

**SINGAPORE COUNCIL OF WOMEN'S ORGANISATION**

**(SCWO)**

**REPORT TO COMMITTEE ON FAMILY JUSTICE**

April 2013

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**MAINTAINING AND SUSTAINING THE FAMILY – SCWO' s  
MAINTENANCE SUPPORT CENTRAL ( “MSC” )**



## **1. Background**

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- 1.1 This Report has been prepared by the Singapore Council of Women's Organisation ("**SCWO**"), Singapore's independent national non-governmental organization on women representing 57 women's organisations, at the request of the Committee for Family Justice ("**Committee**") on issues and concerns that we wish to draw to the Committee's attention to with a special focus on Maintenance Support Central ("**MSC**"), an initiative of SCWO.
- 1.2 The Report outlines some positive outcomes on reforms in this area as well as highlights recommendations for future improvement.

## **2. Introduction**

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- 2.1 Between March 2009 and August 2010, SCWO set up a taskforce ("**Taskforce**") to study the state of and propose measures for the effective enforcement of maintenance orders in Singapore.
- 2.2 This culminated in an initial report with recommendations to set up a Maintenance Services Authority, to assist with collection of maintenance arrears through the Inland Revenue Authority of Singapore ("**IRAS**") or an agency with powers akin to IRAS.
- 2.3 The final initiative which received support from the then Ministry of Community Development Youth and Sports ("**MCYS**") is the one-stop drop-in centre or MSC currently housed within SCWO premises which provides support and assistance to improve the enforcement of maintenance orders.
- 2.4 Legislative amendments were also proposed for stricter sanctions against defaulters and some were included in the amendments to the Women's Charter in January 2011.
- 2.5 MSC started its operations on 1 September 2011 and was officially launched on 27 September 2011 by then Minister of State, MCYS, Madam Halimah Yacob and SCWO President, Mrs Laura Hwang.

## **3. Aims and Objectives**

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- 3.1 The Taskforce was of the view the difficulty faced by claimants in recovering maintenance already ordered by the Court should not be viewed as the individual's problem solely or only a private matter between 2 parties. It has the potential of becoming a community problem and a social problem due to the immediate and long-term impact it has on the family and children.
- 3.2 Through its services, MSC aims to address the issues from the point of view of both the claimants and the respondents so as to facilitate a beneficial outcome not just for parties, but for their children as well.
- 3.3 It also has as its long-term goal, the empowerment of claimants not just to rely on maintenance, but to take also steps towards more independence and confidence in his/her ability to survive a marital breakdown.

#### **4. Services Provided**

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- 4.1. MSC renders assistance to men and women who are Singaporeans or Permanent Residents. We also assist foreigners who reside in Singapore and/or have Singapore Court Orders.

##### **Video-link filing**

- 4.2. Claimants are able to file their enforcement applications through video-link filing at MSC, which helps reduce 1 court attendance.
- 4.3. It is the only centre which provides for remote filing of enforcement applications.
- 4.4. To date, MSC has successfully filed 105 applications through video-link filling.

##### **Credit Bureau Reporting (“CBR”)**

- 4.5. CBR can be done simultaneously if claimants wish to have a formal record of the arrears and default by respondents which will serve as evidence for future enforcement applications. In conjunction with DP Credit Group, MSC assists claimants with CBR. As at 31 March 2013, 73 CBR cases were filed.
- 4.6. 64% of the claimants who filed for CBR were successful in receiving either the full amount of maintenance arrears lodged or installments payment as indicated in the enforcement application.
- 4.7. One suggestion that has been made is if the Courts could implement a Standard Operating Procedure whereby all cases of default of more than 3 months would automatically qualify for CBR. This will enable credit bureaus and SCWO to work towards helping the claimants to get paid faster by the respondents as some credit bureaus such as DP SME Commercial Credit Bureau can assist the claimants with the collections, at the claimant’s option.

##### **Legal Advice**

- 4.8. In collaboration with our affiliate, the Singapore Association of Women Lawyers (“**SAWL**”), MSC organises free legal clinics which are conducted on every first and third week of the month. This service is offered to all women residing in Singapore with a monthly gross income cap of not more than \$1050 or on a case-by-case basis. The volunteer lawyers provide general guidance and information to areas of assistance requested. The number of clients registered for SCWO Legal Clinic from July 2010 to March 2013 was 423
- 4.9. The number of cases seen for grounds of divorce and/or maintenance at Legal Clinic: 275 (65%)
- 4.10. Since January 2013, we have collaborated with the Muslim Law Practice Committee of the Law Society of Singapore to extend this service the giving of free legal advice on Muslim law. This arose from claimants coming to MSC disclosing issues faced in Muslim law.
- 4.11. The number of clients registered for our Muslim Law Legal Clinic between January to March 2013: 13

##### **Counselling**

- 4.12. Counselling is provided to all the claimants who seek assistance at MSC. In addition to emotional support, the counselling sessions encourages claimants to be independent and confident. About 55% of the claimants who attended at our office were provided with formal

counselling including case notes. Counselling was also extended to the 45% of the claimants in an informal setting, whereby issues discussed mainly evolved around the difficulties faced by the claimants following default in maintenance payments; options available to them; procedures of enforcement and information on financial assistance schemes and referrals to family service centres.

## **5. MSC observations based on Clients' feedback and experiences**

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### **5.1 Lack of Information / awareness**

- 5.1.1 Claimants expressed frustrations and anxiety due to limited information shared on court processes during applications for court orders. The majority are single working mothers who have difficulty receiving any or timely maintenance and do not have the finances for legal representation. Though MSC provides a free legal clinic for general advice on their queries, some do not have the confidence to represent themselves or their case in court.
- 5.1.2 They appeared unaware of the various mechanisms in place to assist with prompt payment of maintenance such as AEO or Banker's Guarantee.
- 5.1.3 Claimants who have cases under the purview of Warrant of Enforcement Unit believe that the authority is not taking any action due to lack of information shared with them such as its processes and protocol. They are unaware that Respondents with warrant of arrest issued will not be stopped at the check-point unless claimants request for their case to be included in the 'Stop-List'. Such a request is subject to Judge's approval.

### **5.2 Mediation**

- 5.2.1 MSC recognises the key concept and benefits of mediation and advocates this to claimants. However, feedback received from claimants who were assisted at MSC often described negative experiences. Claimants who have applied for enforcement of maintenance order on numerous occasions are especially reluctant to attend mediation as they do not see the benefits of such a process.
- 5.2.2 Many see mediation as benefitting only the respondent. Some feedback that we have received include:
  - a. Claimants feeling coerced or obligated to agree with solutions proposed by mediators.
  - b. Solutions proposed are based on information given by both parties at that period in time, without establishing any validity. For example, a respondent may justify his defaults in payment due to financial constraints and request for low instalment payment for arrears accumulated.

#### *Case Example*

The Respondent was ordered to pay \$10 instalment on a monthly basis for the arrears of \$2471 in addition to \$300 monthly maintenance to **Claimant SR048/12**.

### **5.3 Court Attendance and Withdrawn Cases**

- 5.3.1 MSC has observed that in the event the respondent pays the arrears in maintenance before the mention and mediation, the claimant's Enforcement of Maintenance Order ("**EMO**") application would be dismissed and application is classified as *Withdrawn*, despite both parties being present at court. MSC is uncertain if such classifications have any detrimental effect on the claimant's future complaints or whether it may penalise the claimant further as:

- a. Claimant would still have to attend the mention with mediation even though the respondent had paid for arrears. If the claimant would like to withdraw his/her case, his/she is required to inform Family Court three days in advance before the scheduled date. If he/she fails to do so, his/her case would be classified as 'Struck Off' in the court system.
- b. Even though the claimant had applied for EMO and was present at court for Mention with Mediation, his/her case would be classified as 'Withdrawn' in the court system as the respondent had paid the arrears.
- c. Claimants requests for straight Mention with the intention of appealing to Court for a more effective enforcement such as Attachment of Earnings Order. However if the Respondent pays arrears before the scheduled date, the case is dismissed.

*Case Example 1:*

**Claimant SR052/12** requested for a straight mention without mediation with the intention of informing the Judge that the Respondent would only pay maintenance upon receiving a summons from the court. She has applied for enforcement 3 times through MSC in 2012. She waited for more than an hour for her case to be heard, but was not able to proceed as respondent had paid the arrears and maintenance for the following month. Her case was dismissed by the Court Officer as there are no arrears to be enforced. She felt helpless and frustrated as she could not inform the Family Court of the situation and that her time was wasted.

*Case Example 2:*

MSC assisted **Claimant SR064/12** in January 2013 to apply for EMO and included that the prayer for an Attachment of Earnings Order ("AEO"). As in the case of **Claimant SR052/12**, she was not able to proceed as the Respondent had paid for the arrears just before scheduled date for mention with mediation. She was informed by the Court Officer that a different application form is required if she had wanted to apply for AOE. The application can only be made when she applies for EMO. Her case was dismissed.

The need to attend court on numerous occasions creates some emotional anxiety on the claimants and deters many from filing for enforcement as:

- a. For a working claimant, the frequent time-off from work raises questions from employers. We also need to bear in mind that almost all Claimants are primary care-givers; hence in addition to the time-off for court attendance, they do need to take time-off to take care of their children.
- b. Some claimants are worried about meeting the Respondents as arguments may arise.
- c. Some claimants, especially survivors of family violence, are not emotionally ready to meet the respondents in person.

## **6. Common Issues Faced by Claimants**

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6.1 The common reasons for default of maintenance are:

- a. Unemployment and reduction of income from employment
- b. Instability of income

c. Respondents are not given the opportunity to meet the children

- 6.2 Some respondents challenge claimants to enforce the maintenance order. A handful of respondents also threatened to apply for a variation order to reduce the maintenance amount when they are being reminded by the claimant of the default or when claimant threatened to enforce.
- 6.3 There are respondents who hold on to the belief that if they do not have access to the children, it is not necessary for them to pay maintenance.
- 6.4 In some cases, claimants are not convinced that the respondents are unable to pay maintenance as they believe that the respondents:
- a. are financially capable to engage a lawyer to represent them
  - b. are capable of starting a new family
  - c. are travelling frequently
  - d. own cars and have a luxurious lifestyle, etc.
- 6.5 Claimants have difficulties keeping track of the amounts paid for maintenance and calculating the arrears as Respondents fail to pay maintenance regularly or make short payments from time to time.
- 6.6 Some claimants indicated that the maintenance amount is insufficient as the children are growing up and expenses are increasing. However as respondents are already unable to pay the current maintenance, they are pessimistic whether any variation application will benefit them.
- 6.7 Some claimants have to apply for enforcement from time to time as the respondents frequently default in payment. The repeated process of reminders and enforcement frustrates the claimants.
- 6.8 Often, claimants are the primary care-givers of the children and feel insecure and anxious when maintenance is not received as it is meant to cover the daily basic needs of the children.
- 6.9 Claimants are sceptical and question the authority of a court order if respondents default in maintenance payment without any harsh ramifications imposed.
- 6.10 Many do not understand why they have to return to Court, which is the scene of the demise of their marital relationship to collect on what has already been ordered by Court.

## **7. Common Requests from Claimants**

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- 7.1 Claimants do not understand on why the onus is on them to apply for enforcement when it is the respondent who defaults in payment. They express frustration of the current court processes as an inconvenience to them rather than an effective measure.
- 7.2 Claimants have requested for:
- a. an agency to send reminders to respondents to make maintenance payment.
  - b. automatic notification in the event respondent defaults in maintenance payment.

- c. Maintenance and arrears to be paid through Central Provident Funds, although we appreciate this will require legislative and high-level policy changes.

## **8. Other Recommendations**

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### **8.1 Understanding the Order:**

- 8.1.1 On the granting of a divorce, we would recommend a meeting of both parties and children if any, to be presided over by a Judge of the Family Court.
- 8.1.2 The rights and obligations, and penalties for non-compliance should to be clearly spelt out: to include the prompt and timely payment of maintenance ordered access rights of children and the dealing with joint assets.
- 8.1.3 Explanation as to how the maintenance amount is arrived at would also assist parties in understanding the treatment of the Courts of various factors in arriving at the quantum ordered.

### **8.2 To allow for information on the respondent's whereabouts and employment status to be made available to the claimant for enforcement purposes upon default.**

- 8.2.1 Agencies such as HDB, CPF Board (or even IRAS) are the repositories of information on the respondents but would require a court order before they would reveal confidential information.
- 8.2.2 Necessary rules need to be put in place to allow for discovery applications to be taken out.
- 8.2.3 We would propose that the process be streamlined as is currently the case for information on outstanding loan amounts or CPF contributions to be ascertained or produced.
- 8.2.4 Such measures may also prove to be a deterrent to default as in most cases, the respondent may not wish the claimant to have this information.

### **8.3 Orders of first instance**

- 8.3.1 To avoid respondents defaulting payment, we propose that: legislative changes be made to allow for an Attachment of Earnings Order be granted during the application for Maintenance Order or Order of Court for Divorce.

### **8.4 Setting up of a Collection Agency outside the Court system**

- 8.4.1 To avoid waste of judicial time in dealing with enforcement applications, consideration should be given to setting up a central agency for collection of the ordered maintenance.
- 8.4.2 This agency can send to the Respondent a letter of reminder or a letter of notification of default when the Respondent defaults in maintenance, with penalties for late payment. This creates a formal reminder.
- 8.4.3 Based on our research into how countries overseas are dealing with similar problems, we had previously recommended the formation of an Authority which would take on the function of collection and payment of maintenance already ordered by the Courts so that both parties would be able to concentrate on better parenting and making new lives for

themselves separately by taking away the emotional trauma on claimants from repeated and adversarial court appearances.

8.4.4 We would urge the Committee to reconsider the viability of such a proposal.

## **8.5 Legal representation**

8.5.1 Current funding provided to MSC does not allow for legal representation, although through liaison with the Law Society's Pro Bono Service Office and the Family Law Practice Committee, MSC has formed a panel of volunteer lawyers who have agreed on an ad-hoc basis to provide free legal representation, where an application for enforcement is countered with a variation application.

8.5.2 It is requested that there be consideration of stamp fee waivers for filings for such pro bono representations.

## **9. Conclusion**

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9.1 The difficulty faced by claimants in recovering maintenance ordered by the Court should not be viewed as the individual's problem solely or as only a private family matter.

9.2 During a public forum held by the Taskforce to discuss this issue, a video was produced by SCWO getting the perspectives of claimant, respondent, a child as well as social workers on the extent of the social problem was documented.

9.3 Separate focus-group discussions were also held.

9.4 This issue has the potential of becoming a community problem and a social problem due to the impact it has on the family and children.

9.5 It is timely that this problem be eradicated as far as possible by the various agencies currently dealing with this issue coming up with a comprehensive strategy which is able to cater to the different aspects of the problem, not just from the point of the view of the claimant, but also in encouraging the respondent to honour his/her legal obligations.

9.6 MSC is but a start in this direction, but more can be done to encourage a multi-pronged approach to tackling this issue which currently still takes up much resource of our courts and causes much hardship to claimants and their children.

9.7 We would urge the Committee to seriously consider streamlining the collection aspect of maintenance as proposed above.

9.8 The signal by the then Chief Justice at the Subordinate Courts Workplan 2010 that the Family Court will be issuing more frequent use of attachment of earnings orders against the employers of defaulters was a measure that many claimants greeted with relief, especially in cases where they have been faced with the frustration of monthly waiting and filing of complaints. However, it is unclear to what extent AEOs have in fact been granted as claimants' feedback appears to indicate continued reluctance on the part of the Courts to do so. We would welcome a more robust implementation of the granting of AEOs as a stop-gap measure and this may have to be accompanied by greater awareness on the part of employers so as not to prejudice respondents continued employment.

9.9 We would note that pursuant to the amendments to the Women's Charter, one of the sanctions for default is that respondents could be issued with Corrective Service Orders



(“CSO”) in the event of default. Another is the requirement to furnish a Banker’s Guarantees and would kindly request an examination of the data on numbers of CSOs and Banker’s Guarantees issued to-date to examine the implementation, efficacy and effectiveness of such measures.

- 9.10 Also pursuant to the amendments to the Women’s Charter, we would kindly request the examination of data on the numbers of applications for re-marriage where applicants have not been able to certify their currency with maintenance ordered payments to former families, if any

SCWO thanks the Committee for the opportunity to provide this feedback.

Laura Hwang and Malathi Das

for Maintenance Support Central

Singapore Council of Women’s Organisations