act had three separate strands of problem definition, the most influential being that held by the Treasury and Thatcher. If we apply **Figure 3.1 Layers of Problem Definition** to the views held by Thatcher and the Treasury we get a clearer understanding of the use of strategic problem definition.

Figure 3.3: Layers of Problem Definition as Applied to the 1991 Child Support Act

Issue: Child maintenance for lone parents.

Problem Definition/private: Cost to the Treasury

Problem Representation/ Public: Family values/failing system
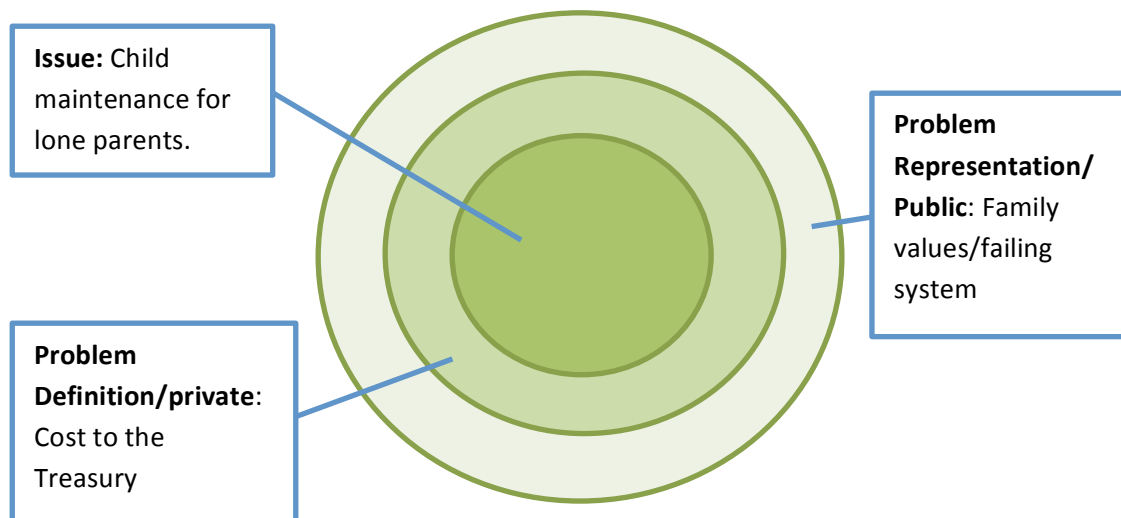
Policy representation is a fluid and adaptable process, something that is chosen to maximise support in order to achieve a particular goal. With our case study of the 1991 Child Support Act, we can see that how the policy was represented in the White Paper and how it was represented as it went through Parliament was different to how it was presented to the public. The representation to the public did not place the emphasis on a failing system, but rather was filled with New Right discourse blaming 'feckless fathers' and 'council estate mothers'. Here we see the outer core was changing. The 'problem', as defined by Thatcher and the Treasury, continued being that of the cost to the Treasury and a desire to reduce the budget but representation changed to suit the purpose and adapt to the audience. The public representation utilised by Thatcher and the Treasury was a cleverly disguised strategic plan to achieve a maximum level of support.

3.6   Language

While it is commonly accepted that there is no one definition of a problem, and we are often offered competing views, less attention is paid to the words and delivery of both problems and policies. However, as Finlayson states, 'politics is very much a matter of words expressed in certain ways, in certain formats or locations in order to achieve certain effects' (2003, 16). Finlayson discusses the strategic use of words to win support during a campaign, but the same approach can apply when trying to ensure support in Parliament, among Cabinet Colleagues, and the Opposition (2003, 16). The language utilised by politicians can often be used as an influential tool, especially in winning support for a policy or approach. This is particularly important in the case of the 1991 Child Support Act in aiding our understanding of how a fundamentally, and evidently, flawed policy was

allowed to pass through Parliament with relative ease. Attention needs to be paid to the symbolic significance of language and methods of communication if we are to understand fully the formation and passage of the Bill. As Finlayson states, 'politics is in large part about the art of communicative persuasion' (2003, 40).

When looking at policy representation, we need to acknowledge the great importance and power that is embedded in the choice of language. Language is an influential power tool with which policymakers can, should they wish, mask true motives, attach blame, disguise underlying objectives, determine media image, and indeed set the boundaries within which objectors can object. We need to note that language is not neutral, but instead is an expression of values, a power resource, and a political strategy. As Rochefort and Cobb state, '[t]he uses of language are crucial to the political analysis of public policy making and problem definition... Language can be the vehicle for employing symbols that lend legitimacy to one definition and undermine the legitimacy of another' (1994, 8). As noted above, in the case of the 1991 Child Support Act, words such as 'family', 'child', 'children', 'responsibility', 'fairness', 'duty', 'values', and 'child welfare' were used to control the frame in which the policy was discussed. The representation of the policy, through these words, was helping to mask the problem that was identified, and objectives pursued, by Thatcher and the Treasury. As Andrew Mitchell MP recalled, 'it was all motherhood and apple pie, nobody looked at the detail' (Can't Pay, Won't Pay, 1999).

3.7 Problem Representation and Power

Power consists of the ability to get one's way, to achieve a desired outcome. As Dahl notably stated, power is a matter of getting people to do something that they would not otherwise do (1957). This can be done through a number of different ways, utilising different power tools. Power tools can be both overt, such as through punishment, cohesion, or promise of rewards, and covert by limiting the scope for opposition (as Bachrach and Baratz emphasised in their work on the 'second' or 'hidden' face of power). In democratic societies those who wish to exert power are typically not attempting to alter the internal political views of the actors involved, but instead alter or control their reaction to certain events or proposals; this allows them to achieve their targets. Therefore the power tools that are typically utilised are covert and involve limiting the options for, or reducing the credibility of, those who are likely to oppose. This is something that will be addressed more fully in Chapter Five.

As Foucault (1977) clearly highlighted, creating a climate in which an issue is discussed is a form of control, therefore a power tool. In the case of the problem representation stage of the 1991 Child Support Act, and during its passage through Parliament, the Conservative Government used

language as a method of controlling the environment and ensuring support for the Bill. The strategic use of language and the creation of imagery that surrounded the policy were able to ensure support for a policy that was deeply ideological and fundamentally flawed.

The power to represent a policy or a problem in a particular way through strategic use of language almost forces an actor to react in a way that they would not otherwise do. As Parsons observes, 'power resides as much in the capacity to command action as to command inaction.' (1995, 112). In this case, Labour opposition, or even internal opposition coming from the Conservative Party, was reduced and support was granted. Therefore A made B do something that B would not otherwise have done if it was not for the control A had enforced over B. Due to the Conservative Party's successful control over the discussion of the policy, virtually any opposition could be perceived or portrayed as opposition to both establishing a reliable system of child maintenance and supporting family responsibility, something that the Labour Party felt unable to do. As *The Sunday Times* highlighted: 'Sold to the nation as a piece of legislation to help children, it was, in fact, aimed purely at removing the burden of support from the exchequer and placing it on the already burdened shoulders of the families themselves' (*The Sunday Times*, 18 September, 1994). The scope of the debate was limited to either showing support or opposition for 'the principle' of the policy, leaving little scope for opposing or engaging in discussion surrounding a deeply ideological and flawed policy.

3.8   Why Construct and Mask a 'Problem'?

It is often recognised that in order to get a policy passed through Parliament and attain support of the British media and British public, a policy or 'problem' needs to be masked. Having the ability to do this is a considerable power resource in a Government's armoury. In the case of Child Maintenance, the problem had already been acknowledged by John Moore in the mid-1980s when he was Secretary of State for Health and Social Services. Moore recognised the increase in the number of lone parents as both an economic and moral concern and declared that punitive measures needed to be introduced to eradicate this. In October 1988, at the Conservative Party Conference, Moore made a speech whereby he expressed concerns regarding 'excessive state provision' encouraging lone-parents families. Moore stated:

> *Is the knowledge that the state will provide a factor in father deserting their families?... What is to be done about nearly half a million fathers who pay nothing at all towards their wives and children?* (Conservative Party Conference, 12 October, 1988).

Yet Moore's proposals and approach were deemed too radical and unlikely to win support. Shortly afterwards Moore was himself quickly ushered to the back-benches. However the policy proposal and ideas advocated by Moore bear remarkable similarity to those contained within the 1991 Child Support Act. It can be argued that it was recognised that Moore, an openly harsh right-wing Tory, would not achieve the political support needed to ensure the successful passage of the policy (as during his tenure as Social Security Secretary he had drawn criticism from all sides of the House). However a moderate Tory such as Tony Newton would be more likely to win support for such a policy due to his softer image and more congenial approach. It can be argued that in the case of the 1991 Child Support Act, the replacement of John Moore with Tony Newton, and the change in how the problem was represented, was all part of the power, rhetoric and strategy that was deployed by the Government to mask the true motives of the desired policy. This was point will be returned to in Chapter Five, which utilises Kingdom's (1984) idea of 'policy streams' to illustrate attempts to 'open the policy window'.

3.9   Problem Definition and Links to Policy Failure

As Bosso notes, 'the politics of problem definition has become so critical to success or failure in policy formation' (1994, 182). Two things are apparent in the policy formation stage of the formation of the 1991 Child Support Act. Firstly there were multiple definitions and multiple frames present throughout the process, and secondly there was a strategic use of language and imagery used by those who aimed to achieve their desired outcome (the successful and covert passage of a somewhat ideological and controversial policy). Both of these elements were used as power resources by Thatcher and the Treasury, and can be seen to have contributed to the creation of a fundamentally flawed policy that was predestined for failure. The below section will briefly look at both of these factors, highlighting how they contributed to the failure of the policy.

3.9.1   Multiple Frames and Policy Failure

During the formation and passage of the 1991 Child Support Act, there was no one defined problem. Each of the three approaches and frames highlighted above were emphasized at different stages and to different audiences by different actors. This caused problems for two reasons. Firstly it allowed for inconsistency and 'messy' policy making, because actors engaged in the policy-making process of the Act were working towards different aims and objectives. Secondly, the presence of multiple frames was utilised as a power resource by certain actors, as the existence of multiple definitions allowed for certain 'definitions' to be emphasised at different stages in order to achieve support for the policy whilst masking its true motives. Below will discuss each in turn.

The existence of multiple frames remained hidden under a layer of ambiguity which allowed policy makers to proceed without a clearly defined objective. By each working within their own frame, to their own definition of the problem, without clearly specifying or being aware of the true intentions of other actors, it made the policy more vulnerable to failure. This caused the problem of inconsistency and messy policy making. Wolman astutely highlights the role of multiple definitions and their link to policy failure:

> *Too frequently rhetoric is substituted for adequate conceptualization, resulting in vagueness and lack of direction through the entire formulation and carrying out process. The end result is perceived to be a program which has failed to solve a problem even though no one is quite certain what the problem is… thus 'problems' frequently appear on the decision-making agenda without having been adequately conceptualised or though through.* (1981, 463).

As highlighted below, this may be strategic; yet frequently it is a consequence of poor communication amongst actors. Even without being used as a tool to smuggle through a controversial policy disguised within another frame, the existence of multiple frames allows for inconsistency, poor formulation, and inefficient or inappropriate scrutiny to take place. In the case of the 1991 Child Support Act, the presence of multiple frames had a direct impact on the formation of the policy. One Minister in the Thatcher Cabinet suggested that contradictory messages were being given to Parliamentary Counsel during the drafting process:

> *it got to the point of insisting that Parliamentary Counsel be present at all meetings, because it became clear… that they weren't getting clear instructions from the department in order to know to what to draft. They didn't know what to put in it.*
> (Minister in Thatcher Cabinet A, interviewed by author, 19 July, 2011).

As a result of the two competing frames, there was the existence of two competing policy paths: the Department of Social Security (DSS) and the Lord Chancellor's Office on one side and Thatcher and the Treasury of the other. The often unspoken and unacknowledged conflicting objectives pursued by both the DSS and the Treasury created uncertainty for the Parliamentary Counsel as to what to actually include in the draft Bill. This led to ambiguity manifesting itself within the Child Support Bill. Here we can see that the presence of multiple frames not only hindered Parliament's ability to scrutinise the Bill effectively, it also led to major problems in operation of the policy, due to its unclear, contradictory, and unrealistic objectives and targets. This originated in actors not clearly establishing a definition of a problem to which they were attempting to combat, which meant that

when the creation of the 1991 Child Support Act, the Child Support Agency began operation it quickly encountered vast problems.

Additionally, in the case of the 1991 Child Support Act, the presence of multiple frames was used as a power resource and a means of pushing through a poorly formed policy. By allowing actors to believe that it was their definition of the problem that they were working towards, and also publically promoting these definitions, opposition to the covertly ideologically driven policy that was being driven through was minimalised. Actors were almost manipulated into silence. As stated above, at different stages, different definitions were highlighted. For example, as the policy went through Parliament, the problem was linked to a failing system, and a duty the Government had in creating a reliable system to see absent parents pay towards their children (the problem defined by the DSS and LCO). This definition of the problem was emphasised as it was likely to won support. The cost to the Treasury, or the concern for an emerging 'underclass' was almost absent. The Government's encouragement of the Lord Chancellor's Office to act as the Bill's sponsor was another strategic measure designed to enhance the emphasis on this definition.

As Chapter Six will also show, this continued throughout the Bill's passage through Parliament. Immediately we can see this in the naming of the white paper, 'Children Come First'. From the outset, the problem was represented in a way that limited disagreement. Throughout the Bill's progress through the House of Lords and House of Commons, the policy was emphasised in terms of its 'principle' of reforming the system. Whilst objections to aspects of the Bill were raised, and indeed within the House of Lords strong opposition to a number of aspects was voiced, it was cast aside when emphasis on the 'principle' was reiterated, which ensured symbolic agreement and reduced the weight of the criticism. Opposing voices frequently used qualifying phrases such as: '*those principles are surely right. However…*' (HL Deb (1990-91) Vol.526, col.805) and '*The concept behind the Bill… is entirely unexceptionable… it is only right and proper that we should support it… However, perhaps the Department as adopted a somewhat knee-jerk approach* (HC Deb (1990-1991) Vol. 192 Col 212). The policy was presented and framed in a way which skilfully allowed it to be passed in terms of its apparent 'principle' and 'philosophy'. As Garnham and Knights stated, 'opposition was afraid of appearing to oppose the principle of parental responsibility.' (1994, 37)

In the public sphere, emphasis was placed on the moral objective of tracing errant fathers and making them face their parental responsibilities. The manner in which Thatcher and the Treasury concealed the policy's economic objectives, behind a 'moral crusade' to bring runaway fathers to justice, was effective and initially ensured support from the majority of newspapers which appeared to approve of Thatcher's guise as defender of the traditional family.

In the case of agenda setting, and frame setting, of the 1991 Child Support Act we can see language being deployed in two ways. Firstly, the initial image created, and problem represented, by Thatcher was one of traditional family values, and absent parent's moral and financial responsibility towards their children. A strong 'moral', and 'family', tone was injected to numerous speeches, setting the agenda for child support reform. Phases such as 'responsibility to children', 'a fairer system for children', 'unfair burden on the lone-parent', and 'duty of responsibility' were frequently used. For example, at a speech given to the National Children's Home George Society, although a speech aimed at discussing homelessness amongst children, Thatcher stated:

> *...when one of the parents not only walks away from marriage but neither maintains nor shows any interest in the child, an enormous unfair burden is placed on the other…. No father should be able to escape from his responsibility and that is why the Government is looking at ways of strengthening the system for tracing an absent father and making arrangements for recovering maintenance more effective.*
> (Thatcher, Margaret, 17 Jan 1990, Speech for National Children's Homes, George Thomas Society)

Thatcher used the platform of the National Children's Home speech to set the agenda for child maintenance reform. Arguably, it could be suggested that she used this platform to reinforce an image of family values and duty to children. Numerous speeches set the tone in which the subsequent policy would be framed, and discussed.

Thatcher's emphasis on 'family values' and use of emotive language struck a national chord. She managed to effectively influence the press, and therefore a large majority of the public, in supporting the policy by only focusing on its outer emotive philosophy. The way it was framed publicly, which led to widespread media support, meant that it was difficult for the (Labour) Opposition to oppose the policy directly, which paved the way for ineffective scrutiny. Although, as Chapter Six, which assesses the legislative stage of the policy, will demonstrated, the Labour Party was aware of the policy's flaws, its potential negative impact, and controversial nature. However Labour felt obliged to support the Bill to avoid appearing out-of-touch with to the public, and to risk losing electoral credibility. It is easier to allow a Government with a sizable majority to pass a policy that has popular support rather than oppose it, even if as it was in this case evidently flawed.

The successful representation meant that there was public and parliamentary support for a policy that was strategically presented to ensure symbolic support and obscure detail; the image of the problem that they presented in each of these instances was not the actual problem they were attempting to tackle in practice. This ensured that the policy did not have adequate scrutiny at either

of these levels. Newton, the Secretary of State for Social Security, and Lord Mackay, the Lord Chancellor who sponsored the Bill, were almost used as tools. Their gentle approach and moderate standing enabled the Government to win support for what was portrayed as a principled policy attempting to create a better system. Beneath the surface, however, the views and intentions of Thatcher and the Treasury were 'bubbling away', remaining concealed until the Bill was safely enacted into Law, and the Child Support Agency was operational.

3.9.2   Language and Policy Failure

Closely linked to the role of multiple frames is the strategic use of language, for as we highlighted in the sections above, the role of language is a vital and powerful in policy making. However, not only do we need to emphasise its ability as a power tool, we also need to look at its role in policy failure. As Young states:

> *A shared language may mask multiple and conflicting meanings… while theses ambiguities may facilitate agreement at symbolic level, they preclude clear speciation of ends of policy and so inhibit the proper identification of feasible means for its achievement.* (1987, 94).

The above quote applies superbly to the poor conceptualisation of the 'problem', one that was masked in strategic and ambiguous language, which led to the creation of the 1991 Child Support Act. Language can, as indeed it did in the case of the Act, mask true motives. Words can be interpreted in several ways, leading to different actors pursuing different, even conflicting, objectives. In the case of the Act we can argue that this was not only down to the accidental use of ambiguous language that limited the degree of opposition and instead guaranteed symbolic agreement, but was also a result of the strategic use of ambiguous and symbolic language which provided a protecting veil to mask the policy's true intentions. This led to an ideological and inconsistent policy proposal being met with inadequate scrutiny and given quiet support by the majority as a result.

However, the presence of vague language and technical jargon was recognised in both the House of Lords and the House of Commons as the Child Support Bill went through the legislative process. On several occasions, concerns were raised over the degree of ambiguity that was present within the Bill. Lord Mischon noted that several of the clauses contained in the Bill were 'very loosely worded', adding that 'one may think that the noble and learned Lord (Lord Mackay) would not wish to excise himself for any vagueness of language on the grounds of being flexible or because it was too technical' (HL Deb (1990-1991) Vol. 526, col. 778). Yet although the use of ambiguous language

was recognised, it did not remove its effectiveness as a power resource. The use of both unintentionally or deliberately ambiguous language, both in the writing of the Bill and in its oral presentation to Parliament and the public, prevented the undertaking of effective scrutiny of its proposals by either of the two aforementioned groups. This lack of effective scrutiny was responsible for allowing a flawed piece of legislation to make it onto the Statute Book, which in turn would eventually contribute to the policy's failure.

3.10   Conclusion

An assessment of the 'problem definition stage' of the 1991 Child Support Act shows us that there are considerable links between how a problem is defined and policy failure. Rising numbers of lone parents, a child maintenance system that was unfit for purpose, and a Government obsessed with curbing public expenditure, provided the context for inconsistent and uncertain problem definition. There were numerous actors in the policy-making process, each viewing the policy through a different frame, and thus attaching different definitions of what the problem was that the policy sought to rectify. This led to there being no clear definition of the aims and objectives of the policy being contained within the Bill. The fact that some actors were using covert, 'problem representation' tactics to mask their true aims and objectives only intensified the ambiguity. Thatcher and the Treasury deployed a strategic use of language and frames to both garner popular support, and strangle any potential opposition. Rather than frame the debate in economic terms, they represented it in terms of principles of parental and failed systems. This led to inadequate scrutiny of the policy which, along with the lack of clear aims and objectives, eventually contributed to its failure.

This chapter has shown that it is important to examine the problem definition stage. Ambiguity in defining the problem or multiple actors approaching it from multiple frames can have repercussions at later stages, such as, during Parliamentary scrutiny. It is also important to view problem representation as being different to problem definition, as representation is a power tool that can be used by policymakers to mask true motives and objectives. Use of language and the strategic use of multiple frames are also tools that policy-makers have at their disposal when trying to achieve their aims. A focus on the role of power and strategy in problem definition affords us a greater understanding of the fragility of the policy-making process in Britain, and how easy it can be manipulated and undermined in order to attain the support of the popular press, silence the concerns of Opposition, and weaken the scrutiny process. Policy failure does not just happen in the implementation phase. Even before the policy-making process has begun, when policy-makers are conceptualising problems into potential policy solutions, the roots of policy failure can start to spring.

Chapter Four – Policy Formation: 'Dual-Policy Transfer'

4.1. Introduction

This chapter will examine the formation of the 1991 Child Support Act. Here we will look at the role of Policy Transfer in both the creation, and failure, of the Act. It will firstly state what Policy Transfer is, and discuss how it can be used as an analytical tool to enhance our insight into the 'black box' of policy-making. It will then examine previous academic work on Policy Transfer, before advocating that the approach could be advanced by introducing the idea of 'dual policy transfer'. This Chapter will then apply this advanced approach to the case study of the 1991 Child Support Act, showing that 'dual policy transfer' did indeed take place. It will end by highlighting how these conflicting dual origins laid the foundations for the eventual failure of the policy.

4.2. What is Policy Transfer?

Whilst policy transfer is a vital model that can enhance our understanding of policy making and public policy, and is increasingly being used in policy making, the academic work analysing its role remains somewhat limited. Policy Transfer refers to 'the process by which knowledge of policies, administrative arrangements, institutions and ideas in one political system (past or present) is used in the development of policies, arrangements, institutions and ideas in another political system' (Dolowitz and Marsh, 2000, 5). Dolowitz and Marsh, the leading academics in this area, suggest that several components of a policy are transferred in the process; these can include policy objectives, institutions, ideas, ideology, attitudes and concepts, structure and content, policy instruments, administrative techniques and negative lessons (2000, 12).

Policy Transfer as a conceptual framework, whilst only making ground in the late 1990s with the work of Dolowitz and Marsh, is not an entirely new approach. It acts as an umbrella term that builds on, and connects, earlier fragmented work established by academics such as: Rose (1991, 1993) on 'lesson drawing', Bennett (1991) on 'policy convergence', and Walker (1969) and Grey (1973) on 'policy diffusion'. Policy Transfer seeks to further advance these earlier debates on the role and international movement of ideas and policies. Policy Transfer acts as a framework, or analytical tool, which we can utilise to understand and analyse the influence of nations upon other nations who have adopted a particular policy from the former, as well as seeking to gain an understanding of both the adopting process and possible problems with that process. It examines why a lesson was drawn, where a lesson was drawn from, who is involved, and what is transferred. But as James and Lodge highlight, Policy Transfer is not a theory of policy change, or policy failure

(2003). It cannot, nor attempts to be, a full explanation, but this does not refute its value. As Barry highlights:

> *Our understanding of a subject may be advanced if concepts and processes can be translated into other terms are readily grasped and fruitful analogy will suggest new lines of enquiry by provoking the speculation that relationships found in one field may hold, mutatis mutandis, in the other as well.* (1975, 68)

Policy Transfer is instead a tool that enhances our understanding of the operations inside the 'black box' of policy making. It places emphasis on examining the origins of a policy in terms of where the 'new' knowledge or approach that a Government is proposing has originated from. It forces us to not only question the source of that knowledge, but to also then gather an understanding of the political, economic, social, and cultural setting in which this knowledge was approached, transferred, and then applied. We can also use Policy Transfer to shed light on the motivations of actors, be they ideological, political, economic, or practical as to why they embarked on Policy Transfer to begin with (Hulme, 2006, 174).

The movement of ideas and policies between countries has attracted considerable academic attention (for example, Ball 1998; Daguerre and Taylor-Gooby, 2004). Significant focus has been placed on the transfer of policies and ideas from America to Britain, especially under the Thatcher and Blair Governments. The exchange of policies between countries is fuelled by a number of factors, namely; close relationships between epistemic communities; common cultural, economic and ideological links and a common discourse; and a desire to adopt a 'successful' and ready-made solution to complex or new policy areas. The expansion of easily available methods of communications, increased movements of civil servants, politicians, and policy entrepreneurs, increased use of SPADS, and closer co-operation between countries, has resulted in an escalation in frequency of Policy Transfer.

4.3 Policy Transfer and Links to Policy Failure

Whilst it would be assumed that policy-transfer would largely lead to successful public policy making – countries would adopt a successful policy from another country and apply it to their own, which would lead them to experience policy success – this is not always the case; policy transfer can often result in policy failure. Dolowitz and Marsh argue that three factors contribute to failure after policy transfer: 'uninformed transfer', 'incomplete transfer', and 'inappropriate transfer' (2000, 17). Uninformed transfer suggests the borrowing country has inadequate information about the policy, its goals and its operation in its original country. Incomplete transfer suggests failure may occur if

'crucial elements' of the policy are missed or ignored in the transfer process. Lastly, inappropriate transfer refers to there being insufficient understanding and consideration of the economic, political, social, legal, and ideological differences between the two countries which leads to failure. The process of policy transfer, or rather incomplete, uniformed, inappropriate policy transfer, partly explains the subsequent failure of the 1991 Child Support Act.

4.4 Policy Transfer and the 1991 Child Support Act

The existence of Policy Transfer can be demonstrated through a number of sources. These include official press releases or references to media reports, official studies commissioned by the Government, Governmental references to studies published by independent organisations, official records, information obtained through FOIs, and personal interviews. By utilising these sources of information we are able to show that Policy Transfer occurred, then analyse it through this approach. Dolowitz and Marsh already pursued this approach with their use of the Child Support Agency as a case study for Policy Transfer.

Dolowitz claims that 'the origins of the agency are to be found in policy transfer from the USA' (2001, 373). Yet this thesis has argued that this is only partially true. The Government did not look exclusively at the child support schemes in America with the intention of transferring the entire policy; indeed, it was never the intention of the Department of Social Security (DSS) to adopt the American, or more specifically, the Wisconsin system.

The 1991 Child Support Act can be seen to have developed from two sources: from the result of the interdepartmental workings of the DSS and the Lord Chancellors Office (LCO), and from the ideological pursuit of Thatcher and the Treasury. These divergent sources looked towards different countries; as a Minister in the Thatcher Cabinet stated '[the DSS] looked mainly towards Australia... our Prime Minister looked towards Wisconsin' (interviewed by author on 19 July 2011, Minister A). The reason for this lay in the contrasting objectives that were underpinned by differing definition of the problem, as identified in Chapter Three. They both identified different problems and thus sought different solutions to remedy them. Thatcher's unwavering determination to push the DSS towards introducing a system like that of Wisconsin's Child Support Enforcement System (CSES) led to the formation of a damaged, incomplete policy. We can utilise the framework of policy transfer, and its role in policy failure, to understand the inherent failings of the Child Support Act. Below, we will first look at the 1991 Child Support Act in terms of Policy Transfer from America, before looking at it in terms of Policy Transfer from Australia.

4.4.1. Policy Transfer from America?

Thatcher and the Treasury turned their attention towards the Wisconsin system for several reasons. They perceived the Wisconsin CSES system to be highly successful in reducing public expenditure, tackling a culture of dependency amongst lone parents, and instilling responsibility and family values into both parents. The problems which America experienced in enforcing child maintenance, which were similar to those experienced by Britain, led it to initiate reform over a decade before Britain. This justified Thatcher's desire to look towards America, as it had already established a system to tackle the very problems, that according to Thatcher and the Treasury, Britain was facing. Therefore Thatcher deemed it appropriate for Britain to look towards America for a solution.

The Wisconsin system was viewed as a method of imposing a neo-conservative model of family values and parental responsibilities. Although aware that Britain's existing child maintenance system was inadequate, Thatcher's main concern was the subsequent effect it had in creating a reliance on the state which raised public expenditure and, in her view, create a 'culture of dependency'. As Dolowitz highlights, 'policy makers associated single parents dependency with the necessity to develop a more coherent maintenance system, capable of shifting the financial responsibility for children from the state onto their biological parents' (2001, 378). One of the underpinning motives behind the adoption of the CSES in America, and the CSA in Britain, was the ideological argument that both parents should maintain responsibility for their children, ideally in a married relationship, but if not, then to do so regardless of their marital status. This view was expressed in both the opening statement of the 1984 *American Child Support Enforcement Amendment (ACSEA)* and in the 1990 White Paper *Children Come First.* The 1984 ACSEA states:

> *All children… in need of assistance in securing financial support from their parents*
> *will receive such assistance regardless of their circumstances*' (US Government,
> 1984, Introduction).

The DSS echoed this sentiment in the opening page of *Children Come First,* stating:

> *Although events may change the relationship between the parents… those events*
> *cannot in anyway change their responsibilities towards their children… the payment*
> *of child maintenance is one crucial way in which parents fulfil their responsibilities*
> (DSS, Cmnd. 1263, 1990, ii).

It was believed that this approach would encourage financial responsibility and prevent promiscuous behaviour by irresponsible young men. This would in turn encourage traditional family values and prevent an increase or consolidation of an 'underclass'.

Another compelling reason as to why Thatcher and the Treasury sought to adopt the Wisconsin system was that they perceived it to fit their neo-liberal agenda, which prioritised a reduction in public expenditure. As a Minister in the Thatcher Cabinet recollects, 'an economic approach to social policy was very appealing to the neo-liberals' (interviewed by author, 19 July 2011, Minister A). This perceived opportunity to reduce public expenditure strongly influenced Thatcher and the Treasury, and directed their approach to reforming child maintenance. A reduction of public expenditure had been on the Thatcher Government's institutional agenda since she became Prime Minister in 1979. This objective predetermined their view of the welfare state, the manner in which they sought to reform social security, and influenced their judgement of polices. Much of the politics and policy reforms surrounding welfare in the 1980s centred on restricting public expenditure; indeed reducing public expenditure became a constant theme amongst neo-liberals, albeit frequently aligned to neo-conservative themes about individual responsibility, and family values. The intention to use the Wisconsin CSES system to reduce public expenditure is evident in the opening of *Children Come First* which states that the system would ensure that single parents would:

> *avoid… becoming dependent on Income Support whenever this is possible and, where it is not possible, to minimize the period of dependency… it is not right that taxpayer… should shoulder the responsibility instead of parents who are able to do it themselves.* (Children Come First, DSS, Cmnd. 1263, 1990, 5).

The Thatcher Government perceived the Wisconsin CSES system as being highly successful in reducing public expenditure; therefore it was a desirable policy in terms of achieving their economic agenda. In 1986, Thatcher responded to David Willetts' report (after he had met with one of the architects of the Wisconsin system, Irwin Garfinkel) on the CSES by stating "nail the guilty fathers and at the same time cut hundreds of millions off the social security budget – give the man a rise" (Popham, 1994, 124, quoted in Dolowitz, 2001). Thatcher therefore saw reform of child maintenance as a method of getting closer to what was proving an inherently difficult goal – curbing public expenditure.

The American system also complemented the Thatcher Government's New Public Management project - the 'Next-Steps' initiative. This entailed reducing central Government's responsibilities and transferring responsibility to semi-autonomous agencies. While strategic control

of the Agency would remain under the jurisdiction of the Secretary of State, the day-to-day operations of the Agency was delegated to a Chief Executive. Thatcher favoured the Wisconsin system of enforcing child maintenance as it reflected her desire to reduce waste and bureaucracy by installing private sector principles into the public sector. Thatcher entered office with the objective of changing the Civil Service in three ways: to cut manpower, to attack 'waste' and to inject business management principles into Departments (Gay, 1997, 8). The Wisconsin system of child support was viewed as a means of developing this initiative, whereupon, a newly-created, semi-autonomous agency would reduce the scope of the DSS by handing responsibility to a semi-autonomous agency that took responsibility for the calculating, collecting, and payment of child maintenance. For Thatcher, the CSES was not simply attractive in terms of delivering potential expenditure savings, but also as a means of achieving wider political objectives.

4.4.1.1. Inappropriate, Incomplete, and Uniformed Policy Transfer

Several of the problems which the Child Support Agency (CSA) faced were a direct consequence of the attempted policy transfer from Wisconsin. Thatcher's uninformed perception of the CSES, the pick-and-mix manner in which components were transferred, and a disregard for social, political, and cultural difference between the two countries, all contributed to the CSA's eventual failure. The Thatcher Government's New Right ideological outlook shaped what it extrapolated from the Wisconsin system 'to such an extent that it was able to ignore the problematic operational realities of the system in favour of its ability to help advance their ideological rhetoric' (Dolowitz, 2001, 378). By utilising Dolowitz and Marsh's three causes of policy transfer failure, it is possible to develop an understanding of some of the factors underpinning the problems subsequently experienced by the CSA.

As Dolowitz and Marsh claim, one of the factors which leads to policy failure in cases of policy transfer is that of an *uninformed* understanding of the policy (1996, 344). This factor is indeed present in the case of 1991 Child Support Act. Thatcher's strongly ideological perspective meant that she possessed an inaccurate understanding of the policy. Her adherence to a neo-liberal ideology and her profound desire to emulate Reagan's injection of free-market principles into social policy restricted or skewed the information she extracted from the policy. Thatcher was in such awe of the policy's apparent ability to achieve aspects of her New Right agenda that it obscured the operational reality of the policy. As Dolowitz argues,

> *had the Thatcher Government's New Right ideological beliefs not dominated their perception of the US system, it is likely that the CSES's inherent weaknesses… would*

have been more carefully considered before they were integrated into the CSA.
(2001, 380).

The practical failures and negative effects of the CSES were either disregarded or not recognised, and the system was viewed as desirable to emulate in Britain. Thatcher's uninformed position also led her to ignore how the CSES failed to accomplish the economic objectives that she perceived it had achieved; the Wisconsin model having failed to reduce expenditure on lone-parent benefits. If Thatcher had invested as much interest in the operational performance of the CSES as she did its potential to achieve public expenditure savings, her yearning to transfer the policy would almost certainly have been moderated.

Incomplete transfer suggests that failure may occur if 'crucial elements' of the policy are missed or ignored in the transfer process (Dolowitz, 2001). Thatcher and the Treasury's approach failed to transfer several of the vital aspects needed for successful policy transfer in the case of child maintenance. Whilst the CSES was derived from Reagan's neo-liberal objective of transferring dependency from the state to the individual, it nevertheless enshrined a social element, operating alongside welfare-into-work polices such as the 1988 Family Support Act, which developed a system that incorporated work, training, education, and child care. Thatcher and the Treasury misread the objective of the Wisconsin system; the Wisconsin system was not motivated by expenditure savings. As Irwin Garfinkel, the architect of the Wisconsin system, when asked questioned about the failure of the British CSA, stated:

> *Rule number one; don't make budget savings an objective. I never had, nor did Wisconsin Agency Officials, have savings of public funds as an objective. In fact, from the start the belief was that whatever savings came out of the system, would be put right back into the system to further reduce poverty… do not make saving money a principle objective… this was the single most important piece of advice we gave them* (Can't Pay, Won't Pay, 1999)

Thatcher and the Treasury were oblivious to, or chose to ignore, these aspects of the system and focused only on the policy's New Right ideological appeal. They also ignored the flexibility enshrined in the Wisconsin formula and replaced it with a formula that was rigid and bound to be unpopular. For example, the British formula, failed to include a consideration of previous property and financial settlements that had been agreed upon. By failing to include this vital aspect, the CSA was increasingly exposed to criticism and non-compliance from its target subjects. This disregard for flexibility was a result of their economic preoccupation; including this element of the formula would have reduced public expenditure savings accrued from maximizing CSA revenue.

As well as failing to transfer elements of the policy, they also failed to transfer its mode of implementation. Britain did not adopt an incremental approach, but instead rushed the policy through in its entirety. While the implementation of the Wisconsin had system reflected the need to take gradual steps so that it could address any problems that arose, the British policy was immediately imposed upon the old system with no room for slowly allowing the public – or officials – to adjust. If Britain had adhered to a similarly phased process of implementation it is likely that fewer problems and less non-compliance would have ensued. However, by the end of Thatcher's Premiership, she had succumbed to political hyper-activism, favouring radical 'big-bang' policies which would produce instant results.

It is also apparent that *inappropriate* transfer was present, as the social, legal and cultural differences between the two countries were not considered by Thatcher and the Treasury. Their failure to recognise such differences might have reflected an exaggerated or simplistic view of the apparent similarities between Britain and the US. However, these differences were acknowledged elsewhere in the Government. As one Minister in the Thatcher Cabinet stated, 'the American society is different to ours, particularly in its attitude to the poor. You couldn't just adopt their views and enforce their culture: it doesn't work like that' (interviewed by author, 19 July 2011, Minister B). The American culture and the general views of the vast majority of its citizens made them more receptive to right wing policies and more willing to accept the CSES. The role of the state and the degree of welfare provisions in both countries were vastly different. This meant in Britain, the CSA was viewed as intrusive, whereas in America CSES was widely accepted. American citizens had never experienced the degree of welfare provision that the British had; therefore, to them it was not as radical or as controversial. Thatcher was attempting to enforce a neo-liberal and individualist culture onto a society that had previously experienced 'cradle to the grave' support from the welfare state. Therefore the degree of non-cooperation with the CSA once it was operational can be linked to social and cultural differences between Britain and America. It was too simplistic to assume that two countries with differing social and cultural attitudes would react to a policy in the same manner; attention to these differences needed to be, but were not, addressed by Thatcher and the Treasury.

Thatcher's objective was not that of creating a reliable child maintenance system for the benefit of all parties, as it was for the Department for Social Security (DSS) and the Lord Chancellor's Office (LCO); it was an ideological pursuit to achieve a New Right agenda. The decision to transfer elements of the CSES was unquestionably influenced by Thatcher's ideological desire to copy what she thought the Reagan Administration was endeavouring to do. Yet her ideologically derived ignorance allowed her to change the principal objective of the policy. Thatcher failed to understand the significance of the CSES's other elements and aims. Not only did Thatcher and the Treasury decide to

pick-and-mix parts of the CSES policy, they also failed to undertake a policy learning process by interpreting the policy incorrectly, and furthermore failed to take into consideration the cultural, political, and legal differences between the two countries. These errors all contributed to the CSA's eventual problems and ultimate failure.

4.5. The Idea of 'Dual Policy Transfer'

As stated above, Dolowitz's claim that the origins of the CSA are found in policy transfer from the USA is only partially accurate. The Government did not look exclusively at the child support schemes in America with the intention of transferring the entire Wisconsin policy; it was never the intention of the DSS and LCO to adopt the American system. By looking at primary sources, such as official documents and information gathered from Freedom of Information requests, as well as undertaking interviews with those involved in the policy making process, it can be identified that the 1991 Child Support Act was developed from two separate sources. Whilst policy transfer from America was present, as demonstrated above, it was not limited to America alone, as also demonstrated by Millar and Whiteford (1993) and Maclean (1994), but instead 'dual policy transfer' took place. The contrasting objectives and definitions of problems identified in the Chapter Three meant that divergent actors, the DSS and the LCO on one hand, and Thatcher and the Treasury on the other, looked towards different countries and thus different systems in order to attempt to fulfil their objectives, and remedy their identified problems.

The work conducted on policy transfer to date does not acknowledge the possibility that policy transfer may be occurring from more than once source – two established policies feeding into the creation of one new policy. It seems to be assumed that policy transfer is a single and isolated process, a simple case of taking policies and ideas from one country to another, and if problems arise then we can use an understanding of 'uninformed', 'incomplete', and 'inappropriate' policy transfer as a way to assess it. However, we need to also acknowledge the possibility that there may be, intentional or unintentional, 'dual (or multiple) policy transfer' occurring. Dual policy transfer is where ideas from more than one country are used in the formation of a policy. Although, we should also note that there is more than one form of 'dual policy transfer'; we can label these as 'coherent dual policy transfer' and 'incoherent dual policy transfer'.

'Coherent dual policy transfer' is whereby policy makers are looking at two, or more countries, learning and discussing merits of both, with a clear objective to extrapolate and learn from each of them. This leads to the policy transfer being a more unified process, whereby aims, objectives, administrative systems, implementation plans, etc., are fed into a condensing process,

creating a clear integrated plan for formulating the borrowing country's policy. As the **Figure 4.1** demonstrates:

Figure 4.1 Coherent Dual Policy Transfer
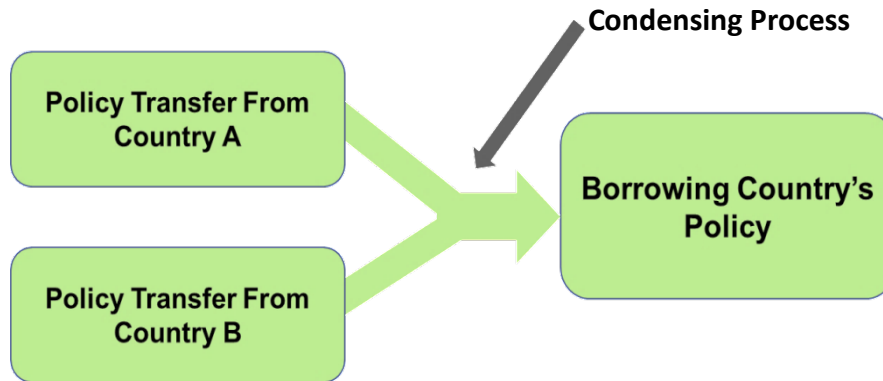
But there can also be 'incoherent dual policy transfer' which occurs where there has been no integrating or condensing process of different country's policies into a coherent plan. This tends to reflect little, or no, communication amongst those looking at different countries. Instead, two separate groups of actors have looked at two different countries, and fed directly into the new policy they are attempting to create. There has been no formulation of clear plan to integrate the two polices. Instead, the transfer process leads to the feeding of multiple, incompatible, and even conflicting aims or systems into one policy. As **Figure 4.2** demonstrates:

Figure 4.2 Incoherent Dual Policy Transfer
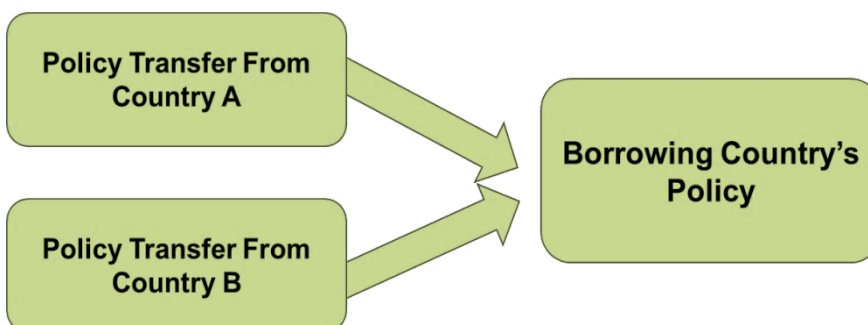
In the case of the 1991 Child Support Act 'incoherent dual policy transfer' certainly took place. Below will highlight the second attempt of policy transfer that occurred, that from Australia, before then assessing how 'incoherent dual policy transfer' was able to occur, why it happened, and the role it had in the policy's eventual failure.

4.5.1. Policy Transfer from Australia?

As was the case in America and Britain, Australia was also facing an upsurge in divorced and never-married single parents. Yet Australian society did not view this as a shameful decline of family values; instead, it was concerned about the ensuing link to increasing poverty amongst lone parents. The number of lone parents in Australia who were living in poverty was 43 *per cent* in 1981-82 and 47 *per cent* in 1985-86 (Saunders and Matheson, 1990, ii). It was figures such as these which motivated the Australian Government to reform child maintenance. Indeed, concern about child poverty was a significant factor shaping Australian social security policy in the mid to late 1980s. The predominant attitudes within each government towards social security were very different. Governments in America and Britain were pre-occupied with rolling-back the state and reducing the social security budget, while in Australia the main focus was on increasing the living standards of those in need, a facet which was snubbed by Thatcher and the Treasury in their search for a new child maintenance system which would deliver expenditure savings.

However, the motivation for reform within both the DSS and the LCO was similar to that in Australia - a desire to remedy a failing system. Like Britain's DSS, Australian reformers emphasised that their current court system was largely unsuccessful. As Harrison *et al* state, 'the lack of private financial support emanating from non-custodial parents has detrimental effects' (1987, 93). In 1982, nearly 70 *per cent* of female lone parents in Australia were in receipt of Income Support and only 25 *per cent* received regular maintenance (Harrison *et al*, 1987, 94). The court system was experiencing vast problems, most notably that it produced inconsistent results, the level of maintenance was inadequate, and the frequency of payments was poor. The origins of the reformed Australian system lay in creating a reliable maintenance system that would assist lone parents and reduce poverty; any desire to reduce the strain on the public purse was of secondary concern. This was fundamentally different to what Thatcher and the Treasury sought. However the DSS and LCO held the same definition of the problem as the Australian Government held, and therefore viewed the Australian policy in terms of their social objectives rather than economic ideology or neo-liberalism.

The most striking difference between Australia and America, and then Britain, was that the Australian system was administered through the Tax Office, so that child support payments were collected in a manner similar to that of Income Tax. While this method was seen as more reliable and effective, and was encouraged by the DSS and LCO, the Treasury was quick to denounce the

idea, and with Thatcher's backing, it was removed from the proposed policy. As a result, the CSA was operated through the DSS, which was even then perceived as a less effective method of collection (Social Security Committee, 1991, xvi). Whilst the DSS and LCO believed the CSA would have been more appropriately administered through the Inland Revenue (Minister in the Thatcher Cabinet, interviewed by Author, 19 July 2011, Minister B) the power of Thatcher and the Treasury to reject this element subsequently led to incomplete policy transfer from Australia.

There were other elements of the Australian system which were also overruled by Thatcher and the Treasury. The British system upheld no maintenance 'disregard' for lone parents – any maintenance received was treated as income, and benefit reduced pound for pound accordingly. Thus lone parents in Britain receiving Income Support could not benefit financially from receipt of child maintenance through the CSA. This differed in Australia, where the lone parent kept 75 *per cent* of the maintenance awarded when the father had low earnings, this proportion declining towards 50 *per cent* as the father's earnings increased. In Britain, lone parent on Income Support gained nothing until the maintenance paid takes the family off benefits altogether. The progressive element of the Australian system was banished from the British CSA's formula. This again was a result of the dominance of the Treasury and Thatcher's ideological objectives. The priority of curbing public expenditure purged the new British system of any progressive element, which in turn undermined the DSS's objectives and signified an incomplete policy transfer, which subsequently led to serious operational problems, as well as a loss of legitimacy or popularity for the policy.

The hyperactivity of Thatcher during her last few years in office meant that an incremental approach to implementing the policy was dismissed. As a Minister in the Thatcher Cabinet stated, her desire for 'big bang policies' required it to be rushed through in its entirety (interviewed by author, July 19 2011, Minister A). The implementation method of the Australian system, although intended by the DSS, was ignored, although it had proven to be successful, because of Thatcher's pursuit of radicalism. However, the DSS fought to adhere to the Australian incremental implementation method but they were overruled by the Treasury (Deakin and Parry, 1999: 120). As stated previously, this method was also present in the Wisconsin system, yet Thatcher and the Treasury ignored its importance and forced through an incomplete policy transfer. In the case of policy transfer from Australia they consciously fought against it, leading therefore to incomplete policy transfer.

This was another example of how ideology replaced practicability to the detriment of the policy. As well as removing important elements of the Australian system that conflicted Thatcherite ideology, dominance by the Treasury meant that additional aspects were included. Most strikingly

was that the British system was applied in retrospect, whereas the Australian system only applied the formula to cases after 1989. Again, the insistence and determination by the Treasury to reap the maximum revenues possible exposed the CSA to serious problems, not only in terms of criticism and non-compliance by those absent parents who had previously reached maintenance settlements, but also by massively increasing the workload of the CSA staff.

4.6. Dual Policy Transfer: Advancing Our Understanding of Policy Transfer and Links to Policy Failure

Although Dolowitz suggests the CSA's failure can be linked to *incomplete, inappropriate and uninformed* policy transfer from America (2001), this is not the entirety of the problems of the policy transfer process. The complexity surrounding the definition of the problem, which was discussed in Chapter Three, was also present in the policy formation process. Just as there were two separate origins, there were also two distinct strands of policy transfer.

Figure 4.3. Dual-Policy Transfer and the 1991 Child Support Act
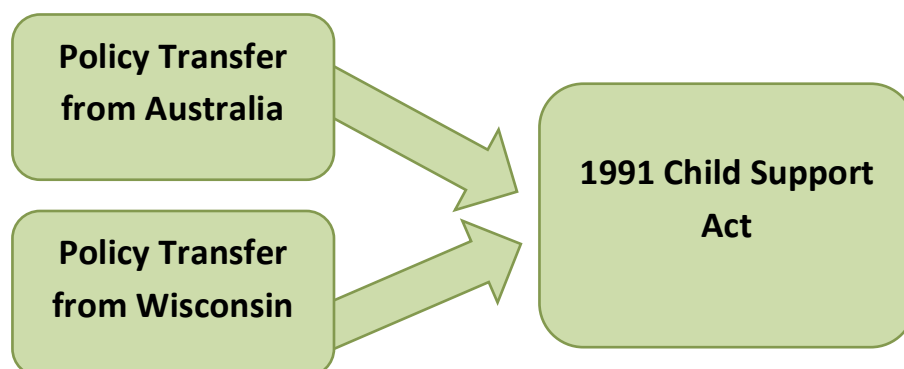
As discussed above, it was not exclusively a case of policy transfer from one country to another; while Thatcher and the Treasury looked towards Wisconsin, the DSS and the LCO were enamoured with the Australian model. The latter system was more appropriate, sophisticated and more reliable in collecting child maintenance than the American systems. The DSS and the LCO were aware of this and attempted to undertake policy transfer from Australia, yet their attempt was sabotaged. Australia's model was viewed by Thatcher and the Treasury as unsuitable in terms of achieving their ideological agenda; creating a reliable child maintenance system was secondary to their objective of curbing social security expenditure as quickly as possible.

As stated above, when this Chapter introduced the idea of 'dual policy transfer', it can either take place in the form of what can be labelled **'coherent dual policy transfer'** or '**incoherent dual policy transfer'**. In the case of the 1991 Child Support act it was the latter. What can be seen during

this process of Policy Transfer was Thatcher and the Treasury's power to enforce their attempt of *'uninformed'*, *'incomplete'*, and *'inappropriate'* policy transfer from America, on to that of the DSS and LCO's attempt at policy transfer from Australia. Rather than Thatcher and the Treasury directly stating that they were attempting to introduce the American system and not the Australian system, they allowed the DSS and LCO to continue with Policy Transfer from Australia, while covertly injecting aspects of the American system into the policy, and to undermine it at the drafting of the Bill. There was no condensing process, whereby a strategic plan was devised to integrate elements of both policies, instead both groups of actors fed directly into the new policy. Thatcher and the Treasury successfully injected parts of their policy into the DSS's policy idea, leading to the development of a poor policy that was full of conflict and contradiction. To successfully introduce a policy that fulfilled their agenda and objectives, Thatcher and the Treasury covertly pushed their flawed attempt at policy transfer onto that of the DSS and LCO, just as they did with their definition of the problem (as noted in Chapter Three).

Therefore, the 1991 Child Support Act is not a single case of failed policy transfer from one country to another, as Dolowitz claimed. Instead, there was 'incoherent dual policy transfer' which led to an inconsistent mix of the DSS's attempt to introduce an appropriate, complete, and informed policy transfer from Australia, and Thatcher and the Treasury's determination to introduce what was incomplete, inappropriate, and uniformed policy transfer from America. Thatcher and the Treasury allowed the DSS and to undertake policy transfer from Australia, only to undermine it, as the policy presented by the DSS seemed more likely to win support. It can be suggested that Thatcher and the Treasury allowed 'incoherent dual policy' transfer to occur, almost using it as a strategic tool to push through their radical agenda through the guise of moderate and principled policy proposal. The next chapter will focus on the power relations and 'battles' that occurred within the core executive. It will assess the power resources that Thatcher and the Treasury utilised to successfully push through their Treasury driven agenda. It will also advance upon Kingdon's idea of 'policy windows' (1984) to demonstrate how this was achieved.

Chapter Five – Policy Formulation: The Imbalance of Power within the Core Executive

5.1. Introduction

Chapter Three argued that Thatcher and the Treasury adopted a separate definition of the 'problem' to that of the Department of Social Security (DSS) and Lord Chancellor's Office (LCO). Chapter Four, which looked at the role of policy transfer, proceeded to argue that this led them to search for different policies to meet their separate agendas. This chapter will examine the formulation stage of the policy itself. It will look at how divergent agendas gained position within the single policy (albeit some were concealed) as a result of the power dynamics that influenced its creation. Studying both the distribution and use of power within the core executive provides us with an understanding of how the agenda of the Prime Minister and the Treasury triumphed over the will of the DSS and LCO, to be become the predominant influence embedded in the Child Support Bill. The Chapter will examine this imbalance of power[4] whilst also addressing the disagreements which occurred between the Treasury and the DSS. This provides an understanding of the vulnerability of the DSS and its inability to prevent Thatcher and the Treasury suffocating/reorienting the policy's true objectives, using it instead as a platform to achieve their wider agenda. We need to look at the power resources held by both Thatcher and the Treasury to understand why Newton introduced a policy despite not entirely agreeing with the details.

This Chapter will also highlight that much of the power exchanges that operated during the creation of the policy went beyond that of simple demand and compliance; power was not zero-sum. Power in the core executive is not merely quantitative, but qualitative; not just the number of Departments/Ministers for or against a policy option, but their importance, seniority, significance, as well as personalities, approach, and use of resources. We will demonstrate that whilst the 'Prime Minister versus the Cabinet' debate, and possibly also that of 'presidentialism', appears prevalent in this case study, we can in fact utilise much of the work conducted via core executive studies and the idea of 'prime ministerial predominance' to gain a deeper understanding of the complex internal dynamics. To do this, this Chapter will first look at power more generally and the debate surrounding

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[4] It should be acknowledged that many power resources are covert, indeed their success often depends on them being so. As Hill highlights, this can often raise issues for those studying the policy-making process. Due to much of the process being unobservable we are frequently required to engage in research that involves inferences from that data that is obtained. In connection with this, analysts of the policy-making process (or indeed social scientists more generally) frequently find themselves in situations that they are unable to validate their findings by revealing the source of their information. This leads them to be particularly vulnerable to accusations that their work is predisposed to a particular interpretation of the data and the event. (2013, 10). However, this empiricist critique as to the invalidity of unobservable data is itself invalid. As suggested above (and previously in Chapter 1) by adopting an interpretivist epistemological approach it is possible to utilise the unobservable, in fact it is necessary to analyse the nature of policy-making. We just need to iterate that this is one frame, or many, which we can use to view the world.

the conceptualisation of power, before moving on to assess the resources that each player held during the creation of the 1991 Child Support Act. It will end by advancing upon Kindgon's (1995) idea of a 'policy window' to demonstrate where and how the power resources of Thatcher and the Treasury were used, and subsequently how their 'definition of the problem' and 'vision of the policy' succeeded.

5.2. Power

Central to this chapter is the role of power. Politics is in essence, as Lasswell stated, 'who gets what, when and how' (1936, *passim*); how power is distributed and utilised. There are many different approaches to the analysis of power, each drawn from different theoretical and disciplinary traditions and focusing on different levels of analysis with a different emphasis. Therefore, in order to assess the distribution of power within the core executive, we first need to establish what we mean by power and state what interpretation of power will be utilising during this chapter. Simply put, power can be seen as Dahl's definition: '*A* has power over *B* to the extent that he gets *B* to do something that *B* would not otherwise do' (Dahl, 1957, 203). This thesis is suggesting that Thatcher and the Treasury had the power to get the Social Security Secretary, Tony Newton, to introduce a flawed policy which he did not entirely support (therefore *A* got *B* to do something they would not have otherwise have done), hence this Chapter is interested in the exercise of power.

However, to fully understand power we need to move beyond Dahl's one dimensional view of power and to recognise that power can be exerted in many ways. Advancing upon Dahl's pluralistic, one-dimensional view are Bachrach and Baratz (1962, see also Schattschneider, 1960). They argue that power moves beyond that of direct force and instead power has 'two faces'. They acknowledge that power can be exercised directly, but also noted the existence of a less visible face of power, whereby *A* limits the choices of *B* in order for *A* to achieve its desired outcome. This interpretation of power acknowledges that power is often unobservable and not objectively measurable, advocating also the existence of non-decision making, which suggests that the threat of action is itself often powerful enough to shape decisions. Their typology of power extends to include coercion, influence, authority, force and manipulation (Bachrach and Baratz, 1962, 22-28). We will see that Thatcher's use of power was not simply direct; much of the power that she exerted was through influence, authority, and manipulation. *Influence* is whereby *A* causes *B* to change his/her course of action without resorting to tacit or overt threat (Bachrach and Baratz, 1962, 30). *Authority* is when '*B* complies because he recognises that *A*'s command is reasonable in terms of his own values', typically due to a belief that their view or actions hold legitimacy (Bachrach and Baratz, 1962, 34-37). Lastly, *manipulation* is where 'compliance is forth-coming in the absence of

recognising the complete part of the source or the exact nature of the demand upon them' (Bachrach and Baratz, 1962, 28).

Lukes, as well as many others, enhances our understanding of power by suggesting a third face of power (1974). This takes manipulation as a form of power further, suggesting that power can be covertly manipulating the desires of people, similar to the Marxist ideas of 'false consciousness' amongst the working classes. Whilst this conceptualisation of power certainly advances our understanding of power, and is present in our society, it goes beyond the level of concern studied in this thesis. Rather than the structural manipulation suggested by the third face, this thesis argues that there can be exploitation of the desires and objectives of others in a concealed manner. But rather than merely utilising the anticipated reaction of others, as in the second face of power, an actor may be using this reaction as a screen. Behind which they carry out their designs, letting the screen distract or misdirect those who may object. Rather than attempting to force through their designs (direct power) or manipulate others to do what they wish (in-direct power), they instead use misdirection (misdirected power) to achieve their objectives. This thesis is concerned with direct and in-direct power, but as will be discussed below (and as highlighted in Chapter Three which looked at the role of 'problem representation'), misdirected power played a significant role in Thatcher's approach to policy-making.

5.3. Resources and Strategy

Power can be seen as deriving from the possession of resources. As stated above, power has gone beyond that of demand, and can also be viewed as resource dependency (see Rhodes, 1981; Smith 1995, Dunleavy and Rhodes 1990; Greenaway, 1991). Frequently *A* will need *B* to undertake a certain course of action in order for *A* to achieve their objective, or *A* needs to access the resources that *B* holds; thus *A* is dependent on *B* in order to gain access to the resource. In order to achieve this, *A* can either exert overt or covert power (be it force, influence, authority or manipulation) or *A* can partake in resource exchange with *B*. All actors have resources and therefore all actors have something which they can bargain with during the policy making process (Jessop, 1990). The strength of their bargaining position is heavily dependent on the resources they hold, and how much other actors need those resources (Smith, 1991, 31).

This resource dependency approach acknowledges the role of both agency and structure and the interaction between these; how one influences and shapes the other (Diamond, 2014, 15). Resources are linked to structure (the roles of the actors), for example the Foreign Secretary will be handed certain resources upon taking office, but resources are also attached to the individual political actor. Ministers do not have equal resources, not only amongst those of different

departments but also amongst those that have held the same positions. For example, arguably Estelle Morris, as Secretary of State for Education and Skills, was not as powerful as Ruth Kelly. As Diamond highlights, 'agents are affected by structural change, but political actors are 'resource-rich', having the capacity to adopt and modify institutions.' (2014, 15).

However, it is not enough for actors simply to possess resources, as resources do not in themselves equate to power. Instead it is the strategy and tactics in which actors deploy their resources, and the circumstances in which they do so, which creates the power. Strategy is the overall plan for achieving a desired outcome, whereas tactics are the means and manner in which resources are used to achieve goals in particular situations (Smith, 1999, 33). To achieve a desired outcome, an actor decides on the most effective strategy and tactics to deploy depending on the situation and context. As James states, 'even a Prime Minister with a dominant style who wants to intervene needs to understand the lines of dependence and work out tactics accordingly' (Smith, 1990, 91). Later in this chapter it will assess the resources, strategy and tactics used by Thatcher and the Treasury to successfully embed their agenda into the policy proposal of the DSS.

5.4. The Core Executive

The concept of the core executive, and hence 'core executive studies' was developed in the late 1980s and early 1990s, primarily as a way to move us away from the limitations imposed by the 'Prime Minister versus Cabinet' debate. Political scientists such as Rhodes (1995) and Smith (1999) emphasised that we needed to move away from the constricted debate which implied that power was zero-sum (the more powerful the Prime Minister the less powerful the cabinet, and *vice versa*). The core executive was defined as the 'heart of British Government… [containing] the key institutions and actors concerned with developing policy' (Smith, 1999, 1). The core executive model emphasized the need to assess the role played by all individuals and institutions surrounding the Prime Minister that are involved in the policy making process, such as the Treasury (which we will see was highly influential in the creation of the 1991 Child Support Act), Departmental Ministers and bureaucrats.

An emphasis on the core executive not only encouraged scholars to devote more attention on the wider policy making machine, it also provided a new way to assess power within policy-making. Less emphasis was placed upon the ability of the Prime Minister to order a course of action onto an unwilling department, and more emphasis was placed upon the diversity of power resources, the role of negotiation, and the use of strategy. Whilst previous Chapters have argued that the will of Thatcher and the Treasury triumphed over that of the DSS and the LCO, this Chapter will demonstrate that it was not simply a case of the Prime Minister imposing something upon the

unwilling Department; as Smith stated 'even resource-rich actors, such as the Prime Minister, are dependent on other actors to achieve their goals' (2003, 62). Rather it was a case of policy actors being dependant on each other and the resources they hold, yet Thatcher and the Treasury being more strategic and guileful in both their exchange and use. Power is not static, nor is it zero sum; rather it is variable dependent on the individual involved, exogenous circumstances, the resources they hold, and their skills in deploying them. As Rhodes argues, to achieve their goals, individuals 'must exchange resources, for example, money, legislative authority or expertise. These changes take the form of games in which actors seek to realize their objectives and manoeuvre for advantage, deploying their resources to maximize their advantage, while minimizing their dependence on other actors.' (Rhodes 1997, 203). To this end, in the creation of the 1991 Child Support Act, Thatcher and the Treasury triumphed in the game of politics.

We should also note that there are alternatives to the core executive perspectives, namely that of the 'presidentialism' and 'Prime Ministerial Predominence'. 'Presidentialism' is frequently used when discussing Thatcher's policy-making style and degree of power. Whilst the idea of 'presidentialism' has been widely applied to Thatcher and Blair (advocated by scholars such as Foley, 2000; 1-29, 348-356) it can be seen as an oversimplified and unhelpful description, similar in thread to that of the Prime Minister versus Cabinet debate. Whilst it depicts Thatcher's outward leadership style it does not accurately describe how she influenced the policy making process, as it underplays the degree of complexity and strategy at play. As Hefferman notes, 'the concept may illuminate but it also confuses' (2003; 349). The concept illuminates because it embraces the changes in leadership style, but it confuses as it is unrealistic and naive, and as a result offers no real insight.

'Prime Ministerial Prominence' approach which is advanced by Burch and Holliday (1996, 2004) and more recently, Bennister (2007, 2012), Hefferman (2003, 2005, 2013), and Bennister and Hefferman collectively (2011, 2014). Hefferman challenges the ideas suggested by Core Executive studies: the pluralistic nature of the resource exchange approach and the idea that power is relational and dependency bound. He argues that this is 'only partially accurate. Power is relational between actors but it is also locational. It is dependent on where actors are to be found within the core executive, and whether they are at the centre or the periphery of key core executive networks' (2003, 348). Hefferman is challenging the assumption that power is fragmented and dispersed among all actors, and instead highlighting that there remains an instilled unequal distribution of resources that allows for 'Prime Ministerial predominance'. He suggests that the likelihood of Prime Ministerial dominance depends on their possession of personal power resources, as ownership of these character resources intensifies institutional power resources

allowing a dominant approach[5]. 'All core executive actors have certain institutional resources, among them patronage, prestige, authority, knowledge, information and expertise. They also have personal resources such as electoral strength, policy capacity, public standing and political reputation. Together these create political capital' (Heffernan, 2005, 616). This emphasizes that ability to dominate is dependent upon personality and strategic approach, resources are attached to roles within the core executive but their strength is dependent on the individual actor. The power of the Prime Minister is contextual and dependent of personal resources: dominance is there for the taking but only when paired with personal resources. The Prime Minister by virtue of access to institutional and personal resources has the potential to exercise substantial power over the Government (Heffernan 2003; 2005). This is what we can see with Thatcher and her leadership, her possession of personal power resources intensified the institutional power resources. However, it could be argued a 'Prime Ministerial predominance' approach is at risk of the same criticism of that of the 'Prime Minister versus Cabinet' debate, in that it over-emphasises the role of the Prime Minister, and on so doing does not fully acknowledge the role of other actors within the core executive.

Whilst Hefferman's 'Prime Ministerial predominance' model challenges elements of the core executive approach, these two approaches can complement each other, furthering our understanding far beyond that of 'presidentialism'. Together they allow us to understand a Prime Minister's ability to gain dominance over policy-making by looking at their personal and institutional resources, as well as assessing a Prime Minister's relationship and frequent reliance on other actors. Using them in conjunction with each other will blend the agency/structure divide, helping us assess the agent's power, their role and structural position, as well as looking at the institution. The below section will assess both the institutional and person power of the actors involved, before discussing how power was utilised.

5.4.1 The Power and Resources of the Prime Minister

As stated above: 'The Prime Minister can neither govern – as governing occurs through a myriad of institutions – nor actually make decisions without dependence on a whole range of other actors and institutions, and without taking account of structural context.' (Smith; 1999, 244). But this is not saying that the Prime Minister is on equal footing as others within the system and that the system is operating in a pluralistic manner. As Marsh argues, there are 'patterns of structured inequality which affect the institutions and processes of British politics' (Marsh *et al*. 2003). The core

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[5] Institutional power resources are those that are attached to the role of the Prime Minister and their central role within the core executive. Personal Power resources are those that are based on the characteristics of the individual in question

executive is asymmetric and often leans itself to allow the Prime Minister to have the ability to instil their agenda into all areas. This is moving us away from the approach advocated by Rhodes. Whilst resources are exchanged, policy making is co-dependent, and actors are resource dependent, this does not equate to the system propagated by Rhodes. This portrays an ideal image that hides the complexity of power within the system: power is structural, personal, and manipulated, not plural (Hefferman, 2003; Smith, 1999). As Hefferman emphasises: 'Power is relational between actors, but it is also locational. It is dependent on where actors are to be found within the core executive, and whether they are at the centre or the periphery of key core executive networks' (2003, 348).

Instead of seeing the core executive as suggested by Rhodes, we can use Hefferman's model of Prime Ministerial predominance (Hefferman 2003, 349–50) to understand the policy-making culture during the period of assessment. This model highlights that given the right circumstances and possession of personal characteristics by the individual, the systems allows for Prime Ministerial dominance, as Hefferman neatly sums up, when 'personal power resources are married with institutional power resources, and when the prime minister is able to use both wisely and well' (Hefferman, 2003, 350). Below (**Figure 5.1**) is a list of 'personal' and 'institutional' power resources available to a Prime Minister.

Figure 5.1: Power Resources of the Prime Minister

Personal Power Resources	Institutional Power Resources
Personal prestige	Political Centrality and Policy Reach
Personal authority	Authority
Supportive Media	Prestige/Patronage
Skill and ability	Agenda Control
Communication	Appointment Control
Cabinet Support	Legal Head of Government
Backbench Support	Large Parliamentary Majority
Reputation	Recent General Election Victory
Links to policy success	Economic stability
Relationship with Treasury	Weak opposition
	Control of Cabinet and Cabinet Committee

5.4.1.1 Thatcher

Thatcher's leadership style, dogmatic approach and domination over policy drastically altered the balance of power within the core executive. Frequently her approach undermined the Cabinet's role to such a degree that she voided it of power, removed its role in policy-making and turned it into a rubber-stamping process (Smith, 1999, 76). As Thatcher herself confessed, she was a 'conviction politician', therefore opposed to consensus. Thatcher maintained this attitude inside her Cabinet, undermining its checks and balances in order to enforce her own agenda onto a policy, even if it was unsuitable. Whilst in opposition, Thatcher had indicated her intention to not treat Cabinet as a discussion forum. As Gilmour noted, 'the normal conventions of cabinet government were disregarded… to facilitate the transaction of her monetarist and neo-liberal ideology into government policy' (1992, 33). However to achieve this level of dominance, Thatcher had to skilfully and strategically utilise both her 'personal' and 'institutional' power resources in a direct, indirect, and misdirected manner. The below section will demonstrate these three manifestations of power.

In Thatcher's later years, her use of direct power became more prominent. She increasingly took a dictatorial approach towards Ministers, directing policy, refusing to listen or consult, and undertaking stern disciplinary action in the face of any opposition; 'if Ministers continued to protest she sacked them' (James, 1992, 98). Thatcher also removed discussion from the Cabinet, instead holding meetings regarding policies with Ministers (bilaterals) in her study (Smith, 1999, 144). This decreased the chance of ministerial solidarity in resisting her demands, a method of undermining the role of the Cabinet. Gilmour noted that Ministers often had no choice but to accept the wishes of Thatcher. She was a formidable Prime Minister, who frequently exerted power by hectoring, cajoling, threatening, bullying, embarrassing and even humiliating ministers and officials (Butler, 1988, 58). Her dominance and arrogance often meant that the only ultimatum Ministers could present was to threaten to resign if she did not alter her decisions. Yet, as such an act may have led to wider problems for the Party itself, Ministers typically chose to accept her intentions, albeit reluctantly (James, 1992, 33). Alongside this is also a Prime Minister's power to promote or exile colleagues. During this period we saw the consolidation of the 'career politician', those that viewed politics as their ambition and realm to succeed in. Their ambition and desire is to become, and then remain, a Government Minister, rising up the ministerial hierarchy to posts of increasing seniority (Butler, 1988, 58). Achieving this desire is entirely dependent upon the Prime Minister; 'the Prime Minister can raise them to heaven or cast them out to the darkness' (Butler, 1988, 58). Crossman, speaking in 1972 but his words appropriate under Thatcher and today, stated that department ministers are highly dependent on the Prime Minister: 'each minister fighting in the Cabinet for his Department can be sacked by the Prime Minister any day, we must be constantly aware that our

tenure in office depends on his [or her] personal decision'. (Crossman, 1972, 63). Thatcher utilised this dependence, as Butler stated, 'she has used the fear of not being appointed, and the fear, having been appointed, of being sacked, to discipline the scores of ambitious young men of the Conservative back benches and also the existing members of her administration.' (Butler, 1988, 59).

Towards the end of her Premiership, Thatcher's leadership style meant that she increasingly ignored her dependence on other colleagues. This unbound her of many resource dependencies that typically constrain Prime Ministers. For example, the constraints of lack of expertise, working relations with external organisations, and lack of time did not prevent Thatcher's dictatorial approach to policy-making in areas of her interest. By placing ideology above expertise, and holding a disregard for pressure groups, Thatcher's involvement in policy-making was often from a half informed position, as demonstrated in the previous chapter, Chapter Four (Young, 1989, 62). Not only was Thatcher's ideological dominance harmful to polices, but when coupled with dogmatic leadership, poor management, and a void of dependency relationships, 'ministers' freedom of manoeuvre was constrained, making them simple agents of the premier's will' (Rhodes, 1995, 15).

As well as exerting direct power Thatcher also held a considerable degree of indirect power. The fact that she held the potential to exert certain resources was in itself powerful enough, as Butler states 'of course, there is no need to use this particular weapon very often: fear of being on the receiving end of a Prime Ministerial tongue-lashing – or even a Prime Ministerial *froideur* – is usually adequate to the purpose' (Butler, 1988, 58). This fits directly with second face of power (Bachrach and Baratz, 1962; Lukes, 1974) and Crenson's study of Gary, Indiana (1971). Crenson's study of US air pollution found that regulations were relatively low in Gary, a city that was highly dependent on US Steel for employment. The low level of regulation could be seen as the result of the influence of indirect power. An imbalance of power exists but the power that US Steel held was invisible. US Steel was powerful without having to act, and policy legislators were powerless because they felt unable to act due to fear of a negative reaction on US Steel's part (the 'anticipated reaction' of moving from the area, thus resulting in a loss of jobs). Similarly, this fear of 'possible action', or 'anticipated reaction', was a strong power resource for Thatcher. Frequently she would not have to exert power, her image of ruling with a strong fist and her often intimidating nature made Ministers feel as if they could not step out of line and oppose her will, for fear of being ignored, losing their post, appearing (or be depicted) as disloyal, or being exiled to the back benches.

Another source of power was Thatcher's ability to obstruct departmental policies or initiatives. Newton held a particular concern regarding disability policy. The power that Thatcher (and indeed the Treasury) held was the ability to veto or stall policies – if Newton had created

difficulties regarding the 1991 Child Support Act, it could have led to the Thatcher and the Treasury reacting by creating difficulty/problems when Newton wished to introduced a policy that was high on his agenda and he was passionate about. The potential to deprive him of the funds needed for the policy was a source of indirect power that both Thatcher and the Treasury held[6], yet without necessarily being stated openly. As a result, Newton felt more reluctant to oppose their demands regarding the policy.

Whilst the above is certainly an accurate description of Thatcher's approach to leadership, it does not fully engage with all of Thatcher's power resources, tactics and the methods which she deployed to and exert her influence, and thereby achieve her goals. Above discussed the typical image associated with Thatcher; the use of 'direct power' that can readily observed, ruling with clear and firm authority, and the indirect power she wielded. However Thatcher's leadership was also marked by a considerable degree of covert, or 'misdirected power'. Much was hidden by strategy, to the extent that those subject to this power were often unaware of its exercise. As Chapter Three on problem definition, and Chapter Five on policy transfer demonstrated, it could be suggested that Thatcher allowed the DSS and LCO to believe their policy was born from their specific definition of the problem, and that the solution was based on policy transfer from Australia as well as America.

As James notes, '[t]he dynamics of Whitehall are such that any policy initiative that is to last the course has to come from a departmental minister' (1995, 76). Thatcher and the Treasury may have realised this, and therefore potentially used the tactic of allowing Newton and Mackay to introduce the policy. Thatcher and the Treasury calculated that this was a more effective strategy than simply imposing a policy onto an unwilling Department. Here Thatcher was exploiting the desires and objectives in a concealed manner. Thatcher was using Newton and Mackay as a screen, behind which she was carrying out her designs, letting the screen distract or misdirect those who may object. It was not simply that Thatcher was directly commanding her cabinet (direct-power), nor was it that her cabinet was succumbing to her will over fear of repercussions (indirect-power). Rather it was often a case of her exploiting their objectives and intentions to achieve her desired outcomes, undermining them behind closed doors or manipulating them with the tactics and strategies she deployed (misdirected power). Thatcher fully engaged with all three arms of power: direct, indirect, and misdirected. This will be assessed in more detail later in the Chapter when it assesses the disagreements that occurred between Thatcher and the Treasury, and the DSS and LCO.

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[6] This will be referred to in more depth later in the chapter.

5.4.2 The Role and Power of the Cabinet

The role of the Cabinet in policy-making is limited (Marsh *et al*, 1995; see also Crossman, 1972; Headey, 1974; Mackintosh, 1977; Hennessy, 1986). However the criticism of the Cabinet can go further, not only is it limited in its role in policy making but it is also an ineffective tool of scrutiny. Cabinet's influence and ability is limited by its structure. Ministers simply cannot undertake the work load required of them to make an assessed and informed decision. Cabinet Ministers are overloaded with papers and information and Cabinet meetings are too short for anything more than a brief overview of the principle and a head nod or shake in reaction (Smith, 1995, 55). As Burch concluded, 'the infrequency and short duration of Cabinet meetings limits the amount of business that can be sensibly discussed' (Burch, 1988, 41).

The power of the Cabinet is also significantly eroded by the phenomenon of departmentalism. If a Senior Minister is in favour of a policy proposal, or insists on the introduction of a particular element, it is unlikely that other Ministers (those with less resources and authority) will be able to resist those pressures or prevent it from being ratified. As Nigel Lawson recalls, '[a minister] may well feel reluctant to spend too much of his [sic] political capital, arguing against the Prime Minister in a field which is totally outside his departmental responsibility. It is some other minister's baby and some other minister's responsibility' (Lawson, 1994, 443). The nature of dependency relationships between a Department and the Treasury means that Ministers who are aware of policy problems elsewhere in the government may choose to remain silent in order to safeguard their own interests. As Kaufman explained, 'you will ruthlessly pursue your own department's interests, even if another department has a better case' (1980, 15). This can be seen to be particularly true in the 1980s when all departments were fearful of budget cuts. The Treasury's targeting of the DSS meant that other departments and policies were not targeted as significantly. As Deakin and Parry note 'ministers developed a sense that social security could be an easy pushover… a source of cuts that would protect their own budget' (1994, 115).

Even if a Minister identified the 1991 Child Support Bill as flawed, it is doubtful whether they would have raised concerns because it would increase the risk of their department being targeted for budget cuts. Departmentalism means that a Minister's primary concern is not with ensuring policy success across the Government, but rather with fighting their own corner – this empowered Thatcher and the Treasury, allowing them to play departments off against one another (divide-and-rule) in order to further its own agenda. In terms of the 1991 Child Support Bill, the Cabinet was not willing to voice, or even echo, the concerns that Newton and the DSS was raising. This empowered Thatcher and the Treasury, and weakened the DSS. As Newton himself stated, 'there wasn't

sufficient support amongst colleagues to overcome their [Thatcher and the Treasury's] resistance' (Can't Pay, Won't Pay, 1999).

5.4.3 The Power Resources of a Departmental Minister

The power resources available to a Departmental Minister are also fluid. While there are certain 'institutional' and 'structural' resources that come with the post, 'personal' power resources are also important when understanding the degree of influence a Minister can exert. Similar to **Figure 5.1**, **Figure 5.2** is a list of 'personal' and 'institutional' power resources available to a Minister.

Figure 5.2 Power Resources of a Minister

Personal Power Resources	Institutional Power Resources
Personal prestige	Civil Service Support
Personal Approach/Image	Time
Supportive Media	Knowledge and Expertise
Skill and ability	Policy Success
Communication	Party Support
Cabinet Support	Political/Media Support
Backbench Support	Policy Networks
Reputation	
Links to policy success	
Relationship with Treasury	
Relationship with Prime Minister	

5.4.3.1 The Power of Newton and Mackay

Tony Newton and Lord Mackay did not have the power to resist the pressure of Thatcher and the Treasury, but they also frequently failed to recognise the power of Thatcher and the Treasury when it was being exercised; and when they did recognise the exercise of power they decided that resisting the combined force of Thatcher and the Treasury was futile. Instead, as we will see was the case for other MPs and Peers in Parliament, they quietly acquiesced. This does not mean that Newton and Mackay did not have any resources which Thatcher and the Treasury needed. Newton and Mackay did indeed hold resources that Thatcher and the Treasury needed to utilise; they needed Newton to get the policy approved in Cabinet, and they needed Newton and Mackay to get the policy through Parliament and to obtain favourable media coverage and public support.

Newton's public image and reputation was a resource that Thatcher and the Treasury required. It is often recognised that in order to get a policy approved by Houses of Parliament, and to attain support of the British media and British public, a policy needs an acceptable image (As demonstrated in Chapter Three, a favourable 'representation' of a 'problem'. As highlighted in a Chapter Four, the issue of child maintenance had been previously acknowledged by the Thatcher Government. In 1986, while at the Downing Street Policy Unit, David Willetts prepared a paper highlighting the growth of welfare dependent lone parents (Wikeley, 2006, 120). As highlighted in Chapter Three, this agenda was propelled by John Moore in June 1989, the then Secretary of State for Social Security, when he informed the House of Commons Social Services Committee that he was determined to change the system, and that a government statement on policy towards single parents would be made 'in the not so distant future' (Social Services Committee, Session 1988-89, HC 437-11, Minutes 86, Q 289,). In the late 1980s Moore had been propagating the arguments of Charles Murray, that our welfare state had created a culture of dependency, particularly amongst lone parents, and a review of the system was needed. Moore therefore planned an avowedly radical new policy initiative to deal with the 'problem', yet before he could enact his 'remedy' he found himself quickly ushered to the back-benches. However the policy proposal and ideas generated by Moore bear remarkable similarity to those contained within the 1991 Child Support Act. For example, Moore was reportedly determined to include a punitive approach towards single parents, including an obligation to identify the absent parent (Davis *et al*, 1998, 5).

It can be argued that it was recognised that Moore, an openly harsh right-wing Tory, would not achieve the political support needed to enact the policy, whereas a moderate Conservative like Newton would be much more likely to achieve such endorsement. Thatcher herself declared, 'in John Moore… I had another radical' (1993, 589), 'at Social Security… he had been courageous and radical in his thinking about dependency and poverty (1993, 756). When discussing Moore's replacement she stated: 'I asked him [Moore] to make way and appointed Tony Newton, a stolid, left-wing figure but with good command of the House' (1993, 756). Newton was a noted moderate who had the respect of both sides of the House, and was renowned for his compassionate manner and concern for social justice. Newton was a committed One-Nation Tory that throughout his career fought on issues social justice and equality: as recent obituaries eloquently describe him, 'a beacon of compassion in a harsh government'[7] (Ruth Lister in *The Guardian*, 3 April 2012). In the case of the 1991 Child Support Act, it can be argued that Newton provided the ability to change the outward emphasis, and public representation, of both the problem and the policy, a resource and strategy that was used to alter the rhetoric and image surrounding the issue and to mask the true motives of

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[7] See also Hugo Young in The Guardian, 26 March, 2012.

the policy. Yet although this was a resource that Newton held, it did not imbue him with any power due to the way Thatcher was able to obtain this resource from him.

5.4.4 The Power Resources of the Treasury

The scope of the Treasury's influence is significant. The Treasury holds a prominent position within each department, allocating spending and often influencing its agenda. The Treasury's functional responsibilities provide it with considerable power and control over each department and its ministers. Each department is reliant on the support of the Treasury; the dependency relationship is high in the Treasury's favour. Below, **Figure 5.3** is a list of the resources that increase the power of the Treasury.

Figure 5.3 Power Resources of the Treasury

Power Resources of the Treasury
Public expenditure (planning and control)
Overall economic strategy
Proximity/relationship with Prime Minister
Divide and rule
De Facto Veto
Economic climate
Technical expertise/Specialised knowledge
Access to monetary details

The Thatcher Government's move towards a neo-liberal economic paradigm enhanced the power of the Treasury (Middlemas, 1991, 45). By placing public expenditure savings high on their agenda, they increased the Treasury's involvement and authority within the policy-making and drafting process of other departments. This is particularly true for social security, for as the most expensive area of Government expenditure it was a prime target for attack. This allowed the Treasury to take an authoritarian approach towards the Department of Social Security, influencing the detail of its policies in order to achieve expenditure savings. However, not only did this neo-liberal paradigm increase the Treasury's ability to influence policies directly, it also increased its power to influence indirectly. The role of 'anticipated reaction' increased Departments' subordination to the Treasury; the fear of 'falling out of favour' with the Treasury, especially in times of public expenditure cuts, is a significant power resource the Treasury has at its disposal (Heclo and Wildavsky, 1981; Thain and Wright, 1990, 1992).

In the case of the Child Support Bill, Newton was often cautious in his resistance to the demands of the Treasury, due to his fear that they would remove funding he had earmarked for the introduction of Disability Living Allowance; his flagship, and warmly received, disability policy. As a Minster in the Thatcher Cabinet stated:

> …*there were all sorts of things [Newton] was interested in at the time, one of them disability living allowance, all for which [he] needed money and so at the end of a public expenditure round it's a negotiation with the Treasury across the whole front… You have to think about the priorities and the balance between different objects.* (Interviewed by Author, 19 July 2011, Minister A)

As a result, the Treasury was able to impose its demands upon the Child Support Bill. Newton was not only cautious in his resistance due to the direct pressure the Treasury could have upon him, but also because he recognised that few Cabinet colleagues would support him. The fear of challenging the Prime Minister and the Chancellor was too great, and often futile.

5.5. Core Executive Battles

5.5.1 DSS vs. The Treasury

The Treasury's role in the policy making process of the 1991 Child Support Act was the underlying cause of the policy's failure. As argued in Chapter Three, and as King and Crewe remark, '"Doing good" was definitely what Newton and the Department of Social Security had in mind. It was not, however, what the Treasury had in mind' (2013, 82). The power of the Treasury to insert their elements and objectives into the Act, and to override the decisions and objectives of the Department of Social Security, effectively altered the purpose of the policy and condemned it to failure. The main problems subsequently suffered by the Child Support Agency were inherent in the policy, and can be largely attributed to Thatcher's intervention, in tandem with that of the Treasury. Specifically, these were: an inappropriate and unworkable formula; a disregard of 'clean-breaks'; no financial disregard for those on Income Support; the application of the policy in retrospect; a disregard of the administrative complexity of the policy; inconsistency of objectives as a result of unworkable targets; a refusal to introduce a 50 *per cent* maintenance disregard; insistence that the policy be introduced in its entirety rather than in stages; and as a result, the degree of non-compliance and negative media attention. These all derived from Thatcher and the Treasury placing their aims above that of having an effective, socially just, child maintenance system. As Garnham and Knights claim, this was a policy that put the Treasury first (1994, 1). This had not been the objective of the DSS, yet the power vested in the Treasury meant that it could override the DSS and

the original objective of the policy, and impose their own priorities before the interests of children – placing their Departmental objectives first. There were deep tensions within the core executive as a result of these incompatible objectives, which ended in the Child Support Act being hijacked by the Treasury.

The DSS and the Treasury (with Thatcher's backing) fought on many issues, yet each time the DSS and the best interests of the policy were defeated; 'the Treasury went on winning battles' (King and Crewe, 2013, 83). Even before the 1990 White Paper, *Children Come First,* was published the Treasury won a crucial victory. In the early summer of 1990, officials from the DSS and the Treasury gathered to negotiate the details of the policy. The first battle to occur was over the inclusion of an income disregard. The DSS was in favour of an income disregard, so that lone parents and, by implication their children, could keep at least some of the money collected from the absent parent. As Michael Partridge stated, 'we were very keen on a 50 *per cent* disregard, but our bottom line was 20 *per cent*, but the Treasury wouldn't agree' (Can't Pay, Won't Pay, 1999). The Treasury fought for hard for a penny for penny deduction, consequently leading to the decision having to be made at Cabinet Committee, which as Partridge recalls, 'it became the decision of Mrs Thatcher, who decided in favour of the Treasury', leaving the Treasury to get 'their hands on the whole lot' (Can't Pay, Won't Pay, 1999). At the time, concerns regarding this decision were raised; they argued that a lack of disregard would affect the ability of the Agency to run smoothly, yet the concern was dismissed.

Conflict also occurred over the retrospective and 'clean-break' application of the policy. Contrary to the DSS's advice and concerns, the Treasury ensured that the scope of the legislation was expanded to all cases, overriding 'clean-break' and court settlements: 'all separated couples with children, irrespective of their circumstances, were caught in the Treasury's fiscal net' (King and Crewe, 2013, 83). As demonstrated in Chapter Four, ideology was placed over effective policy-making and economic objectives triumphed over social justice.

The major battle that arose between the DSS and the Treasury was over the detail of the formula. According to a former Minister in the Thatcher Cabinet, the Treasury's objective was to reap the biggest revenue from the formula, whilst the DSS aimed to achieve a formula that was based on accuracy and fairness. Intense negotiations took place between the Treasury and the DSS which the former won, resulting in their objectives becoming dominant. The DSS's concerns and the goal of achieving accuracy were secondary to the desires of the Treasury (Interview with author, 19 July 2011, Minister A). Consequently the Treasury became the main architect of the formula, which determined the level of child maintenance that applicants should receive. This highlights the approach that the Conservative Government took towards child maintenance – an economic

approach rather than a social approach – and emphasises the uneven distribution of power within the core executive which was weighted towards the Treasury. Although the Treasury did not have the expertise to create a formula for child maintenance payments, it did have the power to take this responsibility away from the rightful jurisdiction of the DSS and place it in their own hands. This is a clear example of how power and ideology was prioritised over expertise and social justice.

Newton and Lord Mackay voiced concerns over the detail of the formula and its disregard of crucial elements, but their pleas were ignored. The Treasury looked at it primarily in terms of benefit savings, not in terms of maintenance payments. As Davis *et al* noted, 'the formula took no account of their actual living costs' (1998, 26), there was no regard for property settlements, traveling to work expenses, second families, existing debt payments, or costs incurred to maintain contact with the children. This resulted in a formula that was unfair, and bound to cause problems and thus complaints. The need to include these elements was not only voiced by the DSS in negotiations with the Treasury, but as Chapter Six will show, it was also voiced by pressure groups and some parliamentarians during the legislative process of the Bill. However as Chapter Six will also demonstrate, the detail of the formula was not subject to effective parliamentary scrutiny, in part because it was placed within the regulations. Consequently, despite the concerns raised, the formula passed through Parliament, meaning that the Treasury version had prevailed over the DSS's vision over child maintenance.

It cannot be denied that the complexity of the formula created administrative problems, nor can the complexity of the formula be blamed entirely on the Treasury. But the fact that the formula was complex should not in itself have been a reason for failure. The nature of social security means that frameworks have to be complex in order to be effective and allow for discretion in individual cases and circumstances. The more variables included in the formula, the greater the potential accuracy of the result, yet more variables also increased both its complexity and difficultly to administer, thereby also increasing the scope or potential for errors. This in itself was an unavoidable problem; yet the way in which the Treasury influenced the formula exacerbated the problem. The Treasury rejected elements that should have been included in the formula, such as taking second families into account, which in turn made the CSA maintenance assessment system unpopular with many of those to who it was applied. This in turn decreased the co-operation of parents, which made calculations of payments difficult, because CSA Officers did not acquire the information needed to make the necessary calculation.

The impact of the Treasury on the administration of the policy also magnified the effects of the already complex formula. The Treasury's insistence that the policy be implemented in a 'big bang' approach, rather than in stages, and that it should be applied retrospectively, meant that the difficulties of the formula were magnified because of the sheer numbers of cases which needed to be processed simultaneously. Hence, although the formula was complex, it was not the complexity itself which partially precipitated its failure. Rather, it was the Treasury's rejection of what were seen as key elements in the original version that caused the formula to become a factor in the CSA's failure.

Another battle that was fought between the Treasury and the DSS was over the retrospective application of the policy. The Treasury's ability to overrule the DSS and order that the formula be introduced to all cases can be viewed as one of the most damning and damaging features of the policy. It massively increased the workload of an already overworked, undertrained and under-staffed Agency, and upset many parents whose previous child maintenance agreements it overturned. The decision to apply the formula in retrospect was another attempt by the Treasury to maximise revenue, yet it merely weakened further the legitimacy and success of the policy, as it totally disregarded the best interests of the families which had already reached mutual agreement over maintenance arrangements. As Frank Field stated, the decision to introduce the policy in retrospect 'struck me as not only unjust, but suicidal in terms of getting a new approach up and running. And so it proved' (Field, 2011, personal communication with author). This view is echoed by a DSS official who said that '[clean breaks] politically was very difficult; it nearly broke it' (Deakin and Parry, 1999, 120). The greed of the Treasury was prioritised over the interests of the policy. As a former Cabinet Minister stated, 'the primary goal of the CSA for [the Treasury] was to save money… sadly it became the objective of the policy' (Interviewed by Author, 19 July 2011, Minister A). This altered the objectives of the policy and again contributed to its failure; not only did public and media opposition of the policy increase[8] but the Treasury's interjection had a grave impact of the administration on the policy, severely increasing the workload of the Agency's staff.

A further source of tension within the Core Executive concerned the introduction of a 'maintenance disregard' for people on Income Support. Lord Mackay proposed the introduction of a 50 *per cent* disregard, allowing lone parents to keep 50 *per cent* of maintenance before it was deducted pound for pound from their benefit. Whilst Newton approved of a 50 *per cent* disregard in principle, the constraints placed upon him by the Treasury meant that he could not actively support this aspect. The heavy demands placed on the DSS to reduce its expenditure meant that introducing

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[8] This can be largely seen in the degree, nature, and tone of news pieces which debated the retrospective element.

a disregard was not, economically, an option. This clearly shows how the Treasury can use the budget assigned to a Department as a power resource. Child maintenance was not the only area the DSS was concerned with at the time. As stated above, Newton was deeply engaged with the Disability Lobby and had earmarked money for disability policy, something which he had to take into account when negotiating the Department's budget with the Treasury. The external pressures placed upon the DSS by the Treasury had a serious impact on the success of the policy. In principle, Newton would have supported a 50 *per cent* disregard (personal communication with author, 19 July 2011), but the pressure of the Treasury and the limitations it placed on him meant that he could not insist on something which he identified as being beneficial to the policy. By introducing a 50 *per cent* disregard lone parents would have felt that they had something to gain from the policy and the absent parent would also have been more willing to contribute if they knew more of the money would go to the children rather than the state. The policy was not assigned appropriate resources from the start – there was not enough money assigned to the policy or the Department to finance a 50 *per cent* maintenance disregard.

The inconsistent priorities of the CSA were also the result of Treasury interference. Initially, the intention of the DSS, and the outward intention of Thatcher and the Treasury, was to target absent parents who paid no maintenance towards the lone parent. This approach received praise from the media and cross-party support. Had the CSA operated as it was originally intended by the DSS, it is likely to have been more successful, as it would have maintained legitimacy in the eyes of the public and lone parents themselves. However, the Treasury's involvement meant that the CSA did not or could not maintain 'non-taxpayers' as their main targets. The Treasury enforced revenue targets on the CSA that made its objectives unworkable and meant that they had to deviate away from their original aims. Not surprisingly this meant that CSA staff concentrated on those absent parents that were already paying maintenance, but who were now required to pay more - often considerably more. Indeed an internal memo leaked to *The Guardian* confirmed that the CSA were targeting middle class men (*The Guardian*, 13 September 1993). But this was not the fault of CSA managers; their Treasury-inspired remit prescribed this course of action, albeit indirectly. Even before the CSA was in operation, the targets were criticised by the DSS, who deemed them to be unworkable (Minister (A) in the Thatcher Cabinet, Interviewed by Author, 19 July 2011), but the dominance of the Treasury persisted, as did the harsh targets enforced upon the CSA.

Faced with these targets, it is not surprising that way the CSA operated in this manner. It targeted middle class men, those in regular contact, and those already paying maintenance as they were easier to track. As Peter Lilley confessed when asked about the CSA's targeting of middle-class men, 'this was of course wrong, it was prioritisation. But they needed to meet their targets'

(interview with author, 11 July 2011). This resulted in the CSA, again not surprisingly, becoming very unpopular. By prioritising 'soft targets', the CSA was antagonising middle class men, traditionally a strong support base for the Conservatives. Conservative constituency surgeries and MPs' postbags began to fill up with letters from middle class men who felt alienated and discriminated against for already meeting their obligations. These problems were the fault of the Treasury. Something they inserted at the policy making stage caused major problems for the policy when in operation, making the policy unpopular with its 'recipients' or target clientele. As Deakin and Parry argue, '[a] potentially progressive policy had been undermined by an unrealistic Treasury insistence that it had to deliver savings. [The CSA] entered folklore as a short hand for what happens when social security reform gets caught up with cost savings.' (1999, 120)

What appears most remarkable is that inside the Treasury, officials were aware of the impact they were having on the policy and how it would lead to problems and opposition. As Peter Lilley admitted when asked his view of the CSA upon becoming Secretary of State for Social Security: 'I realised it was going to lead to problems, immense problems… I expected outrage' (Interview with Author, 11 July 2011). What is interesting is that Lilley came to the DSS from the Treasury, but it was only when he was in the DSS that the problems implanted by the Treasury were actually perceived as problems by him. Lilley was so aware of the level of problems that were going to arise from the CSA that he invited back benchers into his office in groups of ten and gave them presentations on the CSA and briefed them about the potential problems that might arise. Surely then the Treasury must have been aware of the detrimental effect it was having? This can be linked to 'departmentalism', in that a problem is only perceived as a problem when it is in a Minister's own Department. The problems experienced by the CSA were widely predicted throughout the legislative process, by pressure groups, and even by the Department of Social Security. But the Treasury disregarded them all: their purely economic motives, and arrogance in ignoring the warnings of those with expertise, undermined the policy from its outset.

5.5.2. DSS vs. Inland Revenue

Not only did the Treasury insert elements into the policy which effectively transformed the policy's objectives, it also had a detrimental impact on how the policy was administered. The issue of who should be politically responsible for the CSA led to inter-departmental conflict between the DSS and the Inland Revenue (part of the Treasury), as Michael Partridge Permanent Secretary to the DSS 1988-1995, stated: 'There were considerable arguments over who should take responsibility of this scheme'. (Can't Pay, Won't Pay, 1999). The CSA would have been more effectively administered through the Inland Revenue, for it held both the expertise and the level of authority successfully to

administer the policy. Yet, the CSA became the responsibility of the DSS instead. This was the result of an uneven distribution of power in the core executive that favoured the Treasury, and so yet again, the demands and interests of the Department triumphed the needs and interest of the policy and the lone-parents it was meant to benefit. The complexity of the system and the great potential for problems were quickly identified. The Treasury, through the Inland Revenue, did not want to take responsibility for an institution that they predicted would have problems. While the DSS wanted the CSA to operate through the Inland Revenue, as they attempted to base their policy on the success of the Australian system (shown in Chapter Four), the Treasury looked at in terms of its own interests rather than the interests of the policy. Due to the Treasury's interests prevailing, the policy was again hindered even before it started.

For the DSS, it was not simply a case of trying to 'pass the buck'. Tony Newton was extremely concerned about the problems that were likely to occur as a result of the policy being inappropriately administered (Minister (A) in the Thatcher Cabinet, Interviewed by Author, 19 July 2011). The Inland Revenue, collecting child support payments in the same manner as Income Tax, would have led to a clearer and more effective system. Arguably, it would have met with less resistance as it would have been harder for people not to comply. The degree of non-compliance within the tax system is relatively low amongst the average person (although people dislike tax, paying it is something that is largely taken as inevitable). The policy would have been unpopular but non-compliance would have been low. However, the Chairman of the Board of the Inland Revenue, Sir Anthony Battishill, did not want the responsibility of the CSA (Dorey, 2000, 160). The Inland Revenue suggested that they could not or should not interfere with family policy and that child support payments should not be portrayed as a form of taxation. They argued that by administering the CSA through the Inland Revenue, it would have been met with non-compliance and resented from the outset. This was simply an excuse; the Treasury did not want the responsibility of something it anticipated would be problematic. They were more than willing to mould the policy to suit their economic priorities, but they were not willing to take on the responsibility for implementing it. This was left to the DSS.

The Treasury was aware that the DSS was not suited to administer the CSA; as Peter Lilley confessed 'it wasn't their area of expertise,' yet the Treasury's desire to keep a problematic policy at arm's length prevailed. The Treasury's desire to shift the responsibility of the policy onto the DSS took precedence over the success of the policy in terms of what the DSS intended. The Treasury acknowledged the Child Support Act as a family policy only when it benefited them. What appears rather ironic was the Peter Lilley, when he was a Junior Minister in the Treasury, was amongst those firmly against the Treasury taking on the responsibility of the CSA, but then he ended up in the DSS

with responsibility for it. As he stated: 'I fought hard against it coming to the Inland Revenue because I could see even then that it would cause problems, but I didn't know I was pushing towards my own responsibility… I got my comeuppance when I came to the department!' (Interview with Author, 11 July 2011).

The view that the CSA should be administered through the Inland Revenue was not confined to the DSS. Think Tanks (for example, the Family Policy Studies Centre), Pressure Groups (such as the National Council for One Parent Families), academic and social policy experts, and the Social Security Select Committee, also argued that the policy would have been more appropriately administered by the Inland Revenue. As the next chapter, Chapter Six, will highlight the Social Security Select Committee, which met to discuss the Child Support Bill as it progressed through the House of Commons, suggested that the Government should undertake further investigation of the benefits of operating the system through the Inland Revenue before it finally dismissed the option (Social Security Committee, 1991, 17) The chairman, Frank Field, also stated that 'it seemed to me the most obvious place or body to be responsible for establishing this new organisation is the Inland Revenue' (SSC, 1991, 35). Yet again, though, the views of critics were rejected. This was a recipe for disaster for the CSA, as it meant that the policy was administered by a Department which lacked the expertise needed for its successful administration.

The Social Security Committee took evidence from Malcolm Wicks, Director of Family Policy Studies Centre (and subsequently a Labour MP and Minister in the 1997-2010 Governments), who himself visited America and Australia to investigate their child maintenance systems. Wicks highlighted that the Government had not undertaken proper consideration of the benefits of using the Inland Revenue, nor fully appreciated the problems of deviating from the Australian model (SSC, 1991, 194). As a Minister in the Thatcher Cabinet stated, 'the Inland Revenue just didn't want it and they weren't even prepared to even look at administering it' (interviewed by Author, 19 July 2011, Minister B). This highlights a fundamental problem of the Conservative Government's approach to policy-making on this issue (and others). Whilst there was reluctance present in the Australian system (their Tax Office was also hesitant to take on the responsibility of the child maintenance collection), a judgement was made that the policy would be more effectively administered through the Tax Office. This is how policy-making should take place; the needs of the policy should not be subordinate to the power resources of the Department. In Australia the needs of the policy came before the wishes of the Department; in the UK the needs of the policy were secondary to the demands of the department, in this case the Treasury. The fact that this was permitted was largely due to the power that the Treasury possessed in comparison to the rest of the Core Executive.

At the time that negotiations were being conducted over which Department should administer the policy, Thatcher was still Prime Minister, and she continued to support the approach of the Treasury. She therefore dismissed the idea of the Inland Revenue administering the CSA, instead allocating it to the DSS. Whilst this was a 'battle' that occurred between the DSS and the Treasury, Michael Partridge recalled that, 'ultimately it was Thatcher's decision for it to be placed in the DSS' (Can't Pay, Won't Pay). It was widely acknowledged that it would be better operated under the Inland Revenue, as this was the system that had proven to be successful in Australia, and this method was supported by many experts, but the Treasury – with the backing of Thatcher – had the power to say no. How power is distributed amongst the core executive has an impact on the success of policies. Despite a wealth of evidence to suggest that the CSA would have been more successful had the Inland Revenue administered it, the power the Treasury possessed allowed it to simply refuse to be responsible for what it saw to be a burdensome policy. Instead it was left to the DSS, who even the Treasury had admitted lacked the expertise, to shoulder the administrative responsibility.

5.6. The Imbalance of Power - Links to Policy Failure

This chapter has shown that Thatcher's power was intensified by an ineffective core executive. Dunleavy, in his seminal article on policy disasters, cites 'poor checks-and-balances' in the core executive as one on the contributing cause of policy failure (1995, 64). What can be seen in the policy formulation stage of the 1991 Child Support Act was significant overt and covert dominance of Thatcher and the Treasury, as well as the reduction in scope and influence of other actors within the core executive. As Howell stated, 'under this government and under the regime that emerged after 1979, which wasn't quite the one that we planned for before '79… the nexus between Number 10 and the Treasury is decisive, it overrules, it's everything, the Treasury always knows they can win' (Howell quoted in Hennessy, 1986, 103). As well as the increased role of the Treasury, we also saw a 'Prime Minister [that] had a habit of annoying ministers by interfering in departmental policy process and imposing policies – from a half informed position – on departments' (Smith, 1995, 117).

It can be argue that there has been an over-emphasis on the Prime Minister's policy-making role, which in turn has understated the role of the Department. As Smith *et al* state, 'The central unit of analysis is not the Prime Minister, the Cabinet, Civil servants, Ministers or interest groups… but Departments' (1995, 41). Whilst this is true, and most policy making does take place inside the Departments, this does not mean that the Prime Minister and the Treasury cannot, at times, exert significant pressure over the policy and workings of individual Departments. As such, the focus

needs to be placed on all actors, focusing more specifically on some individuals depending on the policy itself. The problem is not the apparent over-emphasis on the Prime Minister but instead how analysis focuses on his/her exertion of power. As Marsh *et al* claim, 'much of the popular analysis of the last decade sees Margaret Thatcher dominating government and 'hand bagging' departments'. He goes on to claim that 'the reality was that she was limited in the extent to which she could intervene in particular departments' (1995, 59). Whilst this is certainly true, Thatcher was limited in the amount that she could 'hand bag' ministers and directly/overtly intervene, this was not her only source of power, as we have demonstrated through this chapter[9]. Many political scientists over-emphasise Thatcher's use of direct power and as a result fail to undertake a full analysis by not taking into account the full range of her tactics. James states that Thatcher's approach was one of directness and openness, whilst others such as Heath, Callaghan and Wilson manipulated the system subtly; claiming that whilst they were oblique in their use of power Thatcher was overt (James, 199, 63-64).

However, this is only partially true, for while much of Thatcher's power, and certainly her leadership style, were overt, she also operated obliquely – exerting significant influence covertly in order to obtain (or deploy) the resources she needed to achieve her agenda. It was not an either-or situation in terms of what approach to take, Thatcher also used indirect power making full use of the tactics and strategies available to her. In conjunction with her ability to exploit the positive image of Newton and Mackay, as well as her 'hijacking' their 'problem' and 'policy' (misdirected power), Thatcher was able to enforce her fundamentally flawed policy upon that of the DSS. By the time that the policy was drafted, nobody apart from Thatcher and the Treasury was in favour of it. As Mavis MacLean, policy adviser to the DDS, recalled: 'There was certainly no enthusiasm for the project… No Department wanted it to go ahead, but in Mrs Thatcher's world nothing is impossible, you find a way' (Can't Pay, Won't Pay, 1999). In her memoirs, Thatcher acknowledged that both Tony Newton and the LCO displayed resistance over the CSA (1993, 630). Yet both Newton and Lord Mackay dutifully brought the Bill through Parliament. Although they were deeply concerned about the impact Thatcher and the Treasury had on the detail of the policy, they held inadequate power resources to resist; subsequently leading them to introduce a Bill that, although they supported in principle, they did not support in detail.

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[9] It can be argued that the 'downfall of Thatcher' came as a result of her changing which power resources she used, and the strategy in which she deployed those resources. She moved from misdirected power to direct power (direct power was actually less powerful and easier for ministers to resist and denounce).

5.7. Kingdon's Policy Streams

To advance our understanding of the formation and origins of the 1991 Child Support Act, enrich our insight into the policy-making process and understand how and why Newton and Mackay brought in a policy in which they did not necessarily support, we can introduce Kingdon's 'Policy Streams' model (1995). Kingdon's idea of 'policy streams' can work in conjunction with the framework of policy transfer, and in this case, allow us to demonstrate how 'dual policy transfer' worked with the multiple problem definitions (as identified in the Chapter Three) to open the 'policy window' and lead to change. This section will first outline what Kingdon's 'policy streams' model is before then applying it to the policy-making process of the 1991 Child Support Act, and then incorporating it with an understanding of 'dual policy transfer'.

The identification of a problem which leads to the development of a new policy can partly be explained by an understanding of the role of policy agendas and Kingdon's 'Policy Streams'. Kingdon (1995) argued that to get issues onto the policy agenda, and bring about change, potential policies need to be accompanied by two other 'streams', namely the identification of a problem for which the proposed policy is a solution, and appropriate circumstances to implement those policies. Kingdon identifies the three 'streams' as: the 'problem stream', 'policy stream', and the 'political stream', and explains that these three 'streams' need to flow together in order for ideas to 'open the policy window' translate into public policy.

- **'Problem Stream'** – Whether an issue is defined as a problem and enters the 'problem stream' depends largely on statistical indicators, moral beliefs, values, normative assumptions, and ideology.

- **'Policy Stream'** - Kingdon's 'policy stream' refers to an identification of a policy which is deemed a solution to a particular problem.

- **'Political Stream'** – Kingdon argued suitable political circumstances are needed to introduce new policies.

Kingdon suggests that it is only when these three 'streams' flow together that a 'policy window' opens briefly to allow policy change to occur (1995, 20).

Figure 5.4: Kingdon's Model of Policy Streams
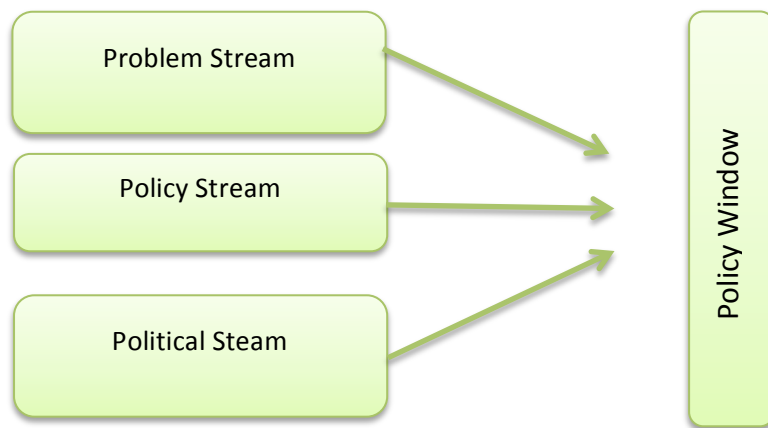
We can utilise Kingdon's conceptual approach to understand how the flawed Child Support Bill managed to get through the 'policy window' and become the 1991 Child Support Act. By assessing the political, social, economic and international circumstances, as well as looking at the problems of the erstwhile child maintenance system, we are able to identify how these 'three streams' came together to open a 'policy window', which subsequently resulted in the 1991 Child Support Act.

5.7.1. Conflicting Origins: Five Streams, One Window

Although it appears that developments the late 1980s saw Kingdon's three 'streams' flow together to open a policy 'window', the actual origins of the 1991 Child Support Act are somewhat more complex. There were in fact two 'problem streams' (shown in Chapter Three) and two 'policy streams' (shown in Chapter Four, and above). Whilst Thatcher's origins for reform lay in a desire to instil her New-Right agenda and therefore adopt the Wisconsin model, the DSS and LCO's origins for reform lay in a desire to create a reliable system of child maintenance and therefore adopt the Australia model.

As identified in both Chapter Three and previously in this Chapter, an attempt was made to introduce change by John Moore in the mid-1980s when he was Secretary of State for Health and Social Services (DHSS). Moore had labelled the increase in the number of lone parents as both an economic and moral concern and declared that punitive measures were needed in order to eradicate this strain on the state. Throughout his time at the DHSS, Moore made several speeches whereby he expressed concerns regarding state provision encouraging irresponsibility and lone-parents families. However, both Moore's proposals and his approach were deemed too radical and viewed as unlikely to win support. Moore, an openly harsh, right-wing Tory, would not provide the

political support needed to ensure the successful passage of the policy. Moore failed to provide the 'political stream' which in turn obstructed the other 'streams', as **Figure 5.5** demonstrates:

Figure 5.5: Failing to Open the Policy Window
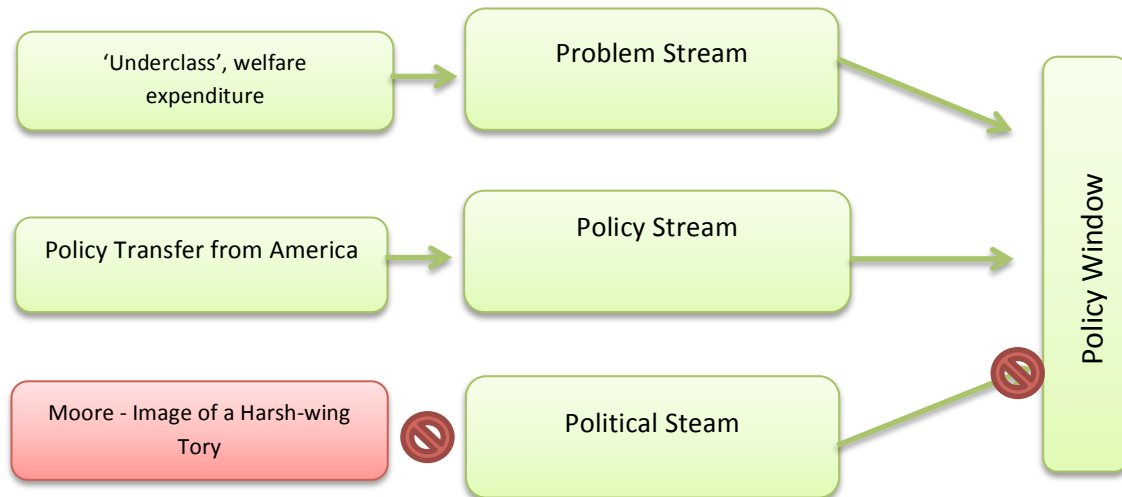
However, whilst Thatcher failed to achieve the 'political stream' necessary for her policy through Moore, Newton's approach achieved the 'political stream'. This resulted in Thatcher skilfully pushing her policy through the 'window' that Newton had opened; 'the proposed legislation ceased to be welfare legislation and become, in essence, fiscal legislation' (King and Crewe, 2013, 82). It was easier for Thatcher to manipulate and undermine Newton's policy than to gain support for the policy sought by her and the Treasury. Below, **Figure 5.6** demonstrates how Thatcher and Treasury pushed their policy through the window by covertly attaching, and submerging, their problem and policy stream onto that of the DSS and LCO.

Figure 5.6: Five Streams, One Window
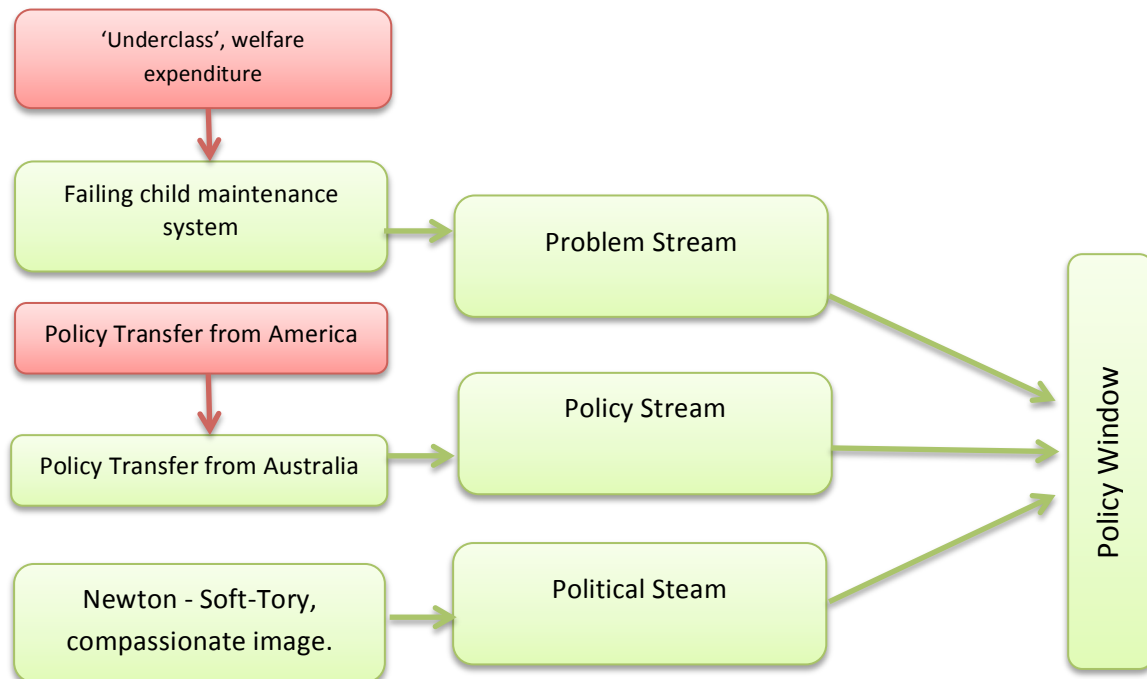
Newton's idea of creating a new child maintenance system based on a formula was arrived at independently of Thatcher. It was a product of interdepartmental conversations between the DSS and the LCO, both aiming to remove a failing and corrupt system. Their intentions for the Child Support Act derived from humble yet noble origins; from the desire to alter a failing system and to produce an agency that would improve child maintenance to the advantage of all parties. The DSS and the LCO looked closely at the Australian system with the main objective being that of creating a fair child maintenance system.

Simultaneous to child maintenance reaching the agenda of Newton and Mackay, Thatcher was continuing to identify lone parents as a problem. As Michael Whippan, Policy Director, DSS, 1994-1988, recalled: 'She [Thatcher] came into Parliament one day and said, "lone parents are a problem, what are we going to do about it?" (Can't Pay Won't Pay, 1999).Therefore, once Thatcher and the Treasury became aware of the DSS and the LCO interest in reforming the child maintenance system, they became very keen to utilise the opportunity to covertly attach their 'policy stream'. Although still concentrating on child maintenance, Thatcher and the Treasury viewed it in terms of their 'problem stream' and were therefore in search of a different solution. Therefore what we see are two separate agenda being pursued, that of social change, and that of economic reward, as Newton stated, 'My concern was social policy, to get a useful change in social policy… however, there was certainly lines of argument that were primary concerned with raising the amount of

money that was charged' (Can't Pay, Won't Pay, 1999). As a result of the latter object, Thatcher and the Treasury looked towards the Wisconsin model with the desire to cut social security expenditure and to tackle the problem of the emerging 'underclass' rather than simply create a fair and reliable system of child maintenance. As a Minister in Thatcher's cabinet stated, 'to put it mildly it was warmly supported by our Prime Minister. But our then Prime Minister had a rather peculiar view of what this policy should be and what it could achieve, she was pretty harsh' (Minister in the Thatcher Cabinet B, interview by author on 19 July 2011). Thatcher and the Treasury's ideological objectives were injected into the proposals of Newton and Lord Mackay. It was through doing this that they were able to get their controversial objectives through the 'policy window'.

The objectives of the policy moved from that of creating a fairer system of maintenance to that of a tool to reduce the social security budget and to attempt to tackle Britain's growing 'underclass'. New Right ideals had been quickly embedded into the policy, subverting its original objectives and supplanting them with those which inevitably led to failure. As Malcolm Wicks, Director of the Family Policy Studies Centre, astutely highlighted in his evidence to the Social Security Committee:

> *I am really very worried that a very good piece of policy will be knocked off course*
> *by the Treasury's concern to reduce public expenditure.* (Para 12, Second Report,
> Changes in Maintenance Arrangements, Social Security Committee, Session 1990-
> 91, 30 April 1991).

The economic objectives that had been embedded into the policy, had in effect, prescribed the policy to failure. This was acknowledged by the DSS, as well as by the Senior Civil Servants that Thatcher had entrusted with creating the system, yet 'Mrs Thatcher rejected all misgivings and assisted the project proceed' (Polly Toynbee, Can't Pay, Won't Pay, 1999). While the fundamental policy proposal of Newton and Lord Mackay was maintained, the detail inside the Bill was controversial, ill-judged, and contradictory to the original aims, due to Thatcher's injection of her 'problem stream' and 'policy stream'. Aware that their approach would be unlikely to obtain support and lead to policy change, they successfully camouflaged their 'problem' and 'policy'. The subsequent problems experienced by the 1991 Child Support Act can largely be attributed to the policy itself and its contradictory and conflicting origins; understanding how the policy was developed can help explain some of the CSA's subsequent problems. By examining the formation of the policy we can clearly identify the separate policy and problem streams that ran through its formation, and highlight how this prescribed the policy to failure.

5.8. Conclusion: The Imbalance of Power, Conflicting Formation - Two Policies, One Bill

It is clear that in the drafting of the 1991 Child Support Bill, there were two strands of thought, and that these conflicting perspectives reflected the concerns of different Government Departments and Ministers (hence, division in the core executive and a lack of joint up government which we looked at earlier in this chapter). While the DSS approached child maintenance reform from a departmental view, Thatcher looked to instil her ideology and achieve her agenda across all departments; both pursued differing agendas therefore sought different objectives. Thatcher's objectives, and the Treasury's remit, were larger than that of child maintenance and social security reform. Therefore, while Thatcher sought a policy that would reflect her ideology and thereby advance her neo-liberal agenda, the DSS simply sought a policy that would create a fairer and more effective system of child maintenance. The DSS did not look at it in terms of family values, cutting the Civil Service, or as a means to achieve a wider economic agenda. Whilst it cannot claim that the DSS did not consider the expenditure savings opportunity of enforcing such as policy, it should be noted that it was considered in a different manner. Whilst Thatcher and the Treasury took a macro view and looked at it as a tool to achieve government public expenditure savings, the DSS took a micro view and looked at it in terms of the departmental budget and the need to allocate money elsewhere. Thatcher and the Treasury adopted an economic perspective, whereas the DSS viewed it as a social policy objective.

As a result of the conflicting objectives from these two strands, policy transfer was very complex. The idea of the CSA derived from two sets of concerns, but it can also be argued that the detail of the policy also arose from two modes of policy transfer. Dolowitz's assessment of the CSA in terms of Policy Transfer fails to acknowledge the significant influence of Australia and that there were two separate strands of policy transfer. Whilst his work explains the failure of one strand, America, it does not account for the other strand and therefore does not adequately explain the failure of the CSA from a Policy Transfer standpoint. What occurred was not a simple case of policy transfer from one country to another, or a problematic transfer from one country to another, or even a disagreement over which model Britain should pursue. Rather, what transpired was a grand misconception of the American system which was then forced onto policy transfer from Australia. Consequently the ensuing system was an inconsistent mix of the DSS's attempt to introduce an appropriate, complete, and informed policy transfer from Australia, and Thatcher and the Treasury's determination to introduce a scheme based on their incomplete, inappropriate, and uniformed transfer from America.

These incompatible streams are present throughout the creation and development of the policy and are the key components of the failure of the Child Support Act. Thatcher could not simply enforce her version of the policy as she did not open the 'policy window'. Yet Thatcher's leadership style and the use of resources, allowed her to intervene in the policy transfer process from Australia to such an extent that the eventual Bill appeared to be a failed attempt by the DSS to transfer policy from America. The roots of the operational problems suffered by the CSA stem from its dual origins onto the institutional agenda, its two sets of objectives, and its two forms of policy transfer. Thatcher and the Treasury effectively inserted their 'problem' and objectives onto the policy pursued by Newton and Mackay, to such a degree that it no longer resembled the initial policy idea. In so doing, they had mired the policy in failure, leaving it ill-equipped to meet eithers objectives and vision.

Chapter Six - The Flawed Legislative Process

6.1. Introduction

As Dunleavy notes, 'decision-makers systematically choose to ignore an abundance of critical or warning voices in order to persevere with their chosen policy' (1995, 52). This arrogance was certainly present in the formation of the 1991 Child Support Act. Criticisms by pressure groups, concerns raised in the House of Lords, apprehension shown by the Social Security Select Committee, and hesitation within the DSS itself were ignored in order to persevere with the policy version sought after by Thatcher and the Treasury. By examining the legislative process we can assess it as contributory factors in policy failure. The CSA experienced a plethora of administrative and implementation problems, all of which can be accredited to the policy itself, but which were then compounded during the implementation stage when the inherent flaws of the CSA became more fully apparent. An examination of the legislative process will allow us to identify Dunleavy's criteria for policy disaster (1995) and understand how the roots of the CSA's failure were embedded in the policy, even prior to implementation.

This Chapter will firstly examine the inadequate consultation process, highlighting the concerns raised by several pressure groups and then the disdain with which they were received by policy makers. It will then move to examine the House of Lords Stage, again highlighting the number of concerns that were raised. It will show that many of the problems with the CSA were foreseeable and indeed foreseen. This Chapter will then highlight how the House of Commons proved to be an ineffective source of checks-and-balances, by in effect allowing a flawed policy to pass through its chamber. It will end by stating that it was an inadequate consultation and a flawed and futile legislative process that paved a path to policy failure.

6.2 The Child Support Bill

The Child Support Bill, which created the Child Support Agency, was published on the 14 February 1991, and received the Royal Assent by 25 July 1991. The speed with which Ministers planned to legislate, to put the White Paper proposals into effect, was acknowledged and criticised by those inside and outside of Parliament (see, for example, Brindle, D, Social Services Correspondent, *The Guardian*, 30th October, 1990). The entire process, from Thatcher's initial announcement in July 1990, to the drafting of the Bill through to it receiving the Royal Assent, took less than a year. As Bird claims, this is 'a tribute to the commitment of the proponents of the legislation' (Bird, 1993, 24). Once the idea of a Child Support Agency reached the institutional agenda of the DSS, Thatcher quickly discerned it as an opportunity to instil her wider New Right

agenda and push through her policy version. That Thatcher was impatient to 'hurry through' reform is confirmed by one of her Cabinet colleagues, who stated: 'once Number Ten picked up wind of all this… she was very keen to get this on the statue book, to hurry it through' (Interviewed by Author, 19 July 2011, Minister A).

Just as the policy formation and policy transfer process were affected by Thatcher, so too was the legislative process. Although Thatcher left office on 28 November 1990 and was no longer Prime Minister during the Parliamentary passage of the Bill, her influence was still felt. The course paved by Thatcher was not altered by Major but instead followed. Her image was fully integrated into the design of the policy and her influence remained during its passage. First, it led to a hurried Bill that was flawed, loosely worded, incomplete and contradictory to the principles originally pursued by Tony Newton and Lord Mackay. Second, the haste of the legislative process undermined the level of scrutiny which the Bill received. As Hall exclaimed, when assessing the introduction of a policy we need to look at whose interests were propelled, whose voices were ignored, and who held enough power to obtain reluctant consent (1975, 9). As an analysis of the legislative stage of the 1991 Child Support Bill will demonstrate, Thatcher and the Treasury commanded enough power and skill to obtain support from an unenthusiastic Parliament for an unconvincing Bill.

Figure 6.1 The Passage of the Bill

The Child Support Act 1991	
29th October 1990	The White Paper, *Children Come First*, published.
14th February 1991	Child Support Bill published.
HOUSE OF LORDS	
14th February	First Reading.
25th February	Second Reading.
14th-19th March	Committee Stage.
25th and 29th April	Report Stage.
April and June	House of Commons Social Security Committee
15th May	Third Reading.
HOUSE OF COMMONS	
4th June	Second Reading.
11th to 2nd July	Committee Stage.
18th July	Report Stage and Third Reading.
HOUSE OF LORDS	
22nd July	Debate to consider Commons' amendments.
25th July	Bill Published. Receives Royal Assent, becomes Act of Parliament

6.3 Inadequate Consultation - Children Come First White Paper and Responses

The White Paper *Children Come First* was published on the 29 October 1990, albeit in two volumes; the first set out the Government's proposals, and the second contained statistical data in which the proposals were set (such as, increase in number of lone parents, degree of inconsistency in the courts, lone parent dependence on the state). The White Paper proposed a new system for child maintenance. The proposals called for:

- Creation of the Child Support Agency under a 'Next Steps Agency'.
- Maintenance assessments based on a standard formula.
- Courts would no longer deal with maintenance cases.
- Court orders and clean-break settlements would be overridden.
- There was requirement to cooperate.
- A benefit penalty would be imposed on those who did not cooperate and did not have 'good cause'.

The justification for reform was presented in terms of the need to replace a failing system. As Garham and Knights state, 'the proposals were billed as the remedy to the combined failure of the courts and the social security liable relatives rules to secure adequate and regular amounts of maintenance' (1994, 31). Little or no emphasis was placed on the wider social and economic aims that were being pursued by Thatcher and the Treasury (Davis *et al*, 1998, 8). As one former Minister in the Thatcher Cabinet stated:

> [The DSS] *wanted a system in place which was effective… Thatcher wanted to reduce the social security budget, and rid society of what she saw as negligent young men who* [would have] *a one night stand and then scarper* (Interviewed by author on 19 July 2011, Minister A).

The apparent principles and objectives which *Children Come First* emphasised were that parents should honour their responsibility to their children when they could afford to do so, and that dependence on the state should be reduced when possible. Yet a closer examination highlighted the controversial details within this ostensibly reasonable purpose.

Although the White Paper officially invited feedback – something typically associated with Green Papers – the process was rushed and downgraded in importance. Feedback was only invited on sections of the proposals that were '*still under consideration*', for the White Paper categorically stated that '*the main shape of the new system is decided*' and therefore comments were not

required and discussion was not welcomed. As the response from the Child Poverty Acton Group (CPAG) stated:

> *There are some areas of the White Paper's proposals – apparently not subject to consultation – whose implication, we believe, have not been fully thought through... CPAG has much experience of the problems caused by legislation drafted without sufficient consultation or consideration and would always hope to prevent these problems where possible.'* (CPAG response to the White Paper 'Children Come First' December 1990, 2)

Considerable doubt can be raised over the legitimacy of the consultation period and the degree to which the Government acknowledged the concerns and criticisms expressed. A total of 86 responses were received from various organisation and individuals (see Appendix A)[10]. As noted above, the consultation responses were not published by the Government. Therefore this information was accessed by contacting each organisation that had submitted a written response to the white paper *Children Come First,* to request copies of their written responses. All 86 organisations were contacted via email and by post. Several organisations did not respond. Many organisations no longer held a copy of their consultation response. However, 52 copies of written consultation responses were obtained organisations, and this included most of the leading organisations[11].

Several responses prophesised the failure of the CSA and warned the Government against several of its features. An analysis of several responses revealed a significant unanimity in opinion. Furthermore, while there was widespread support for the principles behind the policy, the detail regarding many of its features and the motives for reform was met with scepticism. While the Government invited comments on sections of the proposals, these responses were not published, produced in a report, or, apparently, considered in any depth. In these respects, the 'consultation' period can be viewed as a façade.

This is typical of the Thatcher Government's approach towards pressure groups which did not share her Government's ideological stance and objectives. The 1980s witnessed an attack on the philosophy of consultation as the Government adopted an aggressive style of policy-making (Baggott, 1995, 484). Thatcher shifted policy making away from consultation and towards

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[10] List was located from a written answer from Alistair Burt MP on 26 May 1994 in response to a question by Dr Tony Wright MP (Cannock and Burntwood) requesting a list of all organisations which made submissions to the child support proposals following the publication of the 1990 White Paper *Children Come First*.
[11] Copies of several consultation responses by organisations were also received from Prof. Nick Wikeley. Prof. Wikeley had obtained these when undertaking research for a book he co-authored, *Child Support in Action*.

confrontation. This was part of a wider downgrading or dismantling of policy communities and the previous 'logic of negotiation'. This approach was justified through their New Right ideology, which argued that most pressure groups were detrimental to the interests of the public and the government, and also impeded the autonomy and authority of government and the state. During the Thatcher Premiership, the role of many pressure groups declined considerably, with their concerns and criticism being largely disregarded. As Baggott notes, 'the Thatcher Governments had the resources to bolster this approach: large majorities in the House of Commons, *de facto* control of the House of Lords, a divided and weak Opposition, and support from much of the popular press' (1995, 485). Due to these political resources (which we discussed at some length in the proceeding chapter, Chapter Five) Thatcher felt immune to the disapproval of aggrieved pressure groups.

However, she did not dismiss the consultation process entirely, retaining its procedural formalities but purging it of any significant influence. Many pressure groups complained that during the Thatcher Premiership there was no such thing as consultation. Rarely was the process seriously or sincerely used to gather views or expertise on a particular idea or problem, rather it was utilised as a tool to deliver as statements of intent. Although the Thatcher Governments ostensibly continued to undertake 'consultation', the degree to which the Prime Minister allowed Ministers to absorb these comments was very limited. It can be suggested that the façade of consultation was undertaken to imbue the policy with an image of greater legitimacy.

As stated above, there were major concerns voiced by pressure groups and charities during the consultation process of the white paper *Children Come First*. These can be summarised as follows:

Figure 6.2 Anticipated Problems with the introduction of the Child Support Agency

Anticipated Problems/Concerns With Proposal
Failure to recognise that parental responsibility goes beyond that of financial contributions
Lack of consideration of previous property or financial settlements and arrangements
Inflexibility and inadequacy within the formula
Did not fully acknowledge the outgoings of the absent parents (such as, travel expenses or money needed to maintain contact with the children)
Lack of integration of childcare, training, employment, education support for parent with care
Issues regarding enforcing co-operation
Benefit penalty for non-co-operation making families poorer
Lack of consideration for second families
Lack of a financial disregard for maintenance from Income Support
Administrative problems, problems if under resourced
Lack of consideration for passported benefits which would be lost by the parent with care in their move from Income Support to Family Credit
Intrusion of privacy
Problem of including retrospective cases
Possible loss of marital home
Access related issues likely to be escalated as a result/ strain on current family relations
Potential impact on the 1989 Children Act/fragmentation of policy area
High set up and running costs

Those expressing robust concerns or opposition to the details of the policy, and highlighting clear deficiencies or inconsistencies included: the Child Poverty Action Group, the Law Society, the Legal Action Group, the National Association of Citizens Advice Bureaux, Families Need Fathers, Welfare Benefits Unit, Barnado's, Women's Aid, Church Action on Poverty, the National Children's Bureaux, the NSPCC, the Save the Children Fund and the Children's Society. Whilst the policy was initially supported by the National Council for One Parent Families, they too went on to say:

> We are very disappointed that government has not reconsidered its intention to remove benefit payments from families in which mothers do not wish to name fathers as we believe this will cause great hardship to vulnerable children. (*The Times*, 16 February, 1991).

Therefore, this policy can be summarised as one that was largely unsupported by pressure groups, charity organisations, and area experts, each bringing a vast knowledge of particular aspects of the White Paper to the consultation process. Below will explore some of the concerns voiced and predicted problems with the policy, highlighting that the problems suffered by, and the eventual failure of, the 1991 Child Support Act were predicted. The failure of the policy was not one of implementation but one of design.

6.3.1. Consultation Process: Foreseeable and Foreseen Failure

Several organisations expressed concerns about likely inflexibility and inadequacy within the formula. It was acknowledged that the proposed formula did not take into account previous property transfers or financial settlements, nor did it acknowledge other factors such as travel expenses, loan repayments, or money needed to maintain contact with the children. On the point of the formula not including an allowance for maintaining contact, a joint response by Gingerbread Scotland, One-Plus and Scottish Council for Single Parents emphasised that:

> *Ability to meet the expenses of access can be a very important factor in determining whether an "absent" parent can meet his or her responsibilities to maintain contact with the children. Parental responsibility is not only about financially maintaining the children but also about ensuring the children go on having contact with both their parents. Research clearly shows that this is vital to their future well-being. It is unfortunate that the complex relationship between contact and maintenance is dismissed.* (Consultation response, December 1990, 1).

This shows that the welfare of children was not at the heart of the policy, nor was instilling parental responsibility and family values; instead, as stated in Chapter Five, the policy was designed to reap the largest economic return. The greed of the Treasury was put before the interest of the child; 'children were not put first'. Many of these shortcomings within the formula were eventually addressed through amendments made in the first few years that the CSA was in operation. However, if policy makers (and indeed all Parliamentarians) had given more serious consideration to such issues when they were highlighted during the consultation process, the ensuing problems could have been avoided and such amendments would not have been needed.

Several responses also highlighted the negative impact the CSA would have on second families, which were not accounted for in the formula. A submission by the Association of County Court and District Registrars (ACCDR) stressed the need for the Government to consider the impact the policy would have on step-children: 'The second family will be reduced to subsistence level…

these proposals will cause poverty and bitterness among many people who do not deserve it' (1990, 3). The expertise of the ACCDR was ignored, in spite of its vast experience in ancillary relief work. When in operation, the CSA did indeed encounter opposition over the lack of consideration given to second families, and as a result, further amendments were subsequently enacted. Again, if such expertise had been heeded at formulation and drafting stage, it would have led to the formation of a more coherent and less flawed policy and associated legislation.

Many pressure groups highlighted the degree of non-compliance and public anger that would arise as the result of the policy. The Welfare Benefits Unit (WBU) warned policy makers that without a disregard for maintenance from Income Support (Income Support would be reduced pound-for-pound by the amount of maintenance received) there would be no incentive to pay or name the absent parent. They also argued that the measure was punitive, as the majority of lone parents on Income Support would not benefit under the scheme, therefore failing to tackle the problem of lone-parent poverty. The WBU noted that the policy would contradict its stated aim of 'putting children first' and instead put 'the DSS first' (WBU response to *Children Come First*, 1990, 2). Similarly, the Convention of Scottish Local Authorities (COSLA) bluntly stated:

> *The proposals as outlined in the White Paper do not contain measures which will help to alleviate poverty experienced by single parent households… The prominence of the welfare of the child throughout this document [the White Paper] masks its prime motive of cost cutting rather than remedying child poverty. All too often it is apparent throughout that the net financial gain to the parent and child is little or nothing while the Government stands to gain, often at some cost to the relationships between the caring parent and absent parents and their children. There is little confidence that the values and principles, skills and knowledge base of the Child Support Agency, within the Department of Social Security, can appropriately and sensitively assess and pursue the best interested of the child in these circumstances.* (Convention of Scottish Local Authorities response to *Children Come First*, 1990, 4).

Numerous organisations argued that if the Government was committed to cutting poverty and to 'putting children first', then they should allow lone-parents on Income Support to keep a proportion of the maintenance over and above their benefits (just as those receiving Family Credit or Disability Working Allowance did). The TUC stated that 'it is unfair that the benefit disregard for recipients of Family Credit is not to be extended to those in recipient of Income Support' (TUC response to *Children Come First*, 1990, 2). They went on to recommend that the £15 disregard be extended to

recipients of Income Support. Policy-makers again dismissed the warnings and concerns by pressure groups and continued their pursuit of a flawed and punitive policy.

Several organisations also raised concerns over the proposed benefit penalty, 20 *per cent* or £7.35 per week, for those who did not name the absent parent. For example, the CSLA pointed out to the DSS that:

> *The implications for the survival of such a household are extremely serious. A direct deduction of this magnitude from an income level based on the Government's assessment of a minimal subsistence level is punitive to the women concerned and places the children in an even more vulnerable situation than previously'.* (Convention of Scottish Local Authorities response to *Children Come First*, 1990, 1)

The concern was also voiced by One Parent Families (York) who stated:

> *It seems to me that any proposal that a deduction should be made from Income Support thus requiring the whole family to live at below Income Support level must be placing some other principle before the interests of the child(ren).'* (One Parent Families - York response to *Children Come First*, 1990, 1)

Various organisations highlighted the need to include further exemptions, and more clarity, regarding individuals required to name the absent parent. Organisations such as Scottish Women's Aid argued that 'domestic violence' should be written into the legislation, along with rape and incest as "good cause" for not naming the absent parent. They claimed that naming an absent parent that had a history of violence could provoke further violence towards parent and/or child (Scottish Women's Aid response to *Children Come First*, 1990, 1). The potential harm of being required to name a violent absent parent was also voiced by the National Association of Citizens Advice Bureaux:

> *Many women have experienced violence, harassment and intimidation from their partners. This violence often extends to children. For such women, the prospect of the man being pursued for maintenance can bring with it renewed and increased fears for their own and their children's safety. The woman is often blamed for the demand for money even where it is the DSS who are pursuing it. Many women who have been in violent or other unhappy relationships do not want to be forced into a position of continued financial dependency on someone who has caused so much suffering. They need the opportunity to separate not only physically but also emotionally and economically in order to reconstruct their lives.* (National Association of Citizens Advice Bureaux response to Children Come First, 1990, 3).

At the time of the consultation process, the Department of Social Security did agree to take 'fear of violence' as grounds for refusing to name the absent parent. However the detail regarding this remained vague and ambiguous in the writing of the policy itself, as well as requiring proof of violence which is often difficult to attain. Therefore whilst improvement appeared to be made, uncertainty and concern remained.

Several organisations also stressed the clear lack of integrated programmes that were needed to lift many lone-parent families out of poverty. Many insisted that what was needed was a far more comprehensive initiative which included access to flexible and affordable childcare, training and education opportunities, and employment support. The Child Poverty Action Group (CPAG), while supportive of the principle behind the policy, highlighted that it was lacking fundamental elements that were present in the Australian system:

> *CPAG supports the principle that absent parents should contribute to their children's maintenance where they are able to do so. But we believe that a policy on maintenance can only be a small part of a wide-ranging policy to tackle the urgent problem of poverty among lone parent families… the new Australian system of child maintenance… forms only one part of a programme of reforms to try to ensure to child need live in poverty by the year 2000. There has been no analogous pledge by the UK Government.* (Child Poverty Action Group, response to *Children Come First*, December 1990).

This links back to chapter on policy transfer (Chapter Four) and our analysis of the inadequate and uninformed dual policy transfer that took place. It indicates that the objectives instilled in this particular policy were not the same as those pursued by the Australian and American systems. The absence of such programmes shows that financial, or rather Treasury concerns and considerations were prioritised over social (anti-poverty) objectives. Even though several organisations raised this apprehension and anxiety, their concern was ignored and a Treasury focused policy was pursued.

There were also several warnings submitted over both the machinery and the administration of the policy, and the need to ensure that the policy was adequately resourced, and staff sufficiently trained, from the outset. One group presciently prophesied that:

> *Substantial caseload...is likely to become unmanageable… one slow-moving agency – the courts – will be exchanged for another – the CSA – at much greater public expense.* (Legal Action Group, response to *Children Come First*, 1990, 3).

Professor Lister in her consultation response on behalf of the Department of Social Sciences, at Loughborough University, emphasised the need to ensure that officers dealing with sensitive issues are sufficiently trained and not presented with unrealistic targets:

Great confidence is being placed in 'well-trained officers' to assess the situation; the same officers who are now subject to increasingly 'challenging' targets for the amount of maintenance secured. Forgive me, if I remain sceptical about the sensitivity of officers whose performance is judged by how well they meet those targets and whose training is unlikely to equip them to be able to assess whether a threat of violence is genuine. (Loughborough University response to *Children Come First*, 1990, 3).

Others recognised that the targets set for the CSA were unrealistic, with The Family Law Bar Association commenting that:

[The White Paper] suggests that the Agency would be able to carry out reassessment on an annual basis to take account of changes in income and liabilities. We think this statement is staggeringly naive. There are nearly 150,000 divorces annually in England and Wales and in the vast majority of them there are children involved. To suggest that the Agency is going to be able to review each individual case on an annual basis, in addition to dealing with the workload involved in assessing the new ones, seems to us completely fanciful. (Family Law Bar Association, response to *Children Come First*, 1990, 5-6.).

The Association of County Court and District Registrars also cited its own *'experience of working in an organisation which is underfunded and understaffed and whose staff are demoralised and inadequately trained.'* (ACCDR, response to *Children Come First*, 1990, 6.). The Legal Action Group (LAG) also warned that the Agency was likely to experience substantial administrative problems, 'the substantial caseload envisaged for the agency is likely to become unmanageable' (LAG response to *Children Come First*, 1990, 6.).

When in operation, the CSA was indeed overwhelmed with administrative problems and unworkable targets that crippled the running of the organisation. Agency staff were inadequately and inappropriately trained and resourced, depression amongst agency staff was high, and they were presented with targets that hindered their ability to undertake sufficient work on each case. Again the concerns raised by external organisations, which could have helped develop a successful policy, were ignored, as Thatcherite ideology and the Treasury's economic priorities prevailed. The CSA has

been portrayed largely as an operational or implementation failure, emphasis has been placed on the Agency's underperformance rather than the policy's inability to create an effective Agency. While the Agency certainly experienced vast problems at the implementation stage and when in operation, this Chapter is demonstrating that many of these problems were predicted, and in fact embedded in the design of the policy. It was not the case that Ros Hepplewhite failed to implement a policy; rather she was given the task of implementing a failed, or fatally flawed, policy.

As reiterated throughout, the underlying imperative for Thatcher and the Treasury was expenditure savings. Whilst this was a hidden objective, organisations did highlight the high costs of creating an Agency and doubted whether expenditure savings could be made. The Justices' Clerks' Society stated: 'It is likely to be expensive to set up and run… No savings could be expected to offset the cost' (Justices' Clerks' Society, response to *Children Come First*, 1990, 5). This was also suggested by The Family Law Bar Association: 'the Government is seriously underestimating the cost of implementing these proposals' (The Family Law Bar Association, response to *Children Come First*, 1990, 1). Therefore, not only did the consultation process indicate that the policy was highly likely to fail in terms of its stated objectives, it also implied that it would fail to meet its concealed objectives. Therefore on each level consultation was ignored, even when it was to the benefit of policy-makers' concealed motives.

This disregard of expertise can be linked to Dunleavy's 'arrogance of Whitehall' factor. Whilst Dunleavy focuses on the senior Civil Servants who are 'dismissive of outside organisations and centres of expertise' (1995, 62) it can also be applied to politicians. The manner in which Thatcher changed the role of the Civil Service, reflecting her deep distrust of civil servants in general, meant that mandarins' own policy-making role was diminished. In the case of the CSA, the arrogance was not coming from Whitehall, but from the Government itself – or part of it – from where intellectual self-confidence and disregard for genuine expertise led to hubris.

The quality of the consultation responses were commendable but the manner in which they were received was poor; the Thatcher Government proved strongly resistant to criticism, which ultimately contributed to flawed policies. The degree to which the Thatcherite brand of policy-makers genuinely valued the consultation process was evidently very limited. As one Minister replied when asked whether there was an adequate consultation process regarding the CSA: 'the idea that consultation solves everything is a modern notion' (Minister (B) in the Thatcher Cabinet, interviewed by author, 19 July 2011). Yet in this case, it appears that treating consultation more seriously would have solved several of the problems that the CSA faced. The formulation of the policy did not utilise the expertise that was available, and ignored the concerns that many

organisations presciently articulated. This demonstrates that the policy making process was strongly dominated by ideology and Treasury objectives, rather than a genuine desire to establish a successful policy: an idea was established and consultation was rejected.

The unwillingness of the government to consider the expertise offered in many of the responses to the White Paper was to the detriment of the policy. The arrogance of particular policy-makers played a vital role in the subsequent failure of the CSA. The Conservative Government was very dismissive of expert organisations and pressure groups, and very reluctant to modify the policy to take into account the comments of others. Although it was evident to many interested parties that the policy process needed to be slowed down in order to gather sufficient understanding and modify the policy appropriately, this did not happen. Instead, the haste and arrogance continued into the policy's next stage. Just as the 'consultation' process was rushed and deficient, so too was the parliamentary process.

6.4 The Child Support Bill in Parliament

This section will assess the Bill's passage through Parliament. Extracts of speeches and debates will be set out and assessed. Given the degree of concern which the White Paper aroused in many quarters, we would expect to see heated Parliamentary debates and a difficult legislative passage. Heated debate was indeed present during the House of Lords stage yet it was notably absent during the Commons stage. Despite many of the concerns voiced by organisations and individuals during the consultation process being echoed in the House of Lords, and also by the Social Security Select Committee, and attempts being made by them to 'soften' the policy, the Commons' stage failed to be an effective check-and-balance on the Government. Instead the Child Support Bill, a controversial and flawed policy was passed with cross-party support and relative ease.

6.4.1 The House of Lords

The Child Support Bill was published on 14 February 1991, just two months after the closing date for responses to the White Paper *Children Come First* (a short time-frame which itself indicated the Government's haste). The Bill was first introduced into the House of Lords, which departed from convention that controversial legislation is ordinarily considered in the Commons first. The Government's ability to choose where a bill is introduced is a power resource at their disposal. It can be seen as an attempt to down-grade the Bill's apparent importance and make its passage as low-key as possible. From the outset the manner in which the policy was presented overemphasised the principles underpinning the policy, while concealing the controversial character that was hidden in its detail. The introduction of the Bill into the House of Lords first, rather than the House of

Commons, implied that it was merely a technical piece of legislation, based on traditional family values, which would enact an uncontroversial policy which all sides within Parliament would support. This can be seen as an attempt to conceal its underlying purpose and true objectives. As stated in Chapter Three, which looked at problem definition, identification, and representation, the way a problem is represented externally is often used as a tool to mask how the problem is identified internally by policy makers.

However, some peers quickly discerned the Bill's controversial financial and ideological motives. As Lord Houghton of Sowerby (Labour Party) observed in one of his (several) critical contributions:

> *This Bill is not a Child Support Bill; it is a taxing Bill. I am surprised that the Chancellor of the Exchequer has not certified it as a Money Bill and included it as a schedule in the Finance Bill. It imposes a form of taxation upon an identifiable section of the community who will be mostly men; there are to be inspectors who will assess what they shall pay, determine the method and the order in which they shall pay it, and they have the power to enforce it. In short this tax is PAYT, 'pay as you are told'... The Bill reflects the outburst of the former Prime Minister, Mrs. Thatcher, whose concern for children came second to not allowing absentee fathers to get away with non-payment of maintenance.* (HL Deb (1990-91) Vol. 526, col. 807-808).

Lord Houghton confirmed what we suggested earlier, that the Bill and its passage reflected the outburst of the former Prime Minister. Although several Peers were aware, and critical, of the underlying ideological and economic motives of the Bill, it passed through the House of Lords relatively unscathed. This is largely due the manner in which the Government was able to manipulate its Parliamentary resources. The Government's presentation of the Bill, its control of the statutory process, and its dismissive attitude towards the House of Lords undermined the legislative process and led to poor and ineffective scrutiny. As Lord Simon of Glaisdale argued, the manner in which the Bill was structured was *'gravely derogatory of parliamentary control'* (HL Deb (1990-91) Vol. 526, col. 813). The inadequacies in the Parliamentary process are present for all Bills, but in the case of the Child Support Bill, an inherently flawed policy combined with the power of the Treasury to manipulate these inadequacies saw the negatives consequences of an inadequate parliamentary process exacerbated.

Undoubtedly, peers' ability to scrutinise the policy was impeded. One of the first criticisms raised was by Lord Mishcon who highlighted this abuse of the system by stating:

The Bill amounts to a piece of skeleton legislation… under the Bill there will fall to be made 94 regulations. Of that figure… 12 only are subject to the affirmative resolution of Parliament. That is very distressing; it is constitutionally objectionable… it is a little offensive. (HL Deb (1990-91) Vol. 526, col 769).

The Bill only contained the bare bones of the policy; the detail was to be provided subsequently through regulations published at a later date which were not subject to the same degree of scrutiny and parliamentary approval. This weakened Parliament's role by removing its ability to scrutinise large sections of the policy.

The Government's stance was that regulations were needed for flexibility and adjustments in light of operational experience, and hence it dismissed the claim that it was preventing Parliament from scrutinising effectively. However a Minister in the Thatcher Cabinet conceded that the volume of regulations was due to the pressure to get the Bill enacted quickly:

Thinking through the detail was a lengthy process and the result was that the Bill was to significant extent an aircraft carrier full of regulation making powers… the policy wasn't available in full detail at the time, we simply didn't have the detail - we didn't have the time to think it all through, the emphasis was on getting it onto the statute books. (Minister B in the Thatcher Cabinet, interviewed by author 19 July 2011).

This shows that the Government not only used its resources to undermine the scrutiny process, but also to enact a policy which they had not thought out properly. The Government did not attempt to devise a coherent policy; it simply aimed to hurriedly enact an idea. Speed was favoured over quality and ideological purity and economic imperatives prevailed over parliamentary scrutiny, both of which damaged the final policy.

From the outset, concerns were also raised over the degree of ambiguity enshrined in the Bill. Lord Mischon complained that several of the clauses contained in the Bill were 'very loosely worded' adding that 'one may think that the noble and learned Lord would not wish to excuse himself for any vagueness of language on the grounds of being flexible or because it is too technical' (HL Deb (1990-91) Vol. 526, col. 778). A serious problem with the Child Support Bill was the degree of complexity that led to ambiguity. As Lord Mischon noted (previous page), Parliament was presented with a Bill that enshrined 94 regulation making powers, and was riddled with ambiguity. One Minister in the Thatcher Cabinet suggested that this stemmed from the often contradictory messages that were being given to the Parliamentary Counsel during the drafting process:

> *It got to the point of insisting that Parliamentary Counsel be present at all meetings, because it became clear… that they weren't getting clear instructions from the department in order to know what to draft. They didn't know what to put in it. (*Minister in Thatcher Cabinet A, interviewed by author 19 July 2011).

This was again a result of the two competing policy paths: that of the DSS and LCO on one side and that of Thatcher and the Treasury on another. The conflict of objectives between the DSS and the Treasury created uncertainty for the Parliamentary Counsel as to what to actually include in the draft Bill, which then led to ambiguity manifesting itself in the Child Support Bill proper. Not only did this hinder Parliament's ability to scrutinise the Bill, it also led to major problems in the implementation of the policy, due to its unclear objectives.

While the House of Lords, like the vast majority of relevant pressure groups, endorsed the philosophy and principle underpinning the Bill and need for reform, it harboured deep concerns over its structure, methods and details. On the 19 March 1991, during the committee stage, exchange became heated in House of Lords when peers debated Clause 22 (which stated that lone parents on state benefits would face financial penalties for non-cooperation). Moving an amendment to the clause, Earl Russell stated:

> [Income Support] *is a subsistence benefit. I am not convinced by the argument that it is possible to live on 80 per cent of it. The right social security benefit is part of the nexus of obligations which make up citizenship. It goes with the obligation to pay taxes and the right to vote. For a long time it has been a basic principle of English law that allegiance carries with it the right to protection. In this day and age I do not think that we can interpret the right to protection as meaning simply the right to protection from violent crimes or external aggression. It also means protection from deprivation. I do not see any good reason for depriving people of benefit to the point where they get below subsistence level.* (Earl Russell, col 535).

The Lords voted against Clause 22 by a majority of 110 votes to 106, resulting in a Government defeat, whereupon Clause 22 was amended, thereby deleting the financial penalty. However, this success was fleeting; the benefit penalty was reinstated during the House of Commons committee stage, and included in the Bill that received Royal Assent.

While only one clause was actually removed by the House of Lords, this does not reflect the degree of opposition which the Bill faced. As Lord Simon commented *'no-one except the two Ministers in charge of the Bill had anything good to say about it'* (HL Deb (1990-91) Vol. 531, col.

466). Throughout the process, attentive Peers continued to raise objections to the Bill, describing it as *'Orwellian'*, *'repulsive'*, *'with measures similar to the Gestapo'*, *'grubby'*, *'unprincipled'*, and *'abusive'*. Yet they were unsuccessful in securing significant changes or concessions.

Those who did consider the Bill in detail correctly predicted many of the problems that the CSA subsequently experienced, when enacted. As Lord Houghton trenchantly warned, *'the Bill will cause far more tears, anger, resentment and violence than its authors imagined'* (HL Deb (1990-91) Vol. 526, col. 808). While the original objectives of the DSS and LCO were supported by many peers, the elements inserted by Thatcher and the Treasury were criticised. As Baroness Faithful stated,

> *Those principles are surely right. However, it is difficult to accept that the structure, procedure and methods laid down in the Bill to implement those principles are wise, practicable or, indeed, acceptable.* (HL Deb (1990-91) Vol. 526, col. 805).

Indeed, the House of Lords opposed most elements of the Child Support Bill. The formula was deemed *'as incomprehensible as the Egyptian hieroglyphs must have been to an illiterate peasant in the Nile delta'* (HL Deb (1990-91) Vol. 526, col. 812). Stern opposition and deep concern were also expressed over the very legitimacy of the Bill, for it was suggested that several clauses were draconian and not in line with democratic society (HL Deb (1990-91) Vol. 526, col. 817). Another concern highlighted was the problematic nature of diverging from the Australian model (which is administered through the taxation system) and which would thereby lead to severe problems of enforcement. (HL Deb (1990-91) Vol. 526, col. 805). Lord Stoddart commented on the administrative and operational problems that were likely to occur under the Bill, and ominously compared its future to that of the Poll Tax: 'it will be an administrative nightmare' (HL Deb (1990-91) Vol. 526, col. 817).

It appears that governmental control over Parliament was deployed in order to make it as difficult as possible for the House of Lords to scrutinise and influence the Bill effectively. Many peers drew attention to the 'devil in the detail' and purported to see the Bill in its true light: a Bill which was 'not conceived in a reasonable manner' or concerned about the welfare of children (HL Deb (1990-91) Vol. 527, col. 538), but from the ideological pursuit of the former Prime Minister [Thatcher] (HL Deb (1990-91) Vol. 526, col. 808), who was concerned with 'money, nothing but money' (HL Deb (1990-91) Vol. 527, col. 579). Just as pressure groups warned the Government about the inherit weakness of the policy, so too did many peers in the House of Lords. Yet again, though, views which were critical of aspects of the Bill, and perspective of Treasury and the previous Prime Minister, were rejected.

6.4.2 House of Commons

The Child Support Bill's passage through the House of Commons was markedly different to its passage through the House of Lords, in terms of the minimal opposition it faced. The Bill received only cursory attention and 'rubber-stamp' approval. Just as the Bill's passage through the House of Lords was rushed, so too was its journey through the House of Commons was rushed. The Standing Committee (now the Public Bill Committee) Stage, which typically scrutinises each clause in detail, was completed in just over 17 hours. For a policy noted for its complexity, this was highly inadequate. The Third Reading also received inadequate attention, completed in just over three hours (Davis *et al*, 1998, 10). Overall the process appeared ineffectual; there was limited debate, external expertise seemed to be ignored, and concerns raised by the House of Lords dismissed. The process ended with the Opposition providing unenthusiastic support while only a handful of back-benchers quietly voiced significant concerns.

Not only was the parliamentary process rushed, it seemed that many MPs were unaware of what they were actually endorsing. As one MP subsequently confessed,

> *Our scrutiny process at the time of the Child Support Bill was defective. Many of us simply did not realise what was to follow implementation…we did not realise how drastic the change would be.* (Quoted in Garnham and Knights, 1994, 73).

This is largely due to the fundamental flaws of the parliamentary system of scrutiny. It would be naïve to suggest that every MP scrutinises the detail of each Bill before s/he decides how to vote. The volume of legislation which MPs have to consider, coupled with parliamentary committee and constituency work often means that details are ignored. However, while in many cases MPs can still comprehend the purpose and principles of most Bills, in the case of the Child Support Bill, its complexity and ambiguity meant that many MPs were unaware of its likely impact. The Child Support Bill contained a high degree of complexity due to its formula which required over a 100 pieces of information to calculate, but it was also very ambiguous, much of the detail was 'at the discretion of the Secretary of State for Social Security' or loosely worded, such as no clarity as to what qualified as 'good cause'. Garnham and Knights suggest that this also applies to those involved in the Standing Committee; they were not 'fully familiar with the intricacies of the Bill' (1994, 37). While the House of Lords scrutinised the detail of the Bill, the House of Commons focused on its philosophy.

The problem with this was the apparent philosophy of the Bill was sound; it was the detail (or lack of) that was controversial and ultimately led to policy failure. As Michael Meacher, then

Shadow Secretary of State for Social Security, stated, 'the Bill has some fine qualities, but parts of it make me shudder' (HC Deb (1990-91) Vol. 192, col. 227); however, he subsequently voted against amendments and supported the reintroduction of Clause 22 (benefit penalty). The Government's tactic was to emphasise both the need for change and the DSS's underlying principles, whilst trying to mask its economic and ideological agenda. As Professor Freeman stated in his consultation response on behalf of University College London:

> *The intention is not to put 'children first'. The White Paper would have been better called 'Taxpayers Come First'. Although the language is couched in terms of family responsibility and emphasises the needs of children (or does so at least in theory), it is not difficult to detect that a concern to off-load expenditure from the Exchequer is the too motivating force.* (Freeman, Faculty of Law, University College London, 'Children Come First' consultation response, December 1990, 1)

Indeed this agenda was apparent to many, for as Meacher added:

> *[The Bill] smacks more of Thatcherite dogmatism than of a workable social policy… the Bill is not so much about ensuring that lone parents get their maintenance as ensuring that the Treasury gets a reduction in public expenditure.* (HC Deb (1990-91) Vol. 192, col. 199-200).

Yet although the Opposition was aware of this, the policy passed through Parliament with relative ease partly due to cross-party support. While some Labour MPs voiced concerns which echoed those heard in the House of Lords, the Commons only pushed three amendments to a vote, albeit each time unsuccessfully. It can be suggested House of Commons passed the Bill on the basis of its philosophy, not its detail. However, if sufficient attention had been given to the Bill, and concerns raised by the House of Lords and during consultation had been listened to, and resources utilised, MPs would have realised that the detail was undermining the philosophy. Instead there was weak Opposition and ineffectual scrutiny.

While the ability and willingness of the Opposition to utilise with this stage of the parliamentary process appeared rather limited, the Government exploited the process effectively to consolidate its ambition. The Standing Committee Stage saw an introduction of an additional 47 amendments to the Bill by the Government. Although most of these amendments were technical or for clarification, hidden amongst them was an amendment which re-instated the benefit sanction which had received significant criticism from numerous external organisations, and had subsequently been removed by the House of Lords, for being unreasonably punitive and damaging

(Standing Committee A, cols. 208-236, 2 July, 1991). The Third Reading was also met with little enthusiasm by the Opposition; in less than four hours the government tabled six new clauses and nearly one hundred new amendments; the stage was saturated with technical issues and lacked any attempt by the Opposition to halt the Bill's passage. Though the 1987 Thatcher Government held a sizable majority in the House of Commons, this does not explain the Labour Party's inaction. Whilst preventing the passage of the Bill would have been unlikely, a strong Opposition voice, in conjunction with the concerns rose during the consultation process and the criticisms at the House of Lords' stage, *might* have tempered a flawed policy.

Nevertheless, while the Child Support Bill attained cross-party support there was a degree of concern amongst the Opposition, although again this appears absent when we look at the amount of proposed amendments and the voting outcome. While the Labour Party supported the Bill in principle, their initial acceptance of the policy appeared hesitant. Labour appeared almost too scared to reject or even criticise the policy; 'the opposition was afraid of appearing to oppose the principle of parental responsibility' (Garnham and Knights, 1994, 37). During the Second Reading, Meacher declared that his Party supported the Bill, but he considered it to be 'seriously flawed' (HC Deb (1990-91) Vol. 192, col. 201). While there was approval of the philosophy underpinning many elements of the Bill, there was uncertainty about whether some of the clauses within it were appropriate. As Archie Kirkwood, Liberal Democrat, noted:

The concept behind the Bill… is entirely unexceptionable… It is only right and proper that we should support it... However, perhaps the Department has adopted a somewhat knee-jerk approach. (HC Deb (1990-91) Vol. 192, col. 212).

The two origins and differing motives of the policy can be discerned in the House of Commons' reading of the policy. Although unaware of Thatcher and the Treasury's overriding influence in the policy, the House of Commons identified the 'bad parts' of the Bill inserted by them, to the detriment of the policy. Whilst MPs supported Newton and Lord Mackay's proposal, they were critical of the elements introduced by Thatcher and the Treasury.

One of the main aspects which the House of Commons emphasised was the manner in which the policy would be administered. Incomplete policy transfer from Australia - which was the fault of Thatcher and the Treasury and not the DSS - meant that the proposed British system would not operate through the Inland Revenue (which was discussed at greater length in the preceding chapter, Chapter Five). Although this was recommended to the DSS and favoured by several of the initial policy makers, it was rejected by the Treasury (Former Minister in the Thatcher Cabinet B, interview with author, 19 July 2011). Several MPs emphasized the desirability of it being

administered by the Inland Revenue, yet the suggestion was still dismissed. The Government was not open to persuasion, even if it would have benefited the policy. Meacher rightly believed that the Government's refusal to administer it through the Inland Revenue came from 'the inveterate intransigence of the Inland Revenue in refusing to become involved in what it always regards as marginal and messy social policy' (HC Deb (1990-91) Vol. 192, col. 200). Again this shows that Labour was aware of the flaws within the policy, yet still offered its overall support.

While serious flaws were apparent in the Bill, the Government's emphasis of the principles underpinning the policy, and the Opposition's lack of a viable alternative and its desire not to appear against 'family values', meant that Opposition concerns were muted. This can be linked to Weaver's work on 'blame avoidance' (1986). Weaver noted that politicians are motivated primarily by the desire to avoid blame for unpopular actions rather than seeking to claim credit for the popular ones (1986, 45). In the case of the Child Support Bill, the Opposition was not willing to stand against a policy that was received favourably by the media and seen as 'putting children first'. Furthermore, the Parliamentary majority held by the Conservatives meant that Opposition support was not needed. It appears that the Opposition saw no benefit in opposing the policy, therefore initial concern morphed into lazy support during the process. As Weaver states, 'once it is clear which side is likely to win, legislators, seeing little purpose in continuing to support the losing side, may switch their vote on final passage… politicians may jump on the bandwagon' (1986, 46). The support provided by Labour was certainly not wholehearted, but it was sufficient to ensure that the flawed Bill successfully completed its passage through Parliament.

As the Conservatives enjoyed a sizable parliamentary majority, they were generally unmoved by the concerns of a few back-benchers as they did not need their support of the Opposition to order to enact the policy. As Dunleavy argues with reference to his 'overly speedy legislation' criterion, a majority in the House of Commons is a powerful resource for the Government, as it reduces the degree of scrutiny a Bill receives and undermines the parliamentary process (1995, 60). Britain at the time had a strong two-party system; therefore it was usually the case that one party enjoyed a parliamentary majority. Although this factor was not new *vis-à-vis* the Child Support Bill, it provided those pursing a fundamentally and eventually flawed policy with yet another resource to dominate the parliamentary process. However, although the Conservatives enjoyed a sizable majority and therefore did not need the support of the Opposition to pass the Bill or any of its clauses, the Opposition was not powerless. They could have placed more pressure on the Conservatives to reconsider and amend elements of the policy. If the Opposition had listened to the concerns of pressure groups and the House of Lords, they would have realised that there was vast opposition to the Bill. Although Labour did not have the parliamentary power to prevent the Bill's

passage, they could have placed more pressure on the Conservatives by highlighting their concerns publically, and thereby attract the attention of the media. Instead, there was very little media attention given to the passage of the Bill, and the coverage that the Bill did receive was favourable as it focused on 'runaway fathers'. If the Opposition had spoken frankly about their justifiable concerns it is likely that the media would have picked up on them. This may have resulted in a loss of the 'political stream' that Newton had provided the Government (identified in Chapter Five). The public, through the media, would have become aware that the policy was a Thatcherite attempt of privatising a social provision and reap money from, in some cases, already paying middle class men, rather than tracking down 'runaway-dads'.

6.4.3 And Back to the House of Lords…

The speed with which the Bill had proceeded through consultation was maintained throughout the entire process. As Garnham and Knights note, '[this] did not allow sufficient scrutiny of a complex piece of legislation' (1994, 36). When the Child Support Bill was returned to the House of Lords for consideration of the Commons' amendments it comprised of twelve new clauses and 135 new amendments. Despite having 21 pages of amendments, and new clauses the House of Lords was only given a few hours to read, scrutinise and debate its detail. Again, many peers were aware of this and vocalised their concerns and disapproval, with Lord Simon observing that,

> *It is bad enough that your Lordships should be treated as a sausage machine for government legislation. It would be quite intolerable if your Lordships were required to work the treadmill in order to operate that machine.* (HL Deb (1990-91) Vol. 531, col. 529).

Far from being concerned at what many perceived to be both an abuse of, and an undermining of, the legislative process, the Government appeared to be rather dismissive of such criticisms. Comments by Lord Mackay regarding the haste of the process attempted to defend the lack of time provided for scrutiny. He appeared to dismiss the need for detailed scrutiny, by stating that 'a fair amount of the subject matter of these amendments is fairly technical in character' (HL Deb (1990-91) Vol. 531, col. 473). In response to the Peers' dissatisfaction with what they viewed as inadequate time, proceedings were adjourned to see if the Whips could agree to move the business to another day. However this attempt proved unsuccessful and the Lords had to consider the amendments under the original tight time constrictions (Davis *et al*, 1998, 11).

The haste with which the Bill was pushed through did not allow adequate parliamentary scrutiny. The Bill was compromised in order to get it onto the statue book before Parliament went

into summer recess (in an era when Bills could not be 'carried over' into the next session). We can also question whether this was a deliberate tactic of the Government, to force the Bill though at such a speed in hope that the Lords would not identify and successfully highlight the controversial and contradictory nature of the Bill.

6.5 The Role of the House of Commons Social Security Committee

6.5.1 Second Report

The House of Commons Social Security Committee sat between January and June to perform pre-legislative scrutiny of the White Paper, *Children Come First*, and Child Support Bill (though this was at the same time as the Bill was first going through the House of Lords, so can be deemed 'parallel scrutiny'). The cross-party Committee took oral evidence from: the Secretary of State Tony Newton, DSS officials, CPAG, Church Action on Poverty, Families Need Fathers, Family Policy Studies, the Law Society, and National Council for One Parent Families. It also received 13 written submissions. After undertaking preliminary scrutiny and digesting some of the evidence received from various organisations and individuals, the Committee felt the need to produce an interim report to voice some of their immediate concerns. As they stated:

> *A comprehensive report on the Committee's inquiry will be produced later in the session, but one particular aspect of the Government's plans, the intention to make the new proposals retrospective, causes us considerable immediate concern, we have therefore agreed to this initial report to make our views known in advance of the debates on the Bill in the House of Commons.* (Para 2, Second Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 30 April 1991).

The Committee was deeply concerned over the impact that the retrospective application of the policy would have on those individuals who had reached divorce settlements prior to the introduction of this legislation. It stated that this was a concern that became apparent on a reading of the proposal and a concern that was reinforced after speaking to experts in the field, such as Sue Slipman, Director of the National Council for One Parent Families, who stressed:

> *The major issue is one of property and our belief is that if the formula is universally applied the absent parents who have equity in a house would try to release that equity and would not be prepare, in the way they always have been, to transfer the property to the caring parents on behalf of the children.* (EV Q282 quoted in Second

Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 30 April 1991)

The Committee also heard evidence from David Truex, an Australian practitioner who had direct experience of the Child Support Scheme in Australia. Truex also echoed the concerns over its retrospective application, emphasising that Australian system was not applied retrospectively (Para 12, Second Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 30 April 1991).

The Committee stressed the need for greater consideration of 'clean-break' settlements. They stressed the need for the DSS to re-consider the impact that this would not only have on future divorce settlements but how this could negatively affect those who had come to amicable settlements. The Committee's Second Report concluded with the recommendation that provision be made in the Child Support Bill to take into account divorce settlements that involved a capital settlement in lieu of child maintenance (Para 13, Second Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 30 April 1991). But yet again recommendations were disregarded and the Treasury's economic agenda triumphed. As Barnes *et al* highlight, 'Treasury pressures were suspected to lie behind the decision to overturn existing settlements' (1998, 15).

6.5.2 Third Report

The Third Report built on the evidence received to publish the Second Report. The cross-party Committee continued to take oral and written evidence from the Secretary of State Tony Newton, DSS officials, policy experts involved in the creation of the Australian Scheme, and external organisation. However in a reading of the two reports it appears that the weight, and the tone, of the concern that the Social Security Select Committee initially voiced seemed to have been dampened to 'a cautious welcome' (Third Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 1991, p. 4). The Report raises some of the issues mentioned in the interim report, yet these were articulated with far less vigour[12].

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[12] The composition of the Social Security Committee remained relatively similar, with the only change being Frank Field taking over as Chair. The reason behind this change in tone remains unknown, but it could be linked to the appointment of Frank Field as Chair. Field was highly concerned with the rise in number of lone parents and the apparent 'culture of dependency' that has been created, often stating that fatherhood has become an '"optional extra" (King and Crewe, 2013, 80). On numerous occasions Field had called for the creation of an effective child maintenance system; a system that would ensure financial responsibility and not leave the state footing the bill. Therefore, Field was sympathetic to the emphasised purpose of the Bill.

The Third Report continues to draw comparisons between the policy proposal set out by the white paper *'Children Come First'* and the child maintenance scheme introduced in Australia. The Committee highlights how, on numerous occasions, the policy proposed by the DSS veers away from what was introduced in Australia. This again links back to Chapter Four on Policy Transfer which highlighted that the creation of the 1991 Child Support Act was indeed born from policy transfer, and that inappropriate, incomplete and uniformed dual-policy transfer was a contributory factor in the policy's failure.

The Report discussed the organisational aspect of maintenance collection, looking towards the Australian model that established a Child Support Agency inside the Australian Tax Office. The Report called for the Government to review its plan to establish the Child Support Agency as a 'Next Steps' agency under the aegis of the DSS, and instead see it better placed within the Inland Revenue, operating in the same manner as that in Australia. The Report also reiterates the concern of 'clean break settlements' that involved a capital arrangements, yet again the Third Report did so with again far less strength. While the Second Report discussed the potential negative impact this would have on property arrangements after divorce, highlighting a potential loss of the family home, the Third Report modestly recommended:

> *In cases that involve a property or capital settlement where there is liability for child support, a mechanism be built into the system to ensure that the settlement produces an amount equivalent to least the weekly income support rates for children until the child reaches the of 16.* (Third Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 1991, xxiii).

The Report also discussed Clause 22 (the benefit penalty); although at this stage the clause had been removed from the Bill following an amendment made during the Committee Stage of the House of Lords. However the inclusion of a benefit penalty was discussed more favourably by the Committee, despite the report including evidence from external organisations such as Child Poverty Action Group who had raised concern over the possible negative effects a benefit penalty would have on children. For example, they state:

> *The absence of a "benefit sanction" in the Bill as it now stands may mean that there is no way of enforcing the obligation on a parent to provide information.* (Third Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 1991, xix).

By framing the debate in terms of 'enforcing' through a benefit penalty, rather than 'encouraging' through a benefit disregard (as discussed at more length in the Second Report) we can see the Social Security Committee change its tone.

It should be noted that pre-legislative scrutiny by departmentally-related select committees was not common place at this time. Its function can be described as:

> *…departmentally-related select committees might helpfully examine Green and White Papers and other published consultative documents relating to proposed legislation and make reports which would assist the preparatory work on the legislation and inform parliamentary debate.* (Hansard Society, Making the Law, the report of the Hansard Society Commission on the Legislative Process, 1993, para 322)

While the Social Security Select Committee examining the Child Support Bill and providing another level of scrutiny appears constructive, its effectiveness and influence can be questioned. Whilst the Committee took evidence for a number of noteworthy individuals and organisations, and discussed the Bill's features in considerable detail, it appears that its significance on informing parliamentary debate was limited. We could go as far as suggesting that its function was little more than a 'talking shop'. Putting the Bill to the Social Security Select Committee appears a mechanism used to paint the image of a policy that had been scrutinised and therefore more accountable. Therefore, just as the consultation, the House of Lords, and the House of Commons stages appear to be an ineffective 'check-and-balance' on the policy-making process in this instance, so too does the Social Security Select Committee.

6.6 The Media

The role of the media during the passage of the legislation also needs to be examined. The limited press coverage that the Bill received focused on the principles of the policy rather than debating its detail. Headlines at the time focused on the problem of 'runaway-dads' and emphasised the Conservative Party's pledge to make them face responsibility. For example: '*Thatcher vows to make absent fathers pay maintenance*' (*The Times*, October 26, 1990) and '*Absent fathers should shoulder their share*' (*The Guardian*, October 30, 1990). Coverage largely focused on the moral objective of tracing errant fathers and making them face responsibility, and the rise of lone parents and the impact this had on public expenditure and the taxpayer. Where the system was mentioned, it largely focused on the problematic nature of the court system and how the proposed policy was to tackle these problems. The manner in which the Conservatives attempted to

conceal the policy's true objective behind a 'moral crusade' to bring the runaway father to justice was effective. The majority of newspapers seemed to approve of Thatcher's guise of defender of the 'traditional' family.

The uncritical media coverage that the Bill received was promoting an emotive moral image which persuaded the public to support the policy and gave the Labour Party little option but to follow suit. *The Guardian* also supported the policy, stating: '*It is not right that taxpayers should shoulder the responsibility of maintaining the children of broken relationships when the parents are able to do it themselves*' (October 30, 1990). Thatcher's 'family values' struck a national chord. Arguments about strengthening the system for tracing absentee fathers and creating a more effective maintenance system prompted widespread approval in the media. The policy was so skilfully phrased that opposition by the Labour Party would not have met with public approval. The role of the press in reporting Thatcher's speeches and their approach to the coverage of the policy moulded public opinion and prevented Labour from effectively opposing the policy. The Conservatives effectively 'managed' the press to support the policy by only focusing on its outer philosophy.

As mentioned above, the Labour Party's support for the policy was offered despite their reservations; Meacher provided the Government with Labour support in spite of being aware of the policy's flaws, likely negative impact and controversial nature. The way the British Parliamentary system works means that parties are willing to allow the passage of a policy, which they see as flawed, to avoid appearing off message to the public and risk losing votes. It is easier to allow a government with a sizable majority to pass a policy with ease if the public supports it than it would be to oppose it. If the Labour Party opposed the Bill they could have been blamed by the public for an ineffective child maintenance system, yet if they gave it reluctant support and it failed the Conservatives would have been to blame. It appears to be rational choice based policy support. It should also be noted that there was less than a year to the General Election and the Labour Party was without an alternative. It was easier for the Labour Party tacitly to support the policy than to challenge it. Even if the policy was going to face problems, as it did, the General Election would have been before these problems surfaced. The Labour Party chose to support a policy they recognised as flawed in order not to hinder their own electoral prospects.

6.7 Conclusion: Two Houses, Zero Influence

'The passage of the Child Support Act was an object lesson in how to create bad legislation' (Davis *et al,* 1998, 12). The Parliamentary scrutiny process was undermined by the political resources possessed by the Government and the lack of, or inadequate use of, power held by other

actors. As the below table shows (**Figure 6.3**), the problems experience by the 1991 Child Support Act was identified at consultation, during the House of Lords stage, at in large past, at the House of Commons. However, the below table also highlights the lack of action taken by the Government in response to those concerns raised. The problems were foreseeable, foreseen, but ignored.

Figure 6.3: Anticipated problems highlighted at Consultation, House of Lords and House of Commons. Action taken by Government.

Anticipated Problems/Concerns With Proposal	Raised at Consultation	Raised by H of L	Raised by H of C	Action taken by Government
Failure to recognise that parental responsibility goes beyond that of financial contributions	Yes	Yes	Yes	None
Lack of consideration of previous property or financial settlements and arrangements	Yes	Yes	Yes	None
Inflexibility and inadequacy within the formula	Yes	Yes	Yes	None
Did not fully acknowledge the outgoings of the absent parents	Yes	Yes	Yes	None
Lack of integration of childcare, training, employment, education support for parent with care	Yes	Yes	Yes	None
Issues regarding enforcing co-operation	Yes	Yes	Yes	None
Benefit penalty for non-co-operation making families poorer	Yes	Yes	Yes	None
Lack of consideration for second families	Yes	Yes	Yes	None
Lack of a financial disregard for maintenance from Income Support	Yes	Yes	Yes	None
Administrative problems	Yes	Yes	Yes	None
Staff training Issues	Yes	Yes		None
Lack of consideration for passported benefits	Yes	Yes	No	None

Intrusion of privacy	Yes	Yes	Yes	None
Problem of including retrospective cases	Yes	Yes	Yes	None
Possible loss of marital home	Yes	Yes	No	None
Access related issues likely to be escalated as a result/ strain on current family relations	Yes	Yes	Yes	None
Potential impact on the 1989 Children Act/fragmentation of policy area	Yes	Yes	No	None
High set up and running costs	Yes	Yes	Yes	None

Parliament was presented with a policy that was complex, full of complicated regulations and crowded with ambiguity. The details of the Bill were partially hidden behind the emotive language which led the Opposition to accept it, lest they appear to be against 'family values'. The Opposition's hand was also forced by a media which was supportive of the Bill's apparent philosophy. The scrutiny provided by the Opposition was limited and ineffective because they were motivated by what Weaver identified as blame avoidance (1987, 45). By the Labour Party 'jumping on the bandwagon' and supporting a flawed policy, they inadvertently undermined and devalued the process of Parliamentary scrutiny.

Not only were there problems intrinsic to the Bill itself, but the timetable imposed on Parliament meant that detailed scrutiny was virtually impossible. While a few Peers valiantly sought to scrutinise the Bill in detail, their concerns and suggestions were invariably rejected by the Government. Although the Bill left the Commons enshrining 135 amendments, these were Government changes, responding to drafting errors or adding more detail to the Bill. Critical opinion was ignored by the Government. Both the consultation and Parliamentary process were rubber-stamping exercises; the Bill was largely going through the motions while the ears of the policy makers refused to hear criticisms or constructive recommendations. The major problems which the CSA subsequently faced could have been ameliorated or pre-empted at Parliamentary stage as the problems were foreseeable and foreseen. Despite the flawed parliamentary process, the problems which arose at implementation were signalled during the Bill's passage: problems with the formula, disincentives to work, intrusion of privacy, disregard of property or financial settlements, role of second families, non-compliance, poor administration of the policy, administrative complexity and workload, the Treasury's underlying economic motives, and unrealistic targets, were all

acknowledged as potential problems. Although these flaws were identified, and it started from contradictory origins, the Child Support Bill passed unscathed through the legislative process achieving an unusual degree of consensus, and a 'bad Bill' became a 'bad Act': an inadequate consultation and a flawed and futile legislative process paved a path to policy failure.

Chapter Seven – Positioning Implementation Studies

7.1 Introduction

This chapter focuses on the 'implementation stage'. It will start by briefly outlining the work of some of the major scholars in the field of implementation[13]. Both the 'bottom-up' and the 'top-down' approaches are discussed and critiqued. The chapter then moves to discuss the position of implementation studies, before setting out the approach and position adopted by this study. Here we do not discuss the 'implementation' of 1991 Child Support Act. As this Chapter states, this thesis suggest that some of the areas typically debated within 'implementation studies' is better suit elsewhere in the policy process, be it in policy formation, or operation. However the theory engaged with here is necessary for our understanding and justifying the approach taken. Chapter Eight, will focus on the operation and apparent failings of the Child Support Act, and assess the root of these failings. The Chapter ends by outlining 'next-steps' agencies, a new approach to implementation utilised by the Thatcher Government and present new challenges to the Act , and the study of its implementation.

7.2 The Literature, and Research Developments, within the Study of Implementation

Before discussing the approach adopted in assessing the 'implementation stage' of the 1991 Child Support Act, it will be necessary to provide a brief map and review of the implementation literature. This will justify the position and approach adopted in this study. It utilises the dichotomy between the 'top-down' and 'bottom-up' approach as a useful way to summarise the literature on implementation. Whilst fully acknowledging that using this dichotomy, as with all dichotomies, risks over-simplifying the depth and range of arguments: yet for the purpose of this section it is an appropriate and valuable means to engage. It will highlight the work of the major exponents of the two positions before discussing the approach adopted in this study.

- **Top-down theories** - Pressman and Wildavsky (1973); Van Meter and Van Horn (1975); Bardach (1977); Sabatier and Mazmanian (1979, 1981); Mazmanian and Sabatier (1983); Majone and Wildavsky (1978); Hogwood and Gunn (1984).

- **Bottom up theories** - Lipsky (1971, 1980); Elmore (1980); Hjern and Porter (1981); Hjern (1982); Hjern and Hull (1982); Sabatier (1986); Barrett and Fudge (1981).

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[13] Whilst it was not possible to include all influential scholars due to the confines of this chapter, other scholars not discussed have been considered when developing our understanding and approach to implementation studies.

7.2.1 The 'Top Down' Approach

One of the most influential, and perhaps most cited books on implementation is Pressman and Wildavsky's *Implementation: How Great Expectations in Washington are Dashed in Oakland* (1984; 1st edn 1973). Pressman and Wildavksy's text is a significant piece which for many was the first to fully focus a light on 'implementation' and call for a wider assessment of this process (see, for example, Goggin *et al.*, 1990; Parsons, 1995; Ryan, 1995). This book can be seen to lay the foundation for the creation of implementation studies; therefore its significance necessitates a discussion in any section on implementation.

In their study of the US Economic Development Agency program in Oakland, California, Pressman and Wildavsky emphasised the significant role that the implementation 'stage' has on determining the success or failure of a particular policy (1973). In their case study. Pressman and Wildavsky took a policy with a 'best case scenario' for implementation (adequate resources, clear objectives, general agreement etc.) and assessed why it failed. The central argument to be taken from their case study was the impact that the complexity of multiple layers of government and the number of decision points has on successful implementation; to get anything done was reliant on the approval or compliance of many actors (1973)[14]. They demonstrate that even when there is broad agreement regarding intent, there is often disagreement on means. They highlight that each level of government, each department and agency purses its own agenda, level of commitment and set of priorities. As Smith and Larimer state, 'Getting all of these agencies to adopt a general plan on means, synchronize their priorities, and generally share the same vision of a policy or programme turned out to be the governmental equivalent of herding cats' (2013, 153). To highlight this point Pressman and Wildavsky provided an example which involved 30 decision points and 70 separate agreements for which approval was needed before action could be undertaken. They argued that given a 0.95 probability of approval at each decision point there is a 0.000395 chance of getting anything done. They also estimate a four and a half year delay due to the 70 agreement points (1973, 106-107).

Often cited as the 'founding fathers' of implementation studies, Pressman and Wildavsky's approach has been labelled that of a 'top-down' approach to implementation. As Barrett and Fudge suggest, Pressman and Wildavsky 'see implementation as a process of putting policy into effect, mainly concerned with co-ordinating and managing the various elements required to achieve the desired *ends*' (1981, 10). In their own words they define implementation as: 'a process of interacting between the setting of goals and actions geared to achieving them... Policies imply theories... a chain

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[14] Similarly points were echoed and important contributions were also made by Derthick (1972); Williams, (1971, 1980); Hargrove (1974, 1983); Berman, (1978); Dunsire (1978a, 1978b).

of causation between initial conditions and future consequences. If X then Y.' (Pressman and Wildavsky, 1984 2nd edition, xxiii). To them implementation is 'the ability to forge subsequent links in the causal chain so as to obtain the desired results' (1984 2nd edition, xxiii). Those in the 'top down' camp view policy as an *input* and implementation as an *output*. From this perspective, implementation is seen as a managerial problem, whereupon effective implementation requires a top-down system of control, effective communication, and appropriate resources.

Following the work by Pressman and Wildavsky, and constituting a highly influential text on implementation from the 'top-down approach', was Bardach's *The Implementation Game* (1977)[15]. Bardach views the implementation process as a political game between central actors and street level bureaucrats. Bardach suggests that to 'succeed' at implementing, policy makers need to take care in the 'scenario writing process', structuring, or 'fixing the game' in a way that minimizes opposition and maximises the chance of central actors achieving their desired outcomes.

Hogwood and Gunn's *Policy Analysis for the Real World* (1984), building on the work by Hood (1976), is another significant text to note. Hogwood and Gunn construct an ideal-type model of 'perfect implementation'[16], conditions that would lead to successful implementation. However they stress that these are not to be read as recommendations to policy-makers, instead 'perfect implementation' is unattainable in the real word (1984, 198). Since Hogwood and Gunn, various scholars have identified, and refined, what would be needed to achieved 'perfect implementation'. The criteria for 'perfect implementation' can be synthesized, based on the work by Gunn (1978), Hogwood (1987, 165-70), Hogwood and Gunn (1984, 199-206), Pressman and Wildavsky (1973), Sabatier (1986), and Dorey (2005) as the following:

- External circumstances do not impose crippling constraints.
- Resources are adequate.
- Dependency relationships are minimal.
- Policy being implemented is based on a valid theory of cause and effect.
- There are a minimal number of decision points.
- Objectives are consistent, clear, and agreed upon.
- Objectives are fully understood and accepted by 'street level bureaucrats'.

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[15] It should be noted that alongside the contribution made by Hogwood and Gunn (1984), there was significant contribution made by other scholars, such as, Van Meter and Van Horn (1975), Sabatier and Mazmanian (1979, 1980), Mazmanian and Sabatier (1981, 1983), Hood (1976); Derthick (1972). Some significant scholars have been left out of our analysis in order to prevent an extensive account of the plethora of writings, yet their significance should be noted.

[16] This is similar in approach to Weber's construction of an ideal-type model of bureaucracy, published after his death in his seminal piece *Economy and Society* (1922).

- People do as they are told and asked.

- Clear lines of communication and authority.

- There is a realistic time line.

- Those to whom the policy is applied or targeted respond in the anticipated manner.

Dorey states that the objective of those devising the 'perfect implementation' criteria 'has not been to offer a normative or prescriptive model of how policy ought to be implemented, but, instead, to provide a heuristic (a social scientific model or paradigm used for illustrative purposes) against which empirical reality can be contrasted, and differences and discrepancies explained' (2005, 197). A point to which will be returned to later in this chapter when it is suggested that instead of 'perfect implementation', we should instead be striving for 'perfect legislation' which is explicitly normative, and arguably could lead to fewer policies being *exposed* as 'failures' at implementation.

The 'top down approach', whilst making important contributions and breaking new ground at the time, has subsequently been subject to criticisms. Extrapolating from: Rhodes and Marsh, 1992; Lipsky 1978; Barrett and Fudge 1981; Elmore 1982; Hjern and Hull 1982; Hogwood and Gunn, 1984; Smith and Larmier, 2013; and Sabatier 1986) we can summarise these as:

- Studies were based on case studies, and bound by place and time.

- Research leads to minimum prescription.

- Conditions for effective implementation are unrealistic.

- Some policies do not have explicit objectives.

- Discretion within organisational conduct is inevitable, therefore there is uncertainty regarding the internal workings of street-level bureaucrats.

- Too much focus is placed on the objectives and agendas of the central actors, and insufficient attention is given to actors on the ground.

- It ignores the adaptive strategies of street level bureaucrats.

- The distinction between policy formation and policy implementation is blurred in practice because policies are often remade or reformed during implementation.

Aware of these limitations in the approach, scholars attempted to move the focus, but this was not a unified movement. There were those moving analysis from specific policies or programmes towards theory building, attempting to develop a theoretical framework for the implementation process but maintaining a top-down perspective[17], and at the same time an

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[17] Which as deLeon states, are often 'lumped under the heading 'top-down' perspectives' (1999, 316)

alternative branch characterised for placing an emphasis on those implementing the policy, street level bureaucrats. These founded the 'bottom-up' approach.

7.2.2 The 'Bottom Up' Approach

The 'bottom up' approach argues that analysis of implementation needs to move away from a study of central objectives and instead start with an understanding of those on the ground ('street level bureaucrats'). The 'bottom-up' model views implementation as '*a negotiating process in which individual actors pursue their disparate objectives employing multiple strategies. Compliance with central objectives is an inappropriate yardstick of success and failure'* (Rhodes and Marsh, 1992, 7). The model focuses on the individual actors and organisations involved in the process, and the need to assess the individual objectives as well as the factors that influence their actions. This approach emphasises the complexity and multiplicity of linkages in the process, and the potential issues regarding the management of conflict, and creation of consensus (Rhodes and Marsh, 1992, 7). However, the 'bottom-up' approach does not view control from the top as the mechanism to achieve effective implementation. Quite the reverse, it views implementation as a process of negotiation and consensus building. This approach views 'street level bureaucrats' as policy makers who exercise considerable discretion in how they interpret and administer a policy.

Lipsky (1971, 1980), one of the best known advocates of the bottom-up approach, suggests that focus needs to be on the impact *of* the 'street level bureaucrats', as they are the ones that really determine a policy's shape. To Lipsky 'street level bureaucrats' are the primary policy makers, not simply the implementers. Lipsky stresses that:

> *Street level bureaucrats are not purposefully sabotaging a policy and defying orders, but instead create methods and practices that enable them to cope with the pressures placed on them… people often enter employment with at least some commitment to service yet the very nature of this work prevents them from coming close to the ideal conception of their jobs. Large classes or huge caseloads and inadequate resources combine with uncertainties of methods and the unpredictability of clients to defeat their aspirations as service workers* (1980, xii).

Barrett and Fudge (1981) expounded similar ideas to that of Lipsky. Utilising the work within organisation theory and the idea of 'negotiated order', they argue that action depends on negotiation, adaption, and interpretation, rather than a game-fixing *scenario* as envisaged by Bardach. Policy cannot be regarded as constant but instead something that is mediated by actors who may be operating with different assumptive worlds from those formulating the policy;

inevitably, it undergoes interpretation and modification, and in some cases, subversion (Barrett and Fudge, 1981, 251). As Hill and Hupe suggest, 'their view emphasises the continuing political process occurring through implementation. In effect, this suggests that it is very difficult to separate implementation from policy formation' (2009, 55)[18].

The 'bottom up' approach, like the 'top-down' approach has also been met with criticism. To summarise (adapted from Rhodes and Marsh, 1992, 7):

- Overestimates the ability of street-level bureaucrats, ignoring the legal, financial and organisational constraints in which they work.
- Views of street-level bureaucrats are identified but not explained.
- Its focus is not upon the implementation of the policy, but rather street-level bureaucrats' relationship/interaction with the policy (Sabatier, 1986, 35-6).
- The approach exaggerates the problems of the 'top down approach' i.e. some policies do have clear objectives.

7.3 Positioning of Implementation Studies, and the Approach Adopted in this Study

Implementation can be defined as, 'what happens between policy expectations and (perceived) policy results' (deLeon, 1999:314-15, paraphrasing Ferman, 1990: 39). In slightly more detail, implementation is the enactment of a policy decision, usually incorporated in a statute. This would be regarded as a 'top-down' approach to implementation; in contrast Barrett and Fudge suggest that implementation is 'a process of interaction and negotiation, taking place between those seeking to put policy into effect and those upon whom actions depend (1981,4). Taking the 'bottom-up' approach further, O'Toole states that policy implementation 'refers to the connection between the expression of governmental intention and actual results (1995, 43). 'Top-down' approaches to implementation see successful implementation as the ability of those 'at the top' to get those 'at the bottom' (or 'street level bureaucrats') to dutiful adhere to the instructions issued. When errors occur at implementation, then this is linked to the street-level bureaucrat's conduct. As Parsons states:

> *The rational model [top-down model] is imbued with the ideas that implementation is about getting people to do what they are told, and keeping control over a sequence of stages in a system; and about the development of a programme of control which minimizes conflict and deviation from the goals set by the initial 'policy hypothesis.* (paraphrasing, Pressman and Wildavksy, 1973, xiii).

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[18] The policy formation/implementation relationship is something that will addressed later in this chapter when the approach to implementation adopted by this study is stated.

This thesis does not necessarily agree with this assessment. A top-down approach can also emphasise the need to get things done at the policy design stage, prior to implementation. The 'top' providing the framework of what is to be done, but not necessarily enforcing compliance in the way Parsons suggests. By the implementation stage, a framework should already be created which the 'street-level bureaucrats' should be able to follow. As Hill and Hupe state:

> *The act of 'implementation' presupposes a prior act, particularly the 'cognitive act'*
> *of formulating what needs to be done and making a decision on that. In everyday*
> *terms, while we may vary what we do when we take action, we very often make a*
> *decision to take action – go on a journey for example – and think about how to do it,*
> *before carrying out that action.* (2009, 4).

It is therefore logical to assume a sequence: deciding where to go – problem definition; deciding how to get there – policy formulation/legislation; getting there – implementation. From this it could be noted that there is a difference between arriving at the correct destination and regretting the decision, following direction but not getting to the destination, and lastly, rejecting the map and directions and getting lost. Policy failure should be viewed in this light.

It appears that implementation studies suffer from some definitional problems with respect to what implementation actually entails. Top-downers see implementation primarily as a matter of '*assembling action in support of the intentions and orders of political leaders'*, while bottom-uppers view it as 'mobilising the energies of disparate stakeholders to make sensible choices in congealing problem solving around a complex, content-specific, and dynamic policy issue' (O'Toole, 2001, 10). For the top-down perspective the focus is upon compliance, for the bottom-up it is upon collaboration and innovation (Hill and Hupe, 2009, 175).

Ham and Hupe suggest that 'implementation research has grown to what can be seen as a sub-discipline' (2009, 12), in which implementation has become the sole focus of analysis. Arguably this has had a negative impact on the study of policy making in general, and policy failure specifically. One cannot, and should not, isolate implementation from the other stages in the process. The problem is not that implementation is a separate section for analysis; rather it is the isolation of that section that is harmful for our understanding. We cannot study implementation without studying what it is that is being implemented – the policy itself is the key. The bottom-up approach can be seen as guilty of labelling the whole of the policy-making process as 'implementation'. But as Pressman and Wildavsky state: 'if implementation is everywhere... is it *ipso facto* nowhere?' (1984, 184). Similarly, if implementation is everything, it is *ipso facto* nothing. By

isolating and elevating implementation we are ignoring factors that are influencing it at other stages, and hence missing the root cause of a policy's success or failure.

7.3.1 Understanding Policy Success or Failure in Implementation Studies

A major focus of Implementation Studies is ascertaining the successes and failure of policy, and the sub-discipline's isolation is particularly problematic as it privileges implementation in causal explanations. This can be seen in the concept of 'perfect implementation' which provides criteria for avoiding policy failure. However, under scrutiny it becomes apparent that the criteria are not necessarily attainable at the implementation stage. As such we need to re-establish implementation as a specific moment in the life-cycle of the policy, and re-evaluate the criteria of success and failure that can occur at this stage. When we talk about implementation, we are really engaging with the short moment when the elements laid out in legislation are manifest. The success or failure of the policy however, is dependent on other parts of the policy making process i.e. assigning resources, anticipating reaction, undertaking adequate research,[19] and ultimately of the Act itself. However for bottom-up scholars, implementation seems to have gone moved from being 'the missing link' between legislation and operation to superseding policy failure, implementation the focal point of policy analysis. This excessive focus is detrimental as it ignores both the design of the Act, and the ultimate operation of the policy. This thesis argues that more attention needs to be placed on the design of a policy; we should move beyond a fixation of implementation and look at what leads to the creation and passage of a policy.[20]

In order to judge a policy's success or failure if looking at the implementation stage we need to address the following key questions:

- Were the aims and objectives of the policy achieved?

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[19] Whilst sometimes it appears that details are decided, or resources assigned, at implementation, these actions would be determined within the policy itself. As such, this would be a failure of the policy, rather than implementation. We need to remember that the agency is chosen, sourced and empowered by the policy makers.

[20] Similarly, it is important to note that some failures could be considered to be failures of 'operation' rather than implementation. Therefore we would need to study operational failure separately to policy failure.† Whilst policy design failure feeds into the operation of a policy, they are separate things. It could also be argued that some of the things included in 'implementation studies' would be better suited in 'operational studies' which looks at the delivery process in terms of project management. Operation is another stage in the life cycle of a policy. As argued above, implementation studies has colonised and appropriated the analysis of the operational elements in the same way as it appropriated the legislative elements. In the example of the Child Support Agency, if we are to fully understand its operational elements, we need to draw on the work done within public management and business studies, because some of the things assessed here are out of the control of the policy design.

† As noted in the literature review section of Chapter One, the operational failure of the CSA has already been the subject of a thesis, by Brian Sheffield (Durham University) which provides an excellent account of the managerial failings of the Agency.

- Were the aims and objectives attainable?
- Did the 'street-level bureaucrats' comply with the legislation?

With respect to the first question, if the aims and objectives of an Act were not achieved in their entirety we can see that whilst the policy has failed, however this is not 'Implementation Failure' *per se* rather it is 'failure becoming apparent at the implementation stage'. The nature of the failure will become apparent in our answers to the remaining questions, as will the location of the point of failure. With respect to the attainability of the aims and objectives, this is laid out within the legislative stage, in that, the resources, time frames, goals and objectives should be clearly established. If they are unattainable this is not a failure of implementation, but rather legislative failure that was only manifest when they set the Act in motion. If the legislators failed to account for the problems that manifest as the Act is in action, then the blame should be apportioned there. In effect, if one legislates properly, failure at implementation should be impossible. With respect to the third question, if the 'street-level bureaucrats' did not completely carry out the duties outlined in the Act, then we can argue that this is 'failing to implement'. If they do not follow the instructions laid down in the detail of the policy, and *then* the policy fails, then the policy itself may actually be sound but rather the actions (or in-actions) of those operating the policy are culpable for its lack of success. However it could also be the case that their views and expertise were ignored during the consultation process, and as a result they do not comply with an element of a policy. If this is the case, then this can be adjudged to be a failure of the policy making process and not implementation. It also could be the case where a policy is fully implemented, in which the 'street-level bureaucrats' could, and did, comply but the policy still failed to achieve its goals. This is should be seen as a failure within the legislation, not the implementation. As Hogwood and Gunn note, 'many so-called 'implementation failures' can be traced to inadequate policies' (1984, taken from: Hill and Hupe, 2014, 172). Rather than implementation failure, and the criteria of 'perfect implementation', we should discuss 'legislation failure', and the notion of 'perfect legislation'.

This thesis's view of implementation is an evolution of that put forward by the top-downers, in that implementation is the process of putting policy into effect. Whilst appreciating the role played by street-level bureaucrats, it suggests that the negotiation and consensus building highlighted by the bottom-uppers should take place at the policy formation stage rather than implementation. This is not the same as suggesting that 'street level bureaucrats' need to merely be compliant, and policy success solely lies in the ability of those above controlling those on the ground. Rather, if there was a clear policy design process with thorough and effective consultation in the first place, then we would not have the 'multiple strategies' that Rhodes and Marsh highlight (1992,7) nor the need to 'create methods and practices that enable [street level bureaucrats] to cope with

the pressures placed on them' that Lipsky highlights (1980, xii). If 'fighting' occurs, or 'coping strategies' are required at the implementation stage this is a signal of poor policy design and ineffective consultation. The approach adopted in this thesis argues that we need to place focus back onto policy formation to really understand why a policy suffers problems at implementation. We need to integrate analysis of policy formation *with* implementation. This thesis is not denying that 'street-level bureaucrats' have a degree of autonomy and use their own discretion, but if they use this, and go against what was required of them, then they have failed to implement the policy. Our approach takes into account the concerns of the bottom-up approach, whilst at the same time stresses the importance of the top-down consideration of the system. The approach engages with: what has, or has not happened, at the policy formulation stage by elites which has led 'street-level bureaucrats' to act in this way. It is 'top-down', but not hierarchical. It is necessary to view 'problems' at the design stage, when something can be done, not at implementation. Conflicting views, differing agendas, and subsequently negotiation should be something that is taking place at policy formation, not policy implementation. If 'fighting' is occurring at implementation then the policy formulation stage was inadequate. It should not be left until the implementation to face the realities of the policy. We need to ask ourselves what was the root of the problem experienced at implementation, what we will find is that this can be linked back to the formation of the policy. That is why we should be using the idea of 'perfect legislation' rather than 'perfect implementation'. We need to be proactive rather than reactive, and apportion blame appropriately.

The next Chapter will demonstrate that in relation to the Child Support Agency, the coping strategies that were adopted by street-level bureaucrats were a symptom of the policy design, not the fault of implementation. As suggested when the idea of 'perfect legislation' is presented in the following Chapter, it is possible to remove the chances of an 'operational disconnect' by ensuring effective consultation and engagement with 'street-level bureaucrats', whereby the expertise and views of those on the ground are appropriately considered at policy formation.

7.4 Implementation and 'Next Steps' Agencies

With respect to the 1991 Child Support Act we should also note the significance of the use of 'next steps' and arm's length bodies in the role of implementation. Under Thatcher we saw large scale organisational and structural change, both at central and local government. One of these significant changes was the introduction of 'next steps' agencies. Dunsire describes them as involving 'the relatively wholescale adoption of structural separation of political responsibilities from executive responsibilities, the former remaining with Ministers assisted by small policy departments,

the latter divested to new executive agencies each with its chief executive and required to produce mission statements and performance targets in a 'framework document' (1995, 24).

Under Thatcher the role of senior civil servants changed, from advising on policy to executing and managing policy. In this period roles changed, and implementation became seemingly removed from central government and placed in the hands of 'public managers', and so with it did the branches of accountability and the placing of blame (something we will address later in this chapter). But what seems to be often forgotten when judging the performance of civil servant led agencies is that agency itself is the creation of a piece of government made legislation. Civil servants can only execute what they are given, and manage with the resources they are provided. As Hill and Hupe highlight, 'when the results of policy appear to be disappointing often implementation is blamed' (2009, `29). This is why this thesis views the failure of the 1991 Child Support Act to be a failure of policy, not a failure of the Agency. Making 'public managers' appear responsible for a policy's failure due to its implementation was a tactic of blame avoidance. So to avoid falling into this trap, and buying into this tactic, we need to keep an eye on what is being implemented. It is all too easy to blame Ros Hepplewhite; the first Chief Executive of Child Support Agency, but it is necessary to apportion blame appropriately; it was the failure of an unworkable policy, a policy whose failure was foreseeable and foreseen. Whilst the Agency did encounter implementation problems and operational difficulties, these were consequences of an ill-conceived, ideologically driven policy that those at the centre managed to push through Parliament, ignoring the warnings of many.

Next-steps agencies are a decentralised approach to policy delivery, whereby ministers become detached from the reality of the policy, leaving the responsibility for the management, day-to-day running of the agency, and attainment of targets to the Chief Executive. In the case of the Child Support Agency, the role of the Agency was set out a managerial plan which the Chief Executive was required to implement. The business plan, framework and targets, which Ros Hepplewhite was required to work towards, had been established prior to her appointment by ministers (Harlow, 1999, 163). Due to this detachment from responsibility and policy reality, ministers '*set targets that were unrealistic and inflexible*' (Harlow, 1999, 164). This separation between policy and delivery through use of next-steps agencies raises issues of accountability. This conscious separation removes the burden of blame and responsibility from the minister, and therefore we see the pursuit targets that are ill-thought through, reckless, and often, unattainable. However, just because there has been delegation it should not mean that all responsibility lay with the Chief Executive, as the policy is still at the core of the failures. Whilst a sound policy could indeed fail, this should be seen as operational failure rather than policy failure. What is seen with the Child

Support Agency is 'policy failure' which inevitably precluded 'operational failure' and a concurrent attempt to use its agency status as a shield which ministers deployed to ward off criticism and blame.

7.5 Conclusion

This chapter provided the conceptual background to our approach to understanding implementation, and its relationship to policy formation and policy success or failure. We ended by discussing the role of 'next-steps' agencies, and how they have moved the lines of accountability. What has typically been seen as the 'implementation' of a policy was not discussed in this chapter. As we stated, some of the areas typically debated within 'implementation studies', such as the idea of 'perfect implementation' are better suited elsewhere in the policy process, be it in policy formation, or operation. As stated above, the problems experienced at implementation and operation are in large part due to failings in legislature. Chapter Eight, will focus on the operation and apparent failings of the Child Support Act, and assess the root of these failings with reference to the idea of 'perfect legislation'.

Chapter Eight - The Failure of the 1991 Child Support Act

8.1 Introduction

As the start of our study set out, the 1991 Child Support Act is seen as one of the most controversial and notorious policy failures in Britain. It has been subject to intense political, public and media criticism, and described as both *'catastrophic… a calamity'* (Toynbee, 1998) and *'the most incompetent and inhuman agency ever set up by a British government'* (Ingrams, 1997). From August 1993 the media were regularly reporting on the hardship caused by the impact of the policy; this included reports on suicides, and a murder of a parent with care. The first year of the Child Support Agency's operation was marked by substantial administrative chaos, delay, error, and failure (see, for example: National Audit Office, 1994; Child Support Agency Annual Report, 1994 (CSA, 2066); Central Adjudication Services, 1994; Social Security Committee Report 1993, 1994a, 1994b, 1994c which all highlight the CSA's failure to reach its targets, and the substantial controversy the Agency attracted). Below will discuss the targets prescribed for the Agency, outlining its record of meeting those targets. This Chapter will focus on bringing together the failings, or limitations, that were highlighted in previous Chapters, Demonstrating how problems occurred, and were embedded, at each stage of the policy-making process. It will analyse the main problems experienced by the Child Support Agency, problems which led it to be deemed a momentous failure, before then assessing the roots of that failure.

8.2 Failure to Meet Targets

From its first year in operation (1993-94) the Child Support Agency failed to meet its performance targets. In order to assess the apparent failings of the Agency it is necessary to provide an overview of the Agency's targets. As a 'next-steps' agency the CSA was granted partial-autonomy but had to work within the outlined operational plans and targets set out by the Government. These were set out in three formal documents, the '1993/4 Business Plan' (CSA, 1994), the 'Framework Document' (CSA, 1994), and the 'CSA Charter' (CSA, 1993).

In its first year of operation the CSA was expected to:

- Obtain maintenance payments for 60 *per cent* of parents-with care
- Achieve a customer satisfaction rate of 65 *per cent*, to be measured by an independent survey
- Save £530 million on social security payments
- Deliver its business plan within a total budget of £115 million

- Respond to enquiries within the allotted time (respond to Parliamentary questions within 24 hours, reply to letters from MPs within 20 workings days, respond to Parliamentary Commissioner to Administration within 6 weeks)

- Maintain outstanding customer service: provide an assessment within five working days of receiving the information needed; respond to 80 *per cent* of all telephone calls to the Inquiry Line and Child Support Agency Centres within 20 seconds; reply to written inquiries within ten working days; acknowledge any written complaint within two days, and respond in full within ten days; not keep services users waiting longer than twenty minutes for an officer interview

- Meet milestone targets related to major initiatives (set up computer system, open national offices etc.)

However, attempts to meet these targets were, to be kind, unsuccessful. The CSA Annual Report of 1993/1994, dubbed a '23-page apology' (*The Guardian*, 3 September, 1994), acknowledged: *'our standards of service did not reach acceptable levels and we did not achieve some of our key targets. We apologise to our clients for the difficulties they have experienced because of our shortcomings'* (CSA, July 1994).

An assessment of the Agency's first year in operation reveals:

- **Financial Targets Had Not Been Met** - An annual saving of £418 million was reached, a shortfall of £112 million of the £530 million target (the annual target was set at £530 million for its first year in operation but planned to rise to a long term annual target of £900 million). It in fact took 3 years for the Agency to meet a total income target of £530 million (Barnes *et al*, 1998, 16). A Government Minister also admitted that out of this planned £530 million savings, the Treasury were to receive £480 million, and the million or so mothers and children would be left to share £50 million (Jenkins, 1997, 164).

- **The Monies Collected Would Have Been Received without Agency Intervention –** The £418 million of savings included money paid under pre-existing maintenance arrangements. Less than five *per cent* represented 'new money'; the rest was gathered from those that had prior arrangements which were brought into the system (King and Crewe, 2013, 89). Marsh et al conclude that the CSA assessments had a neutral effect on the volume of payments (Marsh *et al*., 1997, quoted in: Barnes *et al*, 1999, 19). They provided the following reasons: assessments were made in cases where maintenance was already in payment; assessments were made in cases where maintenance would

have been paid anyway; assessments were made in cases where absent parents were exempt from payment; and assessments were not being made in cases where payment was not received, and would not have been made under the previous system (Marsh *et al.*, 1997, quoted in: Barnes *et al*, 1999, 19). The failure of the Agency to tackle the last category meant that they were not effectively increasing the amount of individuals paying maintenance.

- **Clearance Rates Were Poor** – The target of obtaining maintenance payments for 60 *per cent* of parents-with care was missed. The Agency was taking far longer to complete cases, only managing to reach just over half of its target, 31.5 *per cent.*

- **Clearance Times Were Poor, There Were Substantial Outstanding Cases** – During its first six months in operation, out of the 527,000 forms issued and cases started, only 36,500 cases managed to reach the assessment stage.

- **Accuracy Levels Were Low –** The first annual report by the Chief Child Support Officer found that only 14 *per cent* of cases were correct in both calculations and final assessment (Chief Child Support Officer (1994) *Annual Report, Central Adjudication Services*, 1993-1994). A 1995 report by an independent adjudicator stated that of the 1,380 cases examined, only half received correct maintenance assessments, and only one in seven had been dealt with according to the correct and approved procedure of calculating payments (cited by Barnes *et al*, 1999, 17).

- **High Volume of Enquires Received and Enquires Were Not dealt with in Allotted Time** – the Agency was receiving 850,000 enquires a month. The Chief Executive had received 5,000 letters from MPs within the first year. During certain periods, up to 400 letters per week was received from MPs (King and Crewe, 2013, 8). The unanticipated volume of enquires were not met within the targeted time frame.

- **Customer Service was Deemed Low** –A Client Satisfaction Survey undertaken for the Department of Social Security by MORI in 1994 showed that satisfaction levels were low. Delays in payments, complexity and confusion over the process, and lack of response to enquiries were widespread complaints. The Data Protection Registrar received 206 complaints against the CSA in 1994, the largest number ever made concerning a single data user (*The Guardian*, 22 July, 1995).

- **Running Costs Soared** – It was estimated that the running costs of the Agency would be £35 million, by the end of the second year running costs had reached £137 million.

8.3 The Child Support Agency in Operation - Controversies within the CSA's First Year of Operation[21]

Before discussing the impact which the Child Support Agency (CSA) had in its first year of operation, the Chapter will outline the reactions of the media, the public, and MPs. As previous chapters have demonstrated, the minimal attention which the Child Support Bill received from the media had been largely positive, while the policy received cross-party support, both of which led to the Bill passing through Parliament with relative ease. However, once the policy was in operation, support evaporated, whereupon it was subjected to extensive and sustained criticism.

8.3.1 Media and Public Response

Immediately the CSA began operating, it received intensive media coverage, entailing almost continual series, particularly amongst the broadsheets, of reports sparked by absent parents' stories of hardship and destruction allegedly caused by the CSA. These included stories of desperate fathers committing suicide because they were unable to meet the demands placed upon them by the CSA. In May 1994 *The Times* ran a story with the headline: '*Agency blamed for 'seventh suicide '*which stated that:

> *A coroner blamed the Child Support Agency yesterday for the death of a nurse who killed himself after receiving a demand for £3,000 in maintenance arrears. Goolam Hassen's body was found next to the letter from the CSA. The inquest at Eastbourne was told that the demand had not been calculated properly and should have been for £1,000. Mr Hassen killed himself with an overdose of drink and drugs hours after telling his former wife Brenda in a telephone call that he had received the demand for money. David Wadman, the East Sussex coroner, said: ''**It was the letter that proved the trigger that led to his death. It is a sorry state of affairs**. (The Times*, 18 May, 1994).

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[21] The scope of this research which was outlined in Chapter One should be reiterated, this study only assesses the CSA in its first year of operation. Analysis is focused on the 1991 Child Support Act and not the Child Support Agency itself. After its first year of operation the Agency was subject to so many reforms and amendments that a separate analysis is needed. An inclusion of these reforms, whilst important, moves us away from a study of the initial Act and cannot be adequately done within the restrictions of this thesis.

Another story reported a suicide, accompanied by a note stating: 'To Mr Major and the CSA, I say thank you for nothing' was found next to the body (Can't Pay, Won't Pay, 1999). In February earlier that year, *The Independent* published a story concerning an alleged murder of a parent with care that was deemed to be the result of the Child Support Agency's involvement. Much of media reportage of the CSA was both very damning and sensationalist in tone. This coverage, with many broadsheets support campaigns run by anti-CSA groups, can be seen to have reinforced public unease regarding the Child Support Agency.

Public opposition, amongst those affected, towards the CSA was fierce. Within months of opening it brought crowds onto the street, this intensified into a 'hate campaign' towards the Agency and its staff. Tactics employed by such campaigns included: nationwide anti-CSA demonstrations and protests; CSA staff receiving hate mail, death threats and bomb hoaxes; frequent razor blades, parcels of excrement and used condoms sent to CSA offices; and frequent verbal abuse. A leaflet circulated by the Campaign Against Parental Exploitation (CAPE), accused CSA staff of being similar to ''SS employees''. Another anti- CSA group, Strike Back, stated:

> *All CSA and DSS workers are targets. You can hit their cars, homes, personal lives, belongings, and anyone involved with them. We need information on CSA officials' home addresses, we need telephone numbers and office numbers. Also where they drink, social clubs, etc. Ring every time you can and be totally insulting to everybody.* (Quoted in The Independent, 20 June, 1994).

One CSA worker reported being spat upon and punched whilst at his local pub (*The Independent*, 20 June, 1994). This was not the response that the Government had anticipated.

8.3.2 Political Response

A policy that received cross-party support soon became a political minefield. Support for the policy soon disappeared when its impact began to be felt. Shortly after the CSA began operating, MPs became inundated with letters and phone calls from thousands of unsatisfied, angry individuals. On the 25 November 1993, only six months after the policy began operation, an Early Day Motion was tabled by Labour MP Adam Ingrams, calling for the CSA's abolition[22]. It read:

> *That this House regards the Child Support Act 1991 as a failure; believes that its effect upon single mothers on Income Support and on second families is injurious, that many women on Income Support have been left worse off through loss of passported benefits and that single mothers have been intimidated to authorise the*

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[22] Signed by 49 MPs.

Agency to pursue fathers upon pain of losing benefits; further believes that the imposition of new, high bills on fathers of second families if grossly unfair and a serious poverty trap and that the overwhelming amount of money paid over to the Treasury instead of to families is grossly immoral and is in fact a secret tax; and therefore calls for the abolition of the Child Support Act and Agency and for a simpler replacement system to be instituted which will ensure that court maintenance orders are enforced and actually benefit women and their children.
(Early Day Motion 1667, session 1993-1994, 26 October, 1994)

The CSA remained a frequent and fierce topic of debate in the House. MPs raised concerns regarding the negative impact the policy was having on many of their constituents. Topics discussed included:

- inflexibility of the formula;
- the lack of a benefit disregard; the retrospective application;
- the inadequate 'exempt income' (not including travel to work costs, contact costs, debt repayment cost, pension contributions);
- the negative impact upon second families; the punitive nature of a benefits penalty;
- the CSA's invasive investigation into sensitive issues;
- the pursuit of 'soft targets'; and the failure to learn from the Australian system (see for example, the debate held on the 10 February: HC Deb, 10 February, 1994, vol 237, cs483-556).

Debates dressed as discussions regarding the operation of the Agency, where in fact addressing features that were imbedded in the policy itself.

As fierce and critical media coverage and complaints from constituents continued to increase, a group of MPs decided to form the All Party Parliamentary CSA Monitoring Group[23]. The group met once a fortnight to discuss the impact of the Agency, question Ministers and Officials dealing with the CSA, exchange experience, information and knowledge regarding the complexity of the new system, and to meet with voluntary organisations and experts to discuss the CSA, and wider areas of Child Maintenance. Again, we need to note that the issues being raised were not regarding the operation of the Agency; rather they were discussing the policy itself. These conversations should have taken place as the Child Support Bill went through the House of Commons, yet as

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[23] The Group comprised of 15 formal members (Mildred Gordon, Sir Peter Fry, Liz Lynne, Jean Corstan, Ina Bruce, Anthony Steen, Llin Golding, James Arbuthnot, Neil Gerrad, Joan Lester, Bill Olner, Grenville Janner, Alan Simpson, Bryan Gould, and John Fraser), yet non-members were free to attend any meetings.

demonstrated in Chapter Six, the contribution by the House of Commons during this was minimal; they did not perform an effective check-and-balance on the Government, and did not fulfil their proper parliamentary duty. Instead, the Act was not seriously discussed or considered until the fall out reached MPs constituency offices.

The operation of the Child Support Agency also attracted the attention of the Social Security Select Committee. Investigation into the conduct and operation of the Agency quickly began; evidence was collected throughout November 1993, and its first report, '*The Operation of the Child Support Act, First Report*', was published in December 1993 (HC69, 1993-94). This was soon followed by a succession of further reports[24]. During the Committee's first few months of investigation into the Agency it received over 800 complaints from individuals who had encountered the CSA. The two main issues highlighted by the report were that:

- Absent parents already paying maintenance were targeted by the Agency (HC69, 93-94, vi), and
- the formula was resulting in inappropriate and unfair assessments (HC69, 93-94, vii).

Again, it should be emphasised that whilst the Report claimed to be looking at the operation of the Agency, both these issues were due to the design of the policy itself, not the conduct of the Agency once established. The formula was drafted by the Government, and largely[25] approved by both the Social Security Select Committee, and by Parliament. The order in which the Agency was to prioritise cases, and indeed the ordering of its priorities, although ostensibly an operational matter, were also decreed by Ministers, and thus fully imbedded into in the policy. The issues that the Committee were discussing were again presented as operational matters, but were in fact policy matters that could have been dealt with at pre-legislative of the policy, not left to the post-legislative scrutiny of the Agency.

8.3.3 The Impact of the Child Support Act

The negative impact of the CSA – 'probably the most hated organ of the British state' (King and Crewe, 2013, 89) - was quickly felt by both the absent parent and the parent with care. As King and Crewe assert: 'the political fallout from the child-maintenance debacle… was massive' (2013,

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[24] Such as: House of Commons Social Security Committee (1993). The Operation of the Child Support Act, First Report – session 1993/94, HC 690. HMSO; House of Commons Social Security Committee (1994). The Operation of the Child Support Act, Second Report. HMSO; House of Commons Social Security Committee (1994). The Operation of the Child Support Act: Proposals for Change, Fifth Report – session 1993/94, HC 470. HMSO; House of Commons Social Security Committee (1994). The Operation of the Child Support Act, First Report – session 1993/94, HC 69. HMSO.
[25] 'In large part' was included as some of the detail of the formula and the processes surrounding it were 'subject to regulations' which were not included in the original Bill.

85). Some absent parents claimed that they would be better off if they were unemployed, and therefore not eligible to pay maintenance, while others argued that the higher rates which they were ordered to pay after reassessment meant they were living below the poverty line. In some cases this resulted in them having to reduce the quality and/or frequency of contact with their children (Garnham and Knights, 1994; Barnes *et al*, 1999; Davis *et al* 1998). This was not the fault of the Agency, but instead a result of the formula that was stipulated by Thatcher and the Treasury.

This was an issue that had previously been raised during the House of Lords committee stage of the Bill, when Lord Prys-Davies highlighted: 'The cost of maintaining contact with the child… stand in a class of [their] own because expenditure can be said to be for the direct benefit of the child' (cited in Garnham and Knights, 1994, 99). Yet as Garnham and Knights state: 'inclusion of travel costs for visits to children was proposed and rejected by the Government' (1994, 99). One individual wrote a letter to their MP asking if access costs would be placed with exempt income (in this case, travelling from Edinburgh to Devon, seven times a year, costing approximately £3,000). The letter also highlighted that if this money was to be absorbed into maintenance payments then contact with the child would have to cease. A reply by Michael Jack MP, Social Security Minister, stated:

> *I accept that in some case expenses can genuinely be heavy, but the issue is whether it would be right to give them precedence over the Child's right to basic maintenance. It is important to get the balance right between the interests of the child and the parents.* (Copy of letter sent to CPAG, quoted in Garnham and Knights, 1995, 46).

Some sympathy, or understanding, would be held regarding Michael Jack's reply if maintenance was not deducted pound for pound from the parent with care's Income support, leaving the child not only with no financial gain but now with the hardship of not being able to see the absent parent. This demonstrates that the CSA's formula did not only yielded a financial loss for the absent parent, it also harboured the potential to impact both emotionally and socially on the children, given that it might stop them from seeing both parents on a regular basis.

The financial impact was not limited to the absent parents. Many parents with care reported being at a financial loss due to the involvement of the Child Support Agency. For some, the loss came as a result of maintenance taking them just above Income Support levels which meant that they lost 'passported' benefits such as free school meals, free prescriptions, and free dental treatment. Others claimed that due to increase in the amount which absent parents were formally required to pay, they were no longer willing or able to provide informal financial support (such as buying

clothes, or paying for school trips) as they had done in the past. Therefore reassessments under the CSA led to cases whereby parents with care were, not only having their maintenance deducted pound for pound from their Income Support but also losing informal financial support from the absent parent.

8.4 Policy Design Failure, Not Implementation Failure

Given that child support policy has become notorious, there has been much speculation as to which elements were most to blame. Whether the policy principle itself was unpopular and, therefore, not a good idea, whether it was a good idea but suffered faulty construction and bad timing, and consequent unpopularity, or whether the problems lay neither in ideas not construction but implementation. (Barnes *et al*, 1999, 27).

Our study of the policy making process of the 1991 Child Support Act provides an answer to Barnes *et al*'s question: the policy that **posed itself** as 'putting children first' was a bad idea that suffered faulty construction. The Child Support Agency was beset with significant problems from the outset. As Peter Lilley, Newton's successor as Secretary for State for Department of Social Security, stated, when questioned about entering the Department about to launch the Child Support Agency: 'I realised it was going to lead to problems, immense problems… I expected outrage' (Peter Lilley, Interviewed by author, 11 July 2011). Lilley was so aware of the level of problems that were going to arise from the CSA that, when he entered the DSS he invited back bench MPs into his office, in groups of ten, and gave them presentations on the CSA, briefing them about the potential problems that might arise (Peter Lilley, Interviewed by author, 11 July 2011). As demonstrated in Chapter Six, the problems were foreseeable and foreseen, but ignored by policy-makers. It was only when these foreseen problems went through implementation and into operation that they became a reality that could no longer be ignored. As Lilley went on to reveal thing only began to 'stir up on the back-benches' in the October:

It was only when people began to get demands, or get repeat demands because they had not paid… [that] people started to go to their MPs to complain, by this time the MPs had forgotten that they had said "yes we are right behind you, we will support this through thick and thin", but instead panic struck amongst the backbenches and they forgot the commitment they once made to support the Bill. (Peter Lilley Interviewed by author, 11 July 2011).

Given Lilley's awareness of the scale of the problems that the CSA was likely to endure, it raises questions as to why Lilley did not attempt to reverse the policy. The full reason as to why Lilley did not take such action is unknown. When asked whether abolition was discussed, Lilley replied:

> *It wasn't practical! I did, after a while, have a sort of inquest into how this policy… had come about, in particular why, because there was an existing system dealing with this... It actually emerged that that old system was actually raising more money than the CSA. But it didn't take longer than half an hour to work out that you can't go back to it… if you could re-run the video, as they say, then I would have started on the old system and built on it.* (Peter Lilley Interviewed by author, 11 July 2011).

This raises further questions as to why it was deemed impractical. Was the policy perceived as too far developed to be altered (be it for political or economic reasons), or was it again a case of the Treasury imposing financial priorities? In either case, Lilley pursued a policy whereby even before it was implemented, he was aware was prescribed to fail.

The Agency was unfairly criticised because of the complexity of the formula and the impact the policy had upon families, but this was a fault with the original design of the policy, and not with the administration of the Agency. The Agency was indeed guilty of poor administration, and operational problems were evident, but the bulk of the problems were the results of the Government's incompetent policy making, not the Agency's inefficiency. As King and Crewe state:

> *The persistent maladministration of the new policy revealed a myriad defects in the policy itself. Many of the accusations levelled at the agency should in fairness have been levelled at whomever had devised the policy.* (2013, 89).

Instead, accusations were largely misplaced and blame was wrongly apportioned, not just by the media and the public, but also by back-bench MPs, and Government itself. Accountability was misplaced and blame was diverted. Ros Hepplewhite was ascribed the task of implementing a policy that was inherently deficient and already doomed to failure. As King and Crewe excellently summarise: '*Administrators who were geniuses could not possibly have made the new policy work, and the great majority of administrators who vainly tried to make it work were anything but geniuses*' (2013, 85).

8.5 The Roots to Failure

Above claimed that the roots of the problems suffered by the CSA, and the reasons behind the policy's failure were not primarily due to the manner in which the policy was implemented, but were a consequence of a poorly designed policy. The following section will look at the roots to this failure that were embedded in its design.

8.5.1 Unattainable Targets and an Operational Disconnect

The targets that were set for the CSA were decided by both the Department of Social Security and the Treasury (Peter Lilley, Interviewed by author, 11 July 2011). However these targets were acknowledged to be unrealistic. As Alistair Burt, Minister for Social Security 1992-1997, stated: 'for the CSA to reach their targets they would have had to perform better than any Agency in existence, anywhere in the world' (Can't Pay, Won't Pay, 1999). The targets were unrealistic and arbitrary and attempts to reach them, combined with the complexity of the formula, led to wide spread error. As Davis *et al* state, '*...their workload was excessive. To the degree that they could never get on top of their cases...*' (1999, 65). One Child Support Officer stated:

> *We could see there were going to be major problems [when we started] and I don't know why they weren't foreseen at the drafting stage. It just hadn't been thought out properly... if they had started off slowly, given us more time to get on our feet, sort out everything we were doing, rather than taking on a huge deluge of cases which we can't handle...*' (Child Support Officer, Dudley, quoted in Davis *et al*, 1991, 65).

The targets also pushed the Agency towards pursing 'easy targets'. The infamous internal CSA memorandum written by Dave Moody, divisional manager of the CSA for Wales and Merseyside, which was leaked to *The Guardian* on the 13th September 1993, demonstrated that in order to reach their targets, the Agency would have to pursue those absent fathers who were easily traceable, already paying maintenance, and who could be required to pay more. The Memo stated: 'The name of the game is maximising the maintenance yield – don't waste a lot of time on non-profitable stuff!'. This saw the CSA pursuing those who were already fulfilling their financial responsibility to their children from former relationships. This went against the portrayed purpose of the policy, which was to track down absent parents who were deemed to be feckless and irresponsible and make them pay. However as stated in Chapter Three, and have demonstrated in subsequent chapters, this was not the true motivation behind the policy. Feckless fathers were simply the portrayed problem to legitimise the policy; the core objective pursued by Thatcher and the Treasury,

and hidden under this portrayed problem, was expenditure savings. The targets clearly showed that *'children did not come first'*, instead the Treasury's goal was dominant.

The targets were unrealistic, unattainable, damaging, and undermined by the prioritisation of economic over social objectives. Therefore the performance of the CSA was unfairly assessed, not only because the performance indicators were naïve (they could not realistically be met) but also because the targets revealed the true motivation behind the policy, and deprive the Agency of its public legitimacy. In order to meet its targets, and yield the expenditure savings sought by the Treasury, the CSA was required to target 'good, middle-class men'. 'The unrealistic targets forced the Agency to focus on quantity rather than quality' (*The Guardian*, 5 July, 1994). This focus on *'soft target'* and *'quick gains'* demonstrated that the portrayed moral drive was in fact window dressing. The memo demonstrated that the imperative was to yield financial gain, and as a result void the policy of its social and moral legitimacy, or more in keeping with what we have argued throughout this thesis, unmasked the true motives, and the moral shield, of the policy. As shown elsewhere in this thesis, 'the basis in which it was sold to the public was seriously misleading' (King and Crewe, 2013, 261), and when the CSA came into operation, this become increasingly apparent.

The 1991 Child Support Act also suffered because policy makers failed to heed advice regarding the design of the policy from those who had direct experience of collecting child maintenance, e.g. Liable Relatives Officers in DSS offices. As King and Crewe highlight:

> *Even within the Department, little seems to have been paid to the accumulated wisdom of the ground-level civil servants who had, under the existing arrangements, spent many years trying to extract maintenance payments from absent parents. If anyone had been listening to them, they would have had many a tale to tell.'* (King, 2013, 261).

As a result, the policy that was created suffered from an operational disconnect, what the design of the policy stipulated, could not be achieved when in operation.

It can also be suggested that the Child Support Agency was inappropriately and inadequately resourced, as a consequence of being administered through the DSS rather than the Inland Revenue. As demonstrated in Chapter Five, there was an imbalance of power in the Core Executive which led to the Treasury dictating elements the policy. Not only did the Treasury insert elements into the policy which effectively transformed the policy's objectives, it also had a detrimental impact on how the policy was administered. The issue of who should be politically responsible for the CSA led to inter-departmental conflict between the DSS and the Inland Revenue (part of the Treasury). The CSA

would have been more effectively administered through the Inland Revenue, for it held both the expertise and the level of authority successfully to administer the policy. Yet, the CSA became the responsibility of the DSS instead, because the Treasury, through the Inland Revenue, did not want to take responsibility for an institution that it predicted would have problems. While the DSS wanted the CSA to operate through the Inland Revenue, as they attempted to base their policy on the success of the Australian system, the Treasury looked at in terms of its own interests rather than the interests of the policy. The Treasury was aware that the DSS were not suited to administer the CSA; as Peter Lilley confessed 'it wasn't their area of expertise,' (Peter Lilley, Interviewed by author, 11 July 2011), yet the Treasury's desire to keep a problematic policy at arm's length prevailed. The Treasury's desire to shift the responsibility of the policy onto the DSS took precedence over the appropriate resourcing and success of the policy. Therefore the policy could have operated through the Inland Revenue, as did the Australian system, but the decision was made for it to be implemented through the DSS. As we stated in Chapter Seven, the person/body which gets to implement the policy is at the decision of policy makers. Part of effecting policy-making should be assessing, and then assigning, the most appropriate body. As Pressman and Wildavsky's study highlighted, 'failure was not only caused by bad implementation but also by bad policy instruments. Many of the problems in Oakland would have been avoided' (Winter, 2007, 132). In the case of the 1991 Child Support Act, bad policy instruments were assigned.

8.5.2 Unclear/Inappropriate Lines of Accountability

As stated in the previous Chapter, the introduction of 'next-steps' agencies not only altered the manner in which policies were implemented and delivered, but it also altered the nature of ministerial responsibility and accountability. As Pyper notes, 'The CSA is a product of the 1990s public accountability culture as well as part of an experiment in 'arm's length' service delivery' (1995, 142). As next-steps agencies become operational, it became clear that some agency Chief Executives were attracting relatively high-level public and media profiles, and as such were held to be accountable for the conduct of their agencies (Pyper, 1995, 142). Ros Hepplewhite, the Chief Executive of the CSA, was a prime example of this. Hepplewhite found herself the antithesis of the 'unaccountable', 'anonymous', 'untouchable' Civil Servant, and instead faced with frequent parliamentary inquires and media attention became the public face of a policy disaster. Whilst Chief Executive, she was blamed for the suicides of seven men, and the murder of one woman. Throughout the country, campaigners displayed ''Wanted'' posters describing Hepplewhite, a civil servant, as a Myra Hindley figure: ''Guilty of the Torture of Innocents'' and ''Crimes Against Humanity'' (*The Independent*, 20 June, 1994).

During her time as Chief Executive, Hepplewhite frequently attempted to differentiate between her responsibility to account for the management and operation of the agency, and the accountability of ministers for the policy and legal framework with which the Agency operated (Pyper, 1995, 142). However, MPs and the Social Security Select Committee frequently seemed to blur the lines of accountability by confusing policy details with operational matters. For example, Hepplewhite, her successor Ann Chant, and also other senior civil servants, were frequently asked to justify elements surrounding the formula, only to be left to explain that it was created by the Government and agreed by Parliament, before the Agency was established. Yet her attempts were fruitless, and blame continued to be levelled upon her. Public blame aimed towards Hepplewhite reached such an extent that she felt the need to engage in 'sofa diplomacy', undertaking day-time Television interviews whereby she was frequently challenged on matters that were a result of the legislation, rather than the operation of the policy. The use of 'next-steps' agencies had blurred the lines of accountability, providing a screen for the Government to hide behind. When it became clear that the CSA had failed to achieve its key targets, and in the wake of revelations that a team of management consultants had been called in to review the management of the Agency, Hepplewhite resigned in September 1994.

8.5.3 Unrealistic Time-frames Allotted, and Inadequate and Inappropriate Resources Assigned

As we highlighted in our legislative chapter, the speed and haste with which the Child Support Bill passed through Parliament was astonishing. As King and Crewe rightly stated when discussing the CSA, 'the Treasury was… in a hurry' with elements discussed 'at breakneck speed'. (2013, 83). This speed continued into its operation. Just as haste contributed towards ineffective parliamentary scrutiny, the unrealistic time-frames imposed upon the Agency further steered it towards failure. As Hill observes, 'The CSA ran into considerable difficulties, primarily because of the haste with which the government expected it to introduce the scheme and the deliver results.' (1999, 172). However, this was not something that only became apparent hindsight, Sir Michael Partridge, the Senior Civil Servant, who had taken responsibility for devising the policy, had realised this at the time. As Partridge stated:

> *I myself wasn't very keen to tackle this because I could see it was going to be an*
>
> *enormous task… it was a very tight time scale, which ideally should have been about*
>
> *a year longer to get all the staff trained and the IT system fully tested before we*
>
> *went live* (Can't Pay, Won't Pay, 1999).

The Treasury gave the Department of Social Security less than a year to appoint a Chief Executive, assign seniors managers, recruit and train 5,000 staff, and design and install a highly

complex computer system (King and Crewe, 2013, 84). The Agency began operation on the 5 April 1993 but the training of its 5,000 staff did not start until early that year, and in some cases was not complete until after the Agency was operational (Garnham and Knights, 1994, 55). Field staff (those acting as the local contact point for the client, undertaking sensitive client interviews, and gathering information which cannot be conducted via post of telephone) only had three or four weeks training, including just one week training on interviewing skills. This can be seen as insufficient training, especially since most of the staff had been recruited from outside of the civil service and had no prior experience of dealing with the type of work they were being asked to undertake. This had been a deliberate strategy. Instead of re-training Liable Relative Officers, who had vast experience of dealing with child maintenance, the decision was made to 'have a fresh start' to foster a new attitude towards maintenance collection. However many of the new recruits were straight out of school and in their first job. They were ill-equipped, too inexperienced, and lacked the confidence to manage the demands placed upon them,[26] such as speaking to angry or distressed parents regarding highly emotive issues (Davis *et al*, 1999, 64). Some Field Officers within the Agency were highly critical of the Agency's approach to recruitment. As one Field Officer noted: 'They took on brand new staff into new centres, they were inexperienced with casework and they were almost all very young.' (Field Officer, Bristol, quoted in Davis *et al*, 1993, 64).

Ironically the combination of new staff, new Agency, new legislation, and new environment proved a difficult one, and resulted in Liable Relative Officers being called in to help clear the substantial backlog of cases after just six months (Barnes *et al*, 1999, 18). The unrealistic time frames which meant that Agency staff were not adequately trained, can also be seen as the Agency not having the adequate resources to operate. One of the reasons why the Agency failed to meet its customer service target was due to its inadequately trained and inexperienced staff. The Agency did not have the resource of 'sufficiently trained staff' due to the inflexible recruitment time-frame.

Not only was the time-frame for setting up the Agency detrimental to the policy, but the time-frame within which CSA staff were expected to process cases was also unrealistic. This issue of inadequate time-frames also feeds into the problem of setting inappropriate targets; both are closely connected but warrant separate discussion. Staff were given between six and twelve weeks to process cases. Figures for its first year in operation showed that it was taking an average of seven weeks just to complete the final stages of the process (Garnham and Knights, 1994, 60). As we highlighted above, clearance rates were poor, there were a high number of outstanding cases, and enquires were not met within the targeted time-frame. Whilst we do acknowledge other issues, such as problems with the computer system, we can argue that these 'poor clearance rates' were a result

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[26] This was highlighted by the Agency staff that was interviewed by Davis *et al* (1999).

of inappropriate performance indicators and an unrealistic time frame. The low accuracy rates, which we highlighted above, can also be attributed to both inadequate resources (staff were not sufficiently trained) and impractical time-frames (undertrained staff were forced to processes cases too quickly). These impractical and damaging timeframes which the Agency could not meet appeared to be an operational failing, but in reality they were once again issues relating to the creation of the policy, and beyond the control of the Agency.

8.5.4 Lack of Trial or Simulation Runs

The complex and ambitious proposals set out in the 1991 Child Support Act would have substantially benefitted from a pilot run, though as King and Crewe state, there was 'no testing of the proposition' (2013, 85). Piloting or simulation runs would have highlighted the problems with the IT system, the difficulties of applying the formula, insufficient training of staff, and the naivety of the targeted time it would take to process a case. Isolated pilot runs might have also highlighted the degree of opposition and public unrest that the policy was likely to attract. Ombudsman Reports documenting investigations into complaints received by the public regarding the maladministration of the Agency concluded that:

> *Maladministration leading to injustice is likely to arise when a new administrative task is not tested first by a pilot project, when new staff, perhaps inadequately trained, form a substantial part of the workforce – where procedures and technology supporting them are untired – and where quality of service is subordinated to sheet throughput.* (Parliamentary Commissioner for Administration, Third Report, 1995-1996, Investigation of Complaints Against the Child Support Agency, 1996, p.iii, para 5.)

If piloting had been undertaken, then the problems which many predicted at the consultation and parliamentary stage would happen could have been identified thus limiting the potential fall-out, and there would have been sufficient time to alter the policy accordingly. However the strict timeframe and a motivation of yielding financial gain did not permit this valuable procedure.

8.5.5 Ineffective Parliament

The issue of an 'ineffective parliament' was discussed in great detail in Chapter Six, therefore to avoid repetition this section will only outline the issue. Speaking after the introduction of the Child Support Act, and with the benefit of hindsight, many acknowledged the Parliament's failure to undertake effective scrutiny. As one MP acknowledged:

'Our scrutiny process at the time of the Child Support Bill was defective. Many of us simply did not realise what was to follow implementation… we did not realise how drastic the change would be' (Alan Hazelhurst, MP, February, 1994, quoted in Garnham and Knights, 1994, 101).

Similarly, a key player in the creation of the CSA arrived at:

'Looking back on the course of parliamentary proceedings, I can say that the Bill was not adequately debated by MPs. There had been much lobbying by pressure groups but amazingly large silence from MPs of all parties… just read Hansard to see how sparse were the comments in the House'. (Quoted in Garnham and Knights, 1995, 27).

In the case of the failure of the 1991 Child Support Act, and the Child Support Agency, Parliament – and the House of Commons in particular – failed to undertake its duty (King and Crewe, 2013, 361). The House of Commons needs to accept its role in the policy's failure; it did not create the policy, yet neither did it undertake its parliamentary function by providing it with sufficient scrutiny. The formula was created by the Government and agreed upon by Parliament. The issues which filled MPs postbags, and which many MPs were now 'up in arms' over, had received their consent. Careful reading of the Bill would have uncovered that the Child Support Agency would be applied in retrospect, over-riding previous maintenance arrangements. It would also have revealed that the formula failed to take into consideration contact expenses, travel to work expenses, and second families. Yet, as we highlighted when we looked at accountability, continually, unjust criticism was levied on the Agency, whilst the complicit role of Parliament was ignored.

8.5.6 Unengaged, Ineffective Opposition, Motivated by Political Blame Avoidance

Another component is the role of an unengaged, ineffective Opposition that was motivated by blame avoidance. This point is an element of the above point, an ineffective Parliament, and was also discussed at length in Chapter Six. So again, we will simply provide a cursory overview. The role of the Opposition was limited; it did not provide an effective check-and-balance upon the Conservative Government by opposing a foreseeably flawed policy, but was instead motivated by 'blame avoidance'. In effect, Labour provided it with cross party support and eased it through Parliament. As Michael Jack MP, Social Security Minister, stated in a Television interview:

'I wish the Labour Party had pushed us harder in the detail committee scrutiny of the subsequent parliamentary stages on the Bill because I think it really does help to make you think, in terms, particularly, of the practical implications of the measures.

It would have been nice to have been pushed a bit harder'. (Punctuation added, Michael Jack MP, Social Security Minister, "Can't Pay, Won't pay", 1999).

Peter Kemp (Second Permanent Secretary, Cabinet Office, 1988-1992), also highlighted the lack of opposition and scrutiny the Bill received: 'everybody was in favour of this thing... So I don't think it got the proper scrutiny that it should have got.' (Punctuation added, Peter Kemp, Second Permanent Secretary, Cabinet Office, "Can't Pay, Won't pay", 1999).

But as we demonstrated in our previous chapter, Labour was aware of the flaws within the policy[27], yet still offered its overall support. While serious flaws were apparent in the Bill, the Government's emphasis of the principles underpinning the policy, and the Opposition's lack of a viable alternative and its desire not to appear against 'family values', meant that any concerns were muted. In the case of the Child Support Bill, the Opposition was not willing to stand against a policy that was received favourably by the media and seen as *'putting children first'*. Furthermore, the Parliamentary majority held by the Conservatives meant that Opposition support was not needed. Consequently Labour, saw no benefit in opposing the policy, therefore initial concern morphed into lazy support during the process.

As we stated in our previous chapter, although the Conservatives enjoyed a sizable majority and therefore did not need the support of the Opposition to pass the Bill, the Opposition was not powerless. If the Opposition had listened to the concerns of pressure groups and the House of Lords, it would have realised that there was were serious concerns about the Bill. Although Labour did not have the parliamentary power to prevent the Bill's passage, it could have placed more pressure on the Conservatives by highlighting their concerns publicly, and thereby attract the attention of the media. The support provided by Labour was certainly not wholehearted, but it was sufficient to ensure that the flawed Bill successfully completed its passage through Parliament.

8.5.7 Ineffective Pre-legislative Scrutiny

As Graham Allen MP states, effective pre-legislative scrutiny (performed from both inside and outside of Parliament) is an effective mechanism that would lead to the creation of better legislation. As Graham Allen noted with reference to the 1991 Child Support Act:

The more voice that are allowed to be heard, the more likely we are to get the ideas to make good legislation even better. Many of the legislative disasters that governments have imposed on Parliament… could probably have been avoided. To

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[27] See for example the initial opposition voiced by Michael Meacher, the Shadow Social Security Minister, which highlighted many of the Child Support Bill's flaws.

refer to my own experience, I led for my Party in opposition on to the Child Support
Act 1991, which has to be re-written about five times. I have no doubt that had we
had a sensible process of pre-legislative scrutiny – either online or offline – and had
we listened to the practitioners and to those whom it affected, we would have been
able to make that law far better, far earlier. (HC Debates, 6 January, 2004, col
2WH).

As Graham Allen highlighted, the Child Support Bill received inadequate pre-legislative scrutiny, and this was a contributing factor to the policy's failure.

The 1991 Child Support Act did have a form of pre-legislative scrutiny, because the House of Commons Social Security Committee sat between January and June to consider the White Paper, *Children Come First*, and the Child Support Bill. However, this was at the same time as the Bill was already proceeding through the House of Lords, and hence the Committee's ability to influence the debate was somewhat limited. For example, the Government only responded to the Social Security Select Committee's recommendations in October 1991, by which time the Act was on the statute book (Garnham and Knights, 1994, 39). However, as stated in our previous chapter, after undertaking preliminary scrutiny and digesting some of the evidence received from various organisations and individuals, the Committee felt the need to produce an interim report (The Second Report) to make some of their immediate concerns known to the House of Commons whilst it was still formally considering the Bill.

The Committee voiced deep concern over the impact that the retrospective application of the policy would have on those individuals who had reached divorce or 'clean-break' settlements prior to the introduction of this legislation, and recommended that provision be made in the Child Support Bill to take into account divorce settlements that involved a capital settlement in lieu of child maintenance (Para 13, Second Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 30 April, 1991). But yet again, recommendations were disregarded and the Treasury's economic agenda triumphed. The Third Report, as stated in Chapter Six, was dampened to that of 'a cautious welcome' (Third Report, Changes in Maintenance Arrangements, Social Security Committee, Session 1990-91, 1991, 4). The Report raises some of the issues mentioned in the interim report, yet these were articulated with far less vigour. For example, the inclusion of a benefit penalty was discussed more favourably by the Committee.

While the Social Security Select Committee examining the Child Support Bill was an attempt to provide another level of scrutiny, its effectiveness and influence was limited. Though the Committee took evidence for a number of noteworthy individuals and organisations, and discussed

the Bill's features in considerable detail, its influence on parliamentary debate was limited. The Committee also failed to debate some of the issues that contributed to the creation of a fundamentally unworkable policy. As Garnham and Knights note: 'Even though substantial evidence had been given by DSS officials, the Committee failed to comment upon the emphasis on expenditure savings targets' (1994, 39). We could go as far as suggesting that its function was little more than a 'talking shop'. Putting the Bill to the Social Security Select Committee appears to have been a mechanism used to paint the image of a policy that had been scrutinised and therefore more accountable.

8.5.8 Unclear, Complex, Ill-throughout Policy Details

As we have stated above, the CSA experienced a vast amount of administrative and staff management problems. During its first year in operation, of the 1,380 cases examined only half received correct maintenance assessments, and only one in seven had been dealt with according to the correct and approved procedure of calculating payments (Barnes *et al*, 1999, 17). By the end of January 1994, 16,600 case reviews had been requested on the basis that they were incorrect; of the 5,800 that were processed, in approximately half recalculations and revisions were made (Garnham and Knights, 1994, 61). In large part, these errors can be attributed to an overly complex formula, one which was described by CSA staff themselves as 'confusing, complex, ambiguous, and in many ways intimidating and off-putting, too long, and daunting' (Garnham and Knights, 1994, 59). As Peter Lilley confessed, 'the policy was over ambitious and over complex and that made it almost guaranteed to run into problems' (Peter Lilley, Interviewed by author, 11 July 2011). The system of assessment and formula was over-complicated; staff experienced difficulties in interpreting the rules for assessment, the guidelines for appeals, and the method of assessing arrears.

It was argued that the application of universal formula to child maintenance would deliver uniformity of treatment across individual cases, and hence eradicate the problems experienced under the previous court system, but in reality 'individual claims to justice collide with the rigidities of formulaic assessment' (Davis *et al*, 1998, 222). The rigidity of the formula was unable to be effectively applied to the nuances of contemporary arrangements and family circumstances. The formula could not handle the complexity of reality. For example, individuals with frequently changing circumstances, those with informal maintenance commitments (such as payment of mortgage, or the payment of private education), those with frequently changing employment and relationship status, those with complex housing costs and arrangements, and those undertaking shared custody of the child(ren). The formula assumed that individuals and circumstances were far more fixed than reality proved. As Davis *et al* state: 'As a result we observed request for change of

circumstances reviews chasing each other through the system, each one becoming obsolete before it was complete' (1998, 222-223). Therefore the data needed to be considered by CSA staff assessing maintenance claims was in a constant state of flux. The formula also received widespread opposition due to not including second families, private pension contribution, debt repayments, and travel to work costs, in its exempt income.

As we highlighted above, the root of public unrest, media hostility, and political opposition to the CSA was due to the impact of the formula. The formula, which was frequently producing absurd maintenance assessments, in one example leaving an absent father with only £3.00 a week to live on (*The Sunday Times*, 21 November, 1993), was seen as responsible for pushing many absent parents into poverty, and in some cases, resulting in the absent parent not having enough money to maintain contact with their children (Garnham and Knights, 1994; Barnes *et al*, 1999; Davis *et al* 1998). The financial impact was also felt by parents with care, for some, the loss came as a result of maintenance taking them just above Income Support levels, which meant that they lost 'passported' benefits. For other it was not only having their maintenance deducted pound for pound from their Income Support but also losing informal financial support from the absent parent.

8.5.9 Ineffective Consultation

As demonstrated in Chapter Six, considerable doubt can be raised over the legitimacy of the consultation period, and the degree to which the Government acknowledged the concerns and criticisms expressed. The quality of the consultation responses were commendable, but the manner in which they were received was poor. Several responses prophesied the failure of the CSA and warned the Government against many of its proposed features. However, the Conservative Government was very dismissive of expert organisations and pressure groups, and very reluctant to modify the policy to take into account the comments of others. In many respects, the 'consultation' period can be viewed as a façade. The unwillingness of the government to consider the expertise offered in many of the responses to the White Paper was to the detriment of the policy. The problems were foreseen by many, but ignored by Government. The arrogance of particular policy-makers, and their refusal to reassess many of the policy's elements, played a vital role in the subsequent failure of the CSA.

8.5.10 Uninformed Anticipated Reaction, a Deficit in Deliberation[28], and a Cultural Disconnect

According to King and Crewe, 'The CSA was the bastard child of Whitehall infighting between the Treasury and the Department of Social Security, not the child of a more public process of

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[28] A phrase used by King and Crewe (2013).

deliberation' (2013, 387). King and Crewe stress that a contributing factor to some cases of policy failure is the presence of a 'cultural disconnect', and that, '[t]he Child Support Agency… was an almost classic instance of cultural disconnect at work' (2013, 387). King and Crewe highlighted policy maker's ignorance regarding of the lives of a large proportion of the people to whom the CSA would be applied. They argued that policy-makers were totally ignorant of a world in which children often had multiple fathers, and one-night stands or casual relationships were frequent. One senior policy maker at the DSS confessed in an interview with King and Crew, that he had been surprised by the large numbers of women claiming, probably truthfully, that their children had three, four, or five different fathers. 'We hadn't appreciated that very large numbers of people, both women and men, now lead very complicated lives' (quoted in King and Crewe, 2013, 247). A more informed understanding of the complexities of people's lives– a lack of a cultural disconnect – might have steered the Government away from introducing such an inflexible and restricted (in terms of what was included in the 'exempt income') formula. King and Crewe also suggest that an informed understanding, and more engaged public deliberation, 'would have almost certainly have thrown up the obvious fact that some absent father would not pay, that many of them could not pay and that some already made their own arrangements' (2013, 387). Public deliberation would have led policy makers to realise the degree of resistance and opposition which the policy was likely to receive.

Yet the details of the policy, and the rejection of concerns raised both at the consultation stage, and voiced in the House of Lords, demonstrates that the anticipated reaction was either ignored, or naïve. The absence of a maintenance disregard, and the decision to prioritise cases in which the parent with care was in receipt of benefits removed the moral legitimacy of the policy, and void it of its claim of '*putting children first*'. Many quickly came to realise that they were not going to derive any personal financial benefit, and in many cases they would be at a financial loss as a result of reassessment. As a result, many condemned the policy for not benefitting anyone other than the Treasury, and therefore refused to co-operate with the Agency (King and Crewe, 2013, 387). The degree to which there might be opposition to, and non-co-operation with, the Agency was not deliberated by policy-makers. As Davis *et al* state: 'To the framers of the legislation it appeared self-evident that the principle of requiring absent parents to support their children was one that would command widespread support. To the extent that this principle was not supported, they meant to bring about cultural change' (Davis *et al*, 1999, 221).

The policy making approach adopted by the Conservatives at this time was that of the obligations of single parents and absent fathers, rather than that of encouragement to co-operate. Not only did policy makers fail to consider the real life impact the Agency would have on people's lives, they also failed to 'appreciate that cultural change cannot be achieved simply through the

imposition of a new tax' (Davis *et al*, 1999, 221), someone other than the Treasury had to be seen to benefit. As Davis *et al* superbly summarise: 'If the Treasury interests had not been so dominant, and if parents with care and their children had been allowed to benefit to some degree, it is likely that the CSA would have attracted greater support. This in turn may have eased its administrative burdens' (Davis *et al*, 1999, 221). A 'deficit in deliberation', a cultural disconnect, and a naïve anticipated reaction, led policy-makers to pursue a policy that was unlikely to obtain public support and co-operation. However, this could have been avoided, greater consideration of the concerns raised by charities and pressure groups, better engagement with the public, involvement of those who had prior experience of collected child maintenance (Liable Relative Officers), and the use of piloting would have uncovered the degree of opposition and resistance the Agency was likely to receive.

8.5.11 Policy Based on an Inaccurate Theory of Cause and Effect

This point is linked to the above, 'uninformed anticipated reaction, a deficit in deliberation, and a cultural disconnect' point, though it speaks more to the desired outcomes of the policy. At the heart of any policy is an understanding that if we do X then Y will occur. It is this desire for Y that informs the building of the mechanism that creates X. In the case of the 1991 Child Support Act, this is a complex point, as there were conflicting desired outcomes. The involvement of the Treasury robbed the policy of its ability to have a clear theory of cause and effect. As demonstrated in Chapters Four and Five, inter-Departmental and inter-Ministerial battles occurred over the policy's objectives, and many of the policy's true intentions were hidden under a veil of rhetoric. The desired outcomes of Thatcher and the Treasury were at odds with that of Newton and Mackay. However, as Chapter Five claimed, Newton and Mackay did not have the sufficient power resources to uphold their policy. However their theory of cause and effect, that CSA would lead to absent fathers taking more responsibility and to create a fairer system for the children, was internally now detached from the policy that was created, despite being publically maintained to win support for the policy. Instead, if we take the objectives of Thatcher and the Treasury, as they were the objectives that triumphed and embedded themselves into the policy, we see that an inaccurate theory of cause of effective was present. Their desired objective was to cut public expenditure, as Peter Lilley stated, 'it was unashamedly to transfer the responsibility away from the taxpayer' (Peter Lilley, interviewed by author, 11 July 2011). However, their assumption - the policy would reap great financial reward - was misplaced. In fact it had the opposite effect and instead took from the Treasury's purse. This conflict over outcomes meant that at the heart of the policy was an inconsistent idea of what needed to be done. Therefore, the covert desires of the Treasury being embedded into the policy 'under the nose'

of Newton and Mackay lead to a disconnect in the chain of cause and effect. Irrespective of which chain we follow (either the Thatcher/Treasury revenue stream or the Newton/Mackay responsibility stream) neither was fit to achieve the desired outcomes. As Pyper suggests, 'when a policy is based on an invalid theory of cause and effect is a 'bad' policy. A 'bad' policy cannot be properly implemented simply because it is based upon a poor understanding of the problem being addresses and the extent to which it can be resolved' (Pyper, 1995, 101). In the case of the 1991 Child Support Act, it was not only that it was based on an invalid theory of cause and effect, but also it was conflicting attempts at obtaining versions of cause and effect, which led it to be a 'bad' policy.

8.5.12 Inadequate Research Undertaken, Alternative Options Not Fully Considered

As Chapter Four argued, the formation of the 1991 Child Support Act was the result of 'incoherent dual policy transfer'; an inconsistent mix of the DSS's attempt to introduce an appropriate, complete, and informed, well researched, policy transfer from Australia, and Thatcher and the Treasury's determination to introduce what an incomplete, inappropriate, uniformed, and poorly researched, policy transfer from America. Whilst Newton and Mackay strived to introduce the Australian system, the policy that was created was a rejection of many positive elements found within that system, Thatcher and the Treasury refused to fully consider alternative options. Several of the problems which the CSA faced were a direct consequence of Thatcher and the Treasury's uninformed perception of the CSES, the pick-and-mix manner in which components were transferred, and a disregard for social, political, and cultural difference between the two countries.

There was inadequate research and understanding of the policy, its goals and its operation in its original country. There was also insufficient understanding and consideration of the economic, political, social, legal, and ideological differences between the two countries. As a result of poor research, 'crucial elements' of the policy were missed or ignored, and 'inappropriate elements' were include in the transfer process. Chapter Four also highlighted that the Thatcher Government's New Right ideological outlook shaped what it extrapolated from the Wisconsin system 'to such an extent that it was able to ignore the problematic operational realities of the system in favour of its ability to help advance their ideological rhetoric' (Dolowitz, 2001, 378). Thatcher's strongly ideological perspective meant that she possessed an inaccurate understanding of the policy. Thatcher was in such awe of the policy's apparent ability to achieve aspects of her New Right agenda that it obscured the operational reality of the policy. Another reason as to why there was inadequate research was the haste to which Thatcher wanted to produce a policy to present to Parliament. As Sir Peter Kemp, recalled: 'It happened so fast, she wanted it' (Second Permanent Secretary, Cabinet, 1988-1992, "Can't Pay Won't Pay, 1999). Political hyper-activism had overcome Thatcher, and as a result she

was bypassing appropriate policy-making procedure in order to quickly bring about change. As a result, the practical failures and negative effects of the CSES were either disregarded or not recognised, and the system was viewed as desirable to emulate in Britain.

8.6 Summarising the Roots of Failure

The Child Support Agency was rushed through Parliament, checks-and-balances were undermined, opposition scrutiny was absent, consultation was a rubber-stamp process, a trial-run was rejected, and warnings were continually ignored. The policy was based on multiple, inconsistent and hidden objectives. There was incomplete, inappropriate, uninformed, inadequately researched 'dual policy transfer' taking place. The separation from accountability led to unrealistic targets operating on a farcical time frame. The 1991 Child Support Act was imbedded with flaws; the Child Support Agency was prescribed to failure, operational failure was inevitable. As Emma Nicholson, Conservative MP, declared at the time of its establishment, the Child Support Act is 'a tripartite prescription for chaos, slackness and slowness' (Hansard, HC Debates, Vol. 195, col 536, 18 July, 1991). The Child Support Agency has been placed under intense scrutiny, but it was the policy design that needed to be placed under intense scrutiny, not the product of the policy. The flaws in the legislation were deep-seated, partly, as we saw in Chapters Four, Five and Six, as a result of the Treasury's power, and never ending victories, over the DSS. 'Ministers as well as officials in the DSS found themselves saddled with the task of implementing, or trying to implement, via the Agency, a policy markedly different from the policy they had originally devised' (King and Crewe, 2013, 283). However, the policy was not only the failure of Newton and Mackay to introduce a policy that aimed genuinely to '*put children first*'; it was also a complete disaster in terms of raising revenue. As King and Crewe state: 'In terms of raising revenue and improving the health of the public finances, the Treasury had shot itself in both feet – expect that the DSS was left holding the gun'. (2013, 89). However, as we have discussed above, in our view, it was the Child Support Agency that was unjustly left '*holding the gun'* and absorbing the blame.

8.7 The Idea of 'Perfect Legislation'

The chaos, and 'complete shambles', of the 1991 Child Support Act is not only interesting in its own right, but it may also be taken as a representative example of policy failure in the UK. The aim of this thesis was not only to understand why the 1991 Child Support Act failed, but to gather an understanding how a fundamentally flawed policy can be formed and passed through Parliament with cross-party support. Therefore, not only to understand the root behind the CSA's failure, but to see what insight could be gained, or lessons learnt, to provide us with a greater understanding of the

deficiencies of the UK policy making process – what leads to the creation and passage of flawed policies. Then see if we could use this insight to help prevent policy mistakes in the future.

Instead of utilising the idea of 'perfect implementation' and deeming it as 'unattainable', we should instead be striving for 'perfect legislation', which arguably, is 'attainable'. Unlike scholars that propagate 'perfect implementation', this thesis does hold a normative tone, and believes that this should not be dismissed as something that is unattainable, instead actively pursued as something that is desired. Whilst fully acknowledging that the criteria for 'perfect implementation' are unattainable, this is due to the stage at which they are pursued, many of them *are* in fact attainable when pursued at the appropriate stage. This view is explicitly prescriptive, arguing it would lead to fewer policies being exposed as 'failures' at the 'implementation stage'. This approach agrees that 'perfect implementation', or rather the criteria for perfect implementation, is unattainable, if assessed at this stage. The implementation stage, whilst making failures apparent, is ill-placed for assessing why a policy has failed. However, when placing the criteria at the start of the policy-making process then the criteria are achievable. How a policy performs during implementation or in operation is not a result of chance, but a result of the policy itself. We should not wait until the implementation to then face the realities of the policy. An assessment of the root of the problem experienced at implementation will, as it does in our case study of the 1991 Child Support Act, inevitably be linked back to the formation of the policy. That is why we should be using the idea of '*perfect legislation*' rather than '*perfect implementation*'. It is necessary to be proactive rather than reactive, and apportion blame appropriately.

The criteria for 'perfect legislation' are set as the following (**Figure 8.1**):

Figure 8.1 Criteria for 'Perfect Legislation'

Criteria for 'perfect legislation'
Effective Parliamentary Scrutiny
Engaged Opposition, Motivated by more than Political Point Scoring or Blame Avoidance
Thorough and Effective Consultation
Effective Pre-legislative Scrutiny
Informed Anticipated Reaction, No Deficit in Deliberation or Cultural Disconnect
Adequate Research Undertaken, Alternative Options Considered
Adequate and Appropriate Resources Assigned
Clear Lines of Accountability
Realistic Time-frames both in passing of Bill and Delivery of Act[29]
Attainable Targets and No Operational Disconnect
Unclear, Complex, Ill-throughout Policy Details
Effective Checks and Balances within the Core Executive[30]
Clear Aims and Objectives with the 'Problem' clearly defined
Policy Based on Accurate Theory of Cause and Effect
U-Turns Not Dismissed/Perceived as Weakness (Policy Learning Encouraged)[31]
Piloting, Trial or Simulation Runs

8.8 Conclusion

The formation of the legislation is the bottle neck of policy success or failure. Criteria that are indeed unattainable at the implementation stage *are* attainable at the legislation stage. The responsibility should not only be placed on Ministers to draft an effective piece of legislation, rather it is also the duty of Parliament (and others) to ensure the flaws are detected and voiced. As King and Crewe state: 'Government ministers are not the only ones to blame. As a legislative assembly, the Parliament of the United Kingdom is, much of the time, either peripheral or totally irrelevant. It might as well not exist.' (2013, 361).

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[29] A point made by Dunleavy when highlighting the 'fastest law in the west' syndrome that was present, and contributing to the creating of policy disasters in British policy making (Dunleavy, 1995, 60).

[30] Again, another point that had previously been made by Dunleavy and in his work on policy disasters (1995, 64).

[31] Whilst we have not discussed 'U-Turns Not Dismissed/Perceived as Weakness (Policy Learning Encouraged)' in our application to the first few years of the Child Support Agency, this criteria does apply when we assess the continuing operation, and amendments and reforms made to the policy, and the policy area.

One of the tragedies with the 1991 Child Support Act is that lessons were not learnt, but in fact repeated and compounded by subsequent Governments in further iterations of the Child Support Agency. Subsequent changes were more concerned with limiting political damage, driven by blame avoidance, or political gain, not by the desire to undergo 'leaning' and remedy a failing policy. If we are not to repeat the mistakes of this policy, or any failed policy, the 'perfect legislation' criteria should be strongly considered as an appropriate framework to guide policy-makers through the complexities of policy making by placing the legislative stage at the heart of the policy making process. This criterion would not only reduce the creation of flawed policies, it would also prevent foreseeable, and foreseen failures passing through Parliament with cross-party support and relative ease.

The field of policy studies, and especially the study of policy failure, seems to understate the role of policy design and legislation. As highlighted in Chapter One, the literature that looks specifically at policy design, formation, or legislature is somewhat limited, especially when placed beside the wealth of literature on the other stages; it can be argued that legislation and policy formation has become the new 'missing link'.

Conclusion

The thesis has demonstrated that the failure of the CSA was a result of Thatcher and the Treasury hijacking a policy pursued by the Department of Social Security and Lord Chancellor's Office. It has shown that Thatcher and the Treasury utilised Newton and Mackay's image, 'problem' and policy, as a mechanism to achieve their neo-liberal economic objectives. The thesis discussed the 'battles' that took place, each time showing that Newton lacked the power resources to resist their demands, leaving Newton to introduce a policy that was remarkably different to the one that he had envisaged. This thesis has also shown that throughout the policy's formulation and during its passage through Parliament, Ministers, Senior Civil Servants, Peers, and the Opposition foresaw the policy's failure, yet did nothing. This thesis has highlighted the root the CSA's failure, illuminating the inadequate scrutiny that occurred throughout the process.

Each chapter focused on a distinct stage of the policy-making process, drawing on and engaging with different bodies of literature. Chapter One provided the intellectual basis and methodological approach for the study. It argued that the 'stages heuristic' has not outlived its usefulness in policy analysis, but rather remains a valuable framework to utilise when undertaking research into the policy-making process. It stressed that the purpose of this study was to undertake both an 'analysis *of* policy', and 'analysis *for* policy', this being the view that the field of policy analysis should use its knowledge of policies, and policy-making process, to improve the policy-making process and/or policies.

Chapter Two set the scene for a deeper understanding of the context in which the 1991 Child Support Act was formulated, and how the 'problem' was constructed. It provided an historical and contextual background, looking at the trends relating to lone-parent families in Britain. This Chapter demonstrated that the period preceding the creation of the 1991 Child Support Act was one of considerable change, not only in terms of the changing landscape of lone-parents, but also a change through the introduction of New Right ideas within the Government and the popular press.

Chapter Three focused on the problem definition stage. It demonstrated that the developments highlighted in Chapter Two fed into how the 'problem' was defined, how the policy was represented, and subsequently, how policy makers utilised 'problem representation' as a power resource to pave the path for successful passage of the policy. In the case of 1991 Child Support Act, this Chapter highlighted that were considerable links between how the problem was defined and the policy's subsequent failure. This Chapter argued that there were numerous actors in the policy-

making process, each viewing the policy through a different frame, and thus attaching different definitions of what the problem was that the policy sought to rectify. The Chapter highlighted that there was an unclear definition of the 'problem', which led to ambiguous and incompatible aims and objectives being contained within the Bill. The Chapter argued that it is important to view 'problem representation' as being different to 'problem definition', and indeed how 'problem representation' is a tactic used to mask true motives and objectives. The Chapter ended by arguing that Thatcher and the Treasury deployed this strategic use of ' problem representation' to frame the debate in terms of parental responsibility to children and an attempt to remedy a failing system. It demonstrated that Thatcher and the Treasury hid their definition of the problem under the problem identified by Newton and Mackay, using language and imagery that not only garnered popular support, but also limited any potential opposition. It stressed that even before the formal policy-making process had begun, the roots of policy failure had started to spring.

Chapter Four began the examination of the formation of the 1991 Child Support Act. It assessed the role of Policy Transfer in both the creation and failure of the Act. The Chapter argued that in the case of the 1991 Child Support Act it was not exclusively a case of policy transfer from one country to another. Instead, this Chapter argued that what took place was 'incoherent dual policy transfer': an inconsistent mix of the DSS's attempt to introduce an appropriate, complete, and informed policy transfer from Australia, and Thatcher and the Treasury's determination to introduce what was incomplete, inappropriate, and uninformed policy transfer from America. The Chapter argued that there was no condensing process, whereby a strategic plan was devised to integrate elements of both policies; instead both groups of actors fed directly into the new policy. It ends by suggesting that Thatcher and the Treasury allowed the DSS to undertake policy transfer from Australia, only to undermine it by injecting parts of their policy, as the policy presented by the DSS seemed more likely to win support. It suggested that Thatcher and the Treasury allowed 'incoherent dual policy' transfer to occur, using it as a convert, strategic tool to embed their desired attempt at policy within that of the DSS and LCOs', just as they did with their definition of the problem.

Chapter Five focused on the role power within of the core executive, and its impact on the formation of the 1991 Child Support Act. It stressed that in the drafting of the 1991 Child Support Bill, there were two strands of thought, and that these conflicting perspectives reflected the objectives pursued by different Government Departments and Ministers. It assessed the imbalance of power, looking at how divergent agendas gained position within the single policy. It evaluated the power resources (that of direct, indirect, and misdirected power) that Thatcher and the Treasury utilised to successfully push through their Treasury driven agenda. The chapter also discussed the power relations and 'battles' that occurred within the core executive, proving an understanding of

why Newton introduced a policy despite not entirely agreeing with the details. This Chapter stated that while the fundamental policy proposal of Newton and Lord Mackay was maintained, the detail inside the Bill was controversial, ill-judged, and contradictory to the original aims, due to Thatcher and the Treasury's involvement. The Chapter ended by advancing upon Kingdon's idea of 'policy windows' (1984), demonstrating that Thatcher and the Treasury were aware that their approach would be unlikely to obtain support and lead to the desired policy change, and so they concealed their 'problem stream' and 'policy stream' within that of Newton and Mackay's.

Chapter Six examined the legislative process, assessing it as the significant contributing factor in policy failure. It argued that the consultation process was merely a 'rubber-stamping' exercise and that the Parliamentary scrutiny process was both undermined and inadequate. The Chapter argued that the plethora of administrative and implementation problems that the CSA faced could all be accredited to the policy itself. The Chapter's assessment of the consultation process demonstrated that several pressure groups highlighted the problems which the CSA would face, but these concerns were received with disdain by policy makers. It then moved to examine the House of Lords stage, highlighting that they too raised a number of concerns over the detail of the Bill. The Chapter also discussed the role of the House of Commons, arguing that it proved to be an ineffective source of checks-and-balance, ultimately allowing a flawed policy to pass through its chamber. The problems experienced by the 1991 Child Support Act were identified at consultation, during the House of Lords stage and, in large part, at the House of Commons; the problems were foreseeable, foreseen, but ignored. The Chapter also assessed the role of the Opposition, stating that the scrutiny they performed was motivated by 'blame avoidance', therefore limited, ineffective, and inadvertently undermining and devaluing the process of Parliamentary scrutiny. It demonstrated that the failings of the Parliamentary scrutiny process allowed a 'bad Bill' to become a 'bad Act', paving the path to policy failure.

Chapter Seven provided the conceptual background to this study's approach to understanding implementation, and its relationship to policy formation and policy failure. The chapter is brief, this is because it argued that what has typically been debated within 'implementation studies', such as the idea of 'perfect implementation', are better situated elsewhere in the policy process. The Chapter argued that instead of using the idea of 'perfect implementation', rather the criteria of 'perfect legislation' should be pursued. The Chapter argued that the problems experienced at implementation and operation are in large part due to failings in legislature. It ended by discussing the role of 'next-steps' agencies, and how they have moved the lines of accountability.

Chapter Eight focused on the operation and apparent failings of the 1991 Child Support Act, and highlighted the root of these failings. This Chapter linked back to the work done in previous chapters, reiterating how policy failure was foreseeable and foreseen, but ultimately avoidable. It discussed in turn what not only led to the creation of a flawed policy, but also what allowed it to pass through Parliament with ease. The Chapter argued that formation of legislation is the bottle neck of policy success or failure. It ended by briefly discussing the idea of 'perfect legislation', suggesting it   as an appropriate framework to guide policy-makers through the complexities of policy making, and avoid policy failure.

This thesis has examined the policy-making process of the 1991 Child Support Act. The use of the stages approach, in which this study is framed, has not only facilitated our examination, but also demonstrated its analytical worth. This thesis aimed to be a dual examination, to demonstrate that the stages approach had not outlived its analytical worth in policy analysis, and secondly to provide an in-depth understanding of how a foreseeable and foreseen policy failure was able to obtain cross party support and pass through Parliament unscathed. In so doing, the study has also provided an understanding of what caused the failure, as well as provide possible lessons we can take from this.

Final Thoughts and Scope for Future Research

In undertaking this research project, possible areas for future research have been illuminated. Firstly, extending this study to continue the analysis of the policy-making process to include an examination of the 'evaluation' and 'reform' stages, and looking at the subsequent iterations of the Child Support Agency, assessing whether policy-makers undertook an effective 'learning process' and if not, why. The second area for future study would be too apply the vision of the 'perfect legislation' criteria to another policy, possibly this time assessing a policy success, or another area of policy-making, such as foreign policy, an area that remains relatively understudied by policy analysis. A third area of potential research would be an examination of the scrutiny and accountability process, particularly when a policy is administered through a 'next-steps agency', or 'arms-length body'. Throughout the study of the Child Support Agency, the reoccurring issues that emerged were that of ineffective pre-legislative scrutiny, blurred accountability, and the presence of an 'operational disconnect'. An interesting area of future research would be an assessment of effective mechanisms for pre-legislative scrutiny and involvement of 'arm's length bodies' in the creation of the policy to ensure these recurring issues are addressed.

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Appendix One – List of Organisations Commenting on the Government's White Paper *Children Come First*

Organisation	Response Received
Association of County Court and District Registrars	Yes
Association of Metropolitan Authorities	Yes
Barnado's	Yes
Basildon Council	Yes
Building Societies Association	Yes
British Bankers Association	Yes
British Agencies/Adoption and Fostering	Yes
Bradford University (Department of Applied Social Studies)	No
Bristol University	Yes
British Computer Society	Yes
Campaign for Justice in Divorce	No
Campaign for Work (now Employment Policy List)	Yes
Catholic Family Care Society (Northern Ireland)	No
Chelmsford Women's Aid	No
Chief Adjudication Officer – Social Security Legislation	No
Child Poverty Action Group	Yes
Children's Legal Centre	Yes
Children and Lone Parent Centre (Plymouth)	Yes
Church Action on Poverty	Yes
Citizens Advice Bureau (Scotland)	Yes
Confederation of British Industry (Northern Ireland)	Yes
Convention of Scottish Local Authorities	Yes
Council of Her Majesty's Circuit Judges	No
County Councils Women's Forum	No
Department of Economic Development (Northern Ireland)	Yes
Disability Alliance	Yes
Dudley Law Centre	Yes
Gingerbread	Yes
Gingerbread (Scotland)	Yes
Families Need Fathers	Yes
Family Charter Campaign	No
Family Law Bar Association	No
Family Welfare Association	Yes
Forum of Private Businesses	No
Hammersmith Unemployed Workers Group	Yes
Hillingdon Women's Centre	No
Justices' Clerks' Society	Yes
Lambeth TUC Unemployed Branch	Yes

Law Society	Yes
Legal Action Group	Yes
London Boroughs Association	Yes
Mencap	Yes
Moorpark Lone Parent Group	No
National Association of Citizens Advice Bureau	Yes
National Association of Welsh Medium – Nursery School and Play Groups	No
National Children's Home	Yes
National Commission of Women in Great Britain	No
National Council of One Parent Families	Yes
National Council of Women in Great Britain	Yes
Newcastle University	No
North East Money Advice Centre	No
Northern Ireland Resident Magistrates Association	No
Northern Ireland Family Las Association	No
Norwich City Council	No
One Plus One Parent Families Strathclyde	Yes
One Parent Families York	Yes
Oxfordshire Welfare Rights	Yes
Pay Day	Yes
Payroll Advice	No
Portsmouth Women's Aid Support Group	Yes
Principe Registry of Family Division	No
Save the Children	Yes
Scottish Council for Single Parents	Yes
Scottish Family Conciliation Service	Yes
Scottish Law Commission	Yes
Scottish Women's Aid	Yes
Sheffield University	No
Social Security Advisory Committee	No
Social Security Medical Appeal Tribunals Northern Ireland	No
Soldiers, Sailors, Airmen Family Association	Yes
Solicitors Family Law Association	Yes
Spastics Society (now Scope)	Yes
Step Family	Yes
The Children's Society	Yes
Thamesdown Law Centre	Yes
TUC	Yes
University College London	Yes
Wages for Housework Campaign	Yes
Wandsworth Social Services Department – Welfare Rights Unit	No
Welsh Women's Aid Trust	Yes

West Yorkshire Probation Service	Yes
Women's National Commission	Yes
Women's Aid Federation	Yes
Wythenshawe Law Centre	Yes