

## Research Briefing

23 May 2024

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# Child maintenance: Support for victims of domestic abuse

## Summary

- 1 Child Maintenance Service's support for victims and survivors of domestic abuse
- 2 Reports into the Child Maintenance Service and domestic abuse
- 3 Child Support Collection (Domestic Abuse) Act 2023

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## Summary

In Great Britain, parents are legally responsible for maintaining their child, even if they do not live with them or have no contact with the child.

Parents can agree a private child maintenance arrangement themselves. If they cannot reach an agreement, child maintenance can be arranged through the government's statutory Child Maintenance Service (CMS).

This briefing looks at how the CMS works for parents who have experienced domestic abuse and what changes have been introduced with the [Child Support \(Domestic Abuse\) Act 2023](#).

It covers the situation in Great Britain, as primary child maintenance legislation is a reserved matter for Wales and Scotland, but it is devolved for Northern Ireland.

## The Child Maintenance Service and cases involving domestic abuse

The CMS can:

- calculate the amount of child maintenance that should be paid,
- locate the other parent if their location is unknown,
- arrange the child maintenance payments, and
- take enforcement action if the parent not living with the child (non-resident parent or 'paying parent') doesn't pay.

When making a child maintenance application, either parent can [contact the 'get help arranging child maintenance' service on GOV.UK](#) for impartial advice on arranging child maintenance. The parent should inform the service if they and/or the child are victims of domestic abuse, so they are provided with the right information.

[CMS staff should use the CMS Domestic Abuse Plan](#) to guide them through actions to support victims (such as signposting to relevant services).

## Are domestic abuse victims exempt from fees?

Before 26 February 2024, individuals had to pay a £20 fee for applying to the CMS to calculate child maintenance. This fee was not charged if a person is a victim of domestic abuse or violence. From 26 February 2024, there is no longer a £20 application fee for any persons applying to the CMS.

[Over half \(56%\) of new applicants to the CMs were exempt from the application fee](#) in October to December 2023. Almost all exemptions (98%) were due to domestic abuse.

The £20 application fee was the only CMS fee an applicant can be exempt from. The only other fee is the collection fee when people are using the collect and pay service (where the CMS collects and passes on payments). This is opposed to the direct pay service, where the CMS calculates the rate at which maintenance should be paid, but payments are made between parents.

## Reports into Child Maintenance Service's support

In autumn 2021, the Department for Work and Pensions (DWP) commissioned an independent review of how the CMS supports survivors of domestic abuse. The review was completed in April 2022 and the [Government published its response](#) in January 2023. It accepted eight of the 10 recommendations made.

In June 2022, the Public Accounts Committee published a report on the CMS. The committee concluded that, while “the CMS may be the safest and only way” for victims and survivors of domestic abuse to secure maintenance from their ex-partner, [the system “is not designed to protect” them](#).

The committee also noted evidence from stakeholders suggesting the CMS was lacking in “awareness, understanding and responsiveness”.

In its evidence to the report, the DWP acknowledged it does not have information to suggest if domestic abuse or coercive control are factors in a person's decision to not use or stop using the CMS.

## Child Support (Domestic Abuse) Act 2023

The [Child Support Collection \(Domestic Abuse\) Act 2023](#) received Royal Assent on 29 June 2023.

The Act amends existing legislation to allow a child maintenance case to be placed onto the [collect and pay service](#) (where the CMS collects and passes on payments) if the case involves domestic abuse and one of the parents requests it. The collect and pay service is where the CMS collects and passes on maintenance payments.

The [Act received cross-party support from the Government and Labour](#), and will apply to the whole of the UK. The main body of the Act will come into force with regulations set out by the Secretary of State. In September 2023, the [Government said it would engage with government departments and stakeholders](#) when it introduces secondary legislation.

## Further reading

The following Commons Library briefings provide more information on the Child Maintenance Service and support for victims of domestic abuse:

- [Domestic abuse: Support for victims and survivors](#)
- [Support for victims of domestic abuse](#)
- [The role of healthcare services in addressing domestic abuse](#)
- [Child Maintenance: Calculations, variations and income](#)
- [Child Maintenance: Fees, enforcement and arrears](#)
- [Children: child arrangements orders – safeguards when domestic abuse issues arise \(England and Wales\)](#)

### Other organisations:

- The GOV.UK webpage, [Report domestic abuse](#), lists organisations who can provide help and support about domestic abuse.
- Single parent charity, Gingerbread, has a webpage on [Claiming child maintenance safely when there's been domestic abuse](#).
- The charity, Women's Aid, provides advice for [people of any gender on leaving a relationship safely](#).

### Northern Ireland

For information on how the Child Maintenance Service in Northern Ireland (NI) can support victims of domestic abuse, see the NI Direct webpage, [CMS support in domestic abuse or violence](#).

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# 1 Child Maintenance Service's support for victims and survivors of domestic abuse

## 1.1 What is child maintenance?

Child maintenance is a financial arrangement between a parent a child does not normally live with (the non-resident parent) and the person who lives with the child and who usually provides day-to-day care for them (the person with care). A parent is legally required to maintain their child, even if they have no contact with them.<sup>1</sup>

It is not compulsory to have a formal child maintenance arrangement: separated parents can arrange child maintenance themselves under a 'family-based arrangement'.

Where parents cannot agree, maintenance can be arranged through the government's statutory service, the Child Maintenance Service (CMS). More information about how child maintenance is calculated can be found in the Library briefing, [Child maintenance: Calculations, variations and income](#).

### Payment options through the Child Maintenance Service

The default option for a child maintenance case is for it to be placed onto the CMS's "direct pay" service. This is where the CMS calculates the rate at which maintenance should be paid, but payments are made between parents.

The other service available is "collect and pay", where the CMS additionally collects and passes on payments. If payments are missed under direct pay, the person with care must inform the CMS of this, and a case may be moved to collect and pay. If payments are missed under collect and pay, the CMS will act, and the person with care does not need to report it.<sup>2</sup>

Previous legislation allowed for a child maintenance case to be placed onto collect and pay for only two reasons<sup>3</sup>:

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<sup>1</sup> The duty to maintain; [Child Support Act 1991](#) Section 1

<sup>2</sup> GOV.UK, [Child Maintenance Service: Making and receiving payments](#) (accessed 5 December 2022)

<sup>3</sup> Under section 4(2) of the Child support Act 1991; Sections 7(3) and 7(3A) provide this power in Scotland when the child maintenance application has been made by a child and Article 7 of the Child Support (Northern Ireland) Order 1991 provides for corresponding provisions in Northern Ireland to section 4 of the 1991 Act.

- If the non-resident parent (or ‘paying parent’) agrees to this service; or
- If the CMS considers that the non-resident parent is ‘unlikely to pay’ (for example, if they miss or are late making payments).

The [Child Support Collection \(Domestic Abuse\) Act 2023](#) has now legislated for a child maintenance case to be placed onto collect and pay if a case involves domestic abuse and one of the separated parents requests it. The Act is not yet in force, and it will come into force with regulations set out by the Secretary of State. Information on the Act can be found in section 3 of this briefing.

## 1.2 Contacting the ‘get help arranging child maintenance’ service

When first opening a child maintenance case, either parent can contact the Department for Work and Pensions’ (DWP) [‘get help arranging child maintenance’ service](#).<sup>4</sup> This can be done over the phone or online.

The CMS can be contacted via telephone (0800 232 1979) from Monday to Friday, 8am to 4pm. There is a Welsh language service (0800 408 0308) available Monday to Friday, 9am to 5pm.<sup>5</sup>

The DWP says the service “provides impartial information and support to help both parents make informed choices about child maintenance”.<sup>6</sup> Citizens Advice notes the service will provide a reference number and explain how to apply for child maintenance through the CMS.<sup>7</sup> When someone contacts the CMS, they should be asked if they have experienced domestic abuse.<sup>8</sup>

The Government has said the CMS takes domestic abuse “extremely seriously” and “is committed to ensuring that victims of abuse get the help and support they need to use the Service safely”. It has added it updated its domestic abuse training in November 2021, which involved reviewing [Home Office statutory guidance on coercive and controlling behavior](#). It has also since consulted with external stakeholders in November 2023 to see if the training is in line with best practice.<sup>9</sup>

The Government has said CMS caseworkers should use the steps in the DWP District Provision Tool<sup>10</sup> to support people who have contacted them and are

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<sup>4</sup> The DWP’s ‘get help arranging child maintenance’ service replaced Child Maintenance Options

<sup>5</sup> GOV.UK, [Contact the Child Maintenance Service](#) (accessed 7 December 2022)

<sup>6</sup> DWP, [About us](#) (accessed 7 December 2022)

<sup>7</sup> Citizens Advice, [Applying to the CMS for child maintenance](#), last reviewed 23 September 2020

<sup>8</sup> Gingerbread, [Claiming child maintenance safely when there’s been domestic abuse](#), 18 May 2023

<sup>9</sup> PQ 19189 [on [Children: Maintenance](#)], 26 March 2024

<sup>10</sup> This replaced the complex needs toolkit on 1 April 2024; PQ 19189 [on [Children: Maintenance](#)], 26 March 2024



experiencing domestic abuse. In addition it said caseworkers should follow the steps in the Domestic Abuse Plan to guide them through appropriate actions to support victims (such as signposting to relevant services). This provides advice for caseworkers to contact the police if the parent is in immediate danger, although the caseworker can also contact the police if the parent asks them.<sup>11</sup>

The Domestic Abuse Plan is not publicly available, and the Government has said it does not have plans to publish it.<sup>12</sup>

Alongside the Domestic Abuse Plan, CMS caseworkers can also take other action in cases involving domestic abuse. This can include acting as an intermediary in direct pay cases and providing advice on setting up non-geographic bank accounts (see section 1.3 below).

When asked about the CMS's ability to safeguard domestic abuse survivors, the Government said the CMS "has robust procedures" to support parents:

... a programme of domestic abuse training is delivered to all CMS caseworkers.

Safeguards are built into the system such as non-traceable payment methods to keep parents' locations hidden and the CMS ensures there is no unwanted contact between parents. The Service can also signpost customers to external organisations such as charities and support groups.<sup>13</sup>

If the adviser does not provide advice on how to safely make a claim, the parent can [complain to the CMS](#) and request specific advice.

## Applying online

If someone is applying online, Gingerbread notes there is a large 'hide this page' button in red on every page should they need to keep what they are doing private. Clicking this changes the page to BBC Weather.<sup>14</sup>

When selecting the type of arrangement, to avoid needing to contact the child's other parent choose 'Use the Child Maintenance Service'. The person applying will be given a reference number to use in their application to the CMS.<sup>15</sup>

## 1.3

## Non-geographic bank accounts

If a parent or child is a victim of domestic abuse, the CMS should inform them how to set up a non-geographic bank account. This is where banks and

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<sup>11</sup> PQ 19189 [on [Children: Maintenance](#)], 26 March 2024

<sup>12</sup> [As above](#)

<sup>13</sup> PQ110642 [on [Children: Maintenance](#)], 27 January 2022

<sup>14</sup> Gingerbread, [Claiming child maintenance safely when there's been domestic abuse](#), 18 May 2023

<sup>15</sup> [As above](#)

building societies provide a central sort code (rather than for a local branch) to prevent a bank account from being geographically traced.

If needed, the CMS can also provide the parent with a letter for the bank, to explain why this type of account is needed. If the parent wants to avoid all contact, the CMS can then also provide the other parent with the bank details.<sup>16</sup>

## 1.4

# Fees for using the Child Maintenance Service

## Removal of the application fee

Before 26 February 2024, individuals had to pay a £20 fee for applying to the CMS to calculate child maintenance. This fee was not charged if a person is a victim of domestic abuse or violence. The £20 application fee was the only CMS fee an applicant could be exempt from (the only other fee is the collection fee, see below).

From 26 February 2024, there is no longer a £20 application fee for anyone applying to the CMS. The application fee was removed by part 3 of the [Child Support \(Management of Payments and Arrears and Fees\) \(Amendment\) Regulations 2024](#).<sup>17</sup>

The fee was originally introduced to “encourage parents to consider family-based arrangements as an alternative to the CMS and to provide value for the taxpayer”, by acting as a “reflection point” for those involved.<sup>18</sup> However, the [Explanatory Memorandum to the 2024 regulations](#) (PDF) explained the fee is being abolished to “remove a barrier to accessing the CMS, to ensure that customers are not excluded from the CMS due to financial constraints”.<sup>19</sup>

More information on the removal of the application fee can be found in section 2.1 of [a Library briefing on child maintenance fees](#).<sup>20</sup>

## How many people were exempt from the application fee?

In May 2018, the CMS began to ask parents directly if they had experienced domestic abuse. In every quarter since July to September 2018, over half of applications to the CMS have been exempt from the £20 fee due to domestic abuse.

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<sup>16</sup> DWP, [Child Maintenance Service: Making and receiving payments](#) (accessed 12 September 2023)

<sup>17</sup> [The Child Support \(Management of Payments and Arrears and Fees\) \(Amendment\) Regulations 2024](#) (SI 2024/87), Part 3

<sup>18</sup> DWP, [Impact assessment – The Child Support Fees Regulations 2014](#) (PDF), 31 March 2013, pp1 & 9

<sup>19</sup> The Child Support (Management of Payments and Arrears and Fees) (Amendment) Regulations 2024 (SI 2024/87) [Explanatory Memorandum](#) (PDF)

<sup>20</sup> Commons Library briefing CBP07774, [Child maintenance: Fees, enforcement and arrears](#)

In October to December 2023, there were 28,600 new applications to the CMS, of which 56% (16,100) were exempt from paying the £20 application fee. Almost all exemptions (98%, or 15,800) were due to domestic abuse.<sup>21</sup>

More detail on proportion of applicants who are exempt from the application fee can be found in section 2.1 of the Library briefing on [Child Maintenance: Fees, enforcement and arrears](#).<sup>22</sup>

## Collection fees

For those using collect and pay, the non-resident parent must pay an extra 20% of the maintenance due as a fee for using the service. The parent with care receives 96% of the child maintenance allowance paid by the non-resident parent (and so pays a 4% fee for using the service).<sup>23</sup>

### Removing collection fees for victims of domestic abuse

During a 2013 consultation on fees, the Government noted “many respondents” were worried about victims of domestic violence having to pay collection fees:

Many respondents... [were] concerned that victims of domestic violence can only be exempt from the application fee, with no provision provided for free access to the collection service, regardless of the type of abuse which has taken place.<sup>24</sup>

However, the DWP said in 2019 the CMS provides support in alternative ways to victims of domestic abuse in these circumstances, such as ensuring personal information is not shared, and ensuring staff are trained to deal with domestic abuse issues.<sup>25</sup>

The issue of charging collection fees to victims of domestic abuse has also been raised in response to the Child Support Collection (Domestic Abuse) Act 2023. Charities, such as Gingerbread and Surviving Domestic Abuse, and members of both Houses of Parliament have called for the fees to be waived in cases involving domestic abuse.<sup>26</sup>

In a press release, the charity [One Parent Families Scotland](#), [said parents with care have avoided collect and pay](#) because of a potential increase in hostility from an ex-partner if they have to pay additional fees:

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<sup>21</sup> DWP, [Child Maintenance Service statistics: data to December 2023 \(experimental\)](#), 26 March 2024, table 2

<sup>22</sup> Commons Library briefing CBP07774, [Child maintenance: Fees, enforcement and arrears](#)

<sup>23</sup> For those under direct pay, there are no additional collection fees.

<sup>24</sup> DWP, [Government response to the consultation supporting separated families: securing children's futures](#) (PDF), Cm8742, November 2013, p11, para 8

<sup>25</sup> PQ222043 [on [Children: Maintenance](#)], 14 February 2019

<sup>26</sup> See [HC Deb 28 October 2022, cc560-561, 565-566](#) and [HL Deb 21 April 2023 cc919-920](#); Gingerbread, [Child Support Collection \(Domestic Abuse\) Bill – Gingerbread and Surviving Economic Abuse joint statement](#), 14 December 2022

It is quite simply indefensible for someone to be charged a fee by the government for help with accessing essential financial support for their child from their abusive ex-partner. At the same time, single mothers tell us they've avoided asking to be moved onto Collect and Pay because their ex would face a 20% charge and this would escalate hostility and put themselves and their child at greater risk.<sup>27</sup>

In December 2022, Mims Davies, the Parliamentary Under-Secretary of State for Work and Pensions, responded that while “charges on the whole are the right approach,” the Government is “willing to consider, and are rightly considering, where exemptions may be appropriate”.<sup>28</sup>

In June 2023, the Parliamentary Under Secretary of State (Minister for Lords), Viscount Younger of Leckie, said the Government would look at bringing in secondary legislation, potentially as early as 2024:

Alongside development of the secondary legislation for the Bill [now Child Support Collection (Domestic Abuse) Act 2023], we will look at the charging structure for the use of the collect and pay service and how this will interact with the proposed changes for victims of domestic abuse in these cases. We will engage with a range of stakeholder groups, as well as other government departments, and devolved administrations where necessary, to ensure we get these proposals right. Secondary legislation will be brought in as soon as parliamentary time allows; we hope this to be early 2024.<sup>29</sup>

The Government has now launched a consultation looking at, among other things, the fees used under collect and pay. For more information, see section 1.5 below.

## 1.5 Improving the collection and transfer of payments consultation

On 8 May 2024, the Government published details on a new [consultation on how the CMS collects and transfers payments](#). Among other proposals, it is looking for views on:

- removing the direct pay service
- changing the fees for the collect and pay service
- how the CMS can better support victims and survivors of domestic abuse

The consultation closes on 31 July 2024.

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<sup>27</sup> One Parent Families Scotland press release, [Child Maintenance Service “blind to the realities” of domestic abuse, campaigners say](#), 28 February 2023

<sup>28</sup> [PBC Deb 14 December 2022](#) cc5-6 & c9

<sup>29</sup> DEP2023-0544 ([Private Members Bill- Child Support Collection \(Domestic Abuse\) Bill](#) (PDF)), 29 June 2023

## Removal of the direct pay service

As part of the consultation, the Government is considering removing the direct pay service, so all child maintenance arranged through the CMS is managed under the collect and pay service (see section 1.1 of this briefing). The Government has said direct pay was designed as a “stepping-stone” to family-based arrangements.

The Government said there is “hidden non-compliance” with direct pay cases, and there is an issue in how the arrangements support victims and survivors of domestic abuse.<sup>30</sup> In [DWP research on direct pay between 2017 and 2019](#)<sup>31</sup> the most common reason for using the CMS (rather than a family-based arrangement) was an increased likelihood of the non-resident parent paying maintenance. The direct pay research also found that many direct pay arrangements were “ineffective or not sustained”.<sup>32</sup>

The Government has said that many direct payments were moving on to collect and pay, which can add to payment delays and is “administratively burdensome”.<sup>33</sup>

The Government has anticipated that removing direct pay could increase compliance in CMS cases, as non-payment can be automatically identified under collect and pay. Specifically in cases involving domestic abuse, the Government has said it could reduce perpetrators withholding child maintenance payments and inflicting economic control and coercion.<sup>34</sup>

## Changing collect and pay fees

The Government is also proposing changing the fees for the collect and pay service. Currently, the non-resident parent pays a 20% fee and the person with care pays a 4% fee.

The change being proposed is a 2% fee on both the person with care, and non-resident parent if they are compliant. The Government has said this would be “fair to the taxpayer” if parents contribute a small amount to the costs of the CMS monitoring and transferring all payments (whereas this is not the case for direct pay arrangements). The Government provided the following example:

if the liability was £100, compliant paying parents would pay £102, and receiving parents would receive £98 (£2 deducted from the maintenance liability).<sup>35</sup>

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<sup>30</sup> DWP, [Child Maintenance: Improving the collection and transfer of payments](#), 8 May 2024

<sup>31</sup> Conducted by Ipsos MORI on behalf of Department for Work and Pensions

<sup>32</sup> DWP, [Direct Pay research 2017 to 2019](#), 14 July 2022

<sup>33</sup> DWP, [Child Maintenance: Improving the collection and transfer of payments](#), 8 May 2024

<sup>34</sup> DWP, [Child Maintenance: Improving the collection and transfer of payments](#), 8 May 2024

<sup>35</sup> DWP, [Child Maintenance: Improving the collection and transfer of payments](#), 8 May 2024

If the changes were made, a person with care on direct pay who still has their case with the CMS will receive 2% reduction in the amount they receive.

For paying parents who do not pay maintenance in full or on time, the Government has said it would maintain the 20% fee. The fee would remain at 2% for the person with care. The increased fee is supposed to act as an incentive for compliance, and to offset the cost of recovering unpaid maintenance.<sup>36</sup>

### Collect and pay fees for cases involving domestic abuse

The Government has noted a family-based arrangement is not always an appropriate arrangement, such as for cases involving domestic violence. It had committed to looking at the charges for collect and pay in these cases during the passage of the Child Support Collection (Domestic Abuse) Act 2023.

The 2023 Act allows for a child maintenance case to be placed onto the collect and pay service where there is a case involving domestic abuse and one of the parents requests it (see section 3 of this briefing). The Government has said it wants “to go further than the measures set out in the Act”, and proposed all parents pay the same fees, rather than needing to provide evidence of domestic abuse:

We know that many victims and survivors of domestic abuse will not be able to provide evidence, and for the cases where evidence is available, it could be traumatic for victims and survivors to discuss. Where evidence could be provided, the CMS would need to verify this with the appropriate bodies, which could lead to delays in payments flowing.

[...]

We therefore feel a fairer option could be for all parents to be subject to the same, lower, level of fees and contribute towards the costs of running the CMS.<sup>37</sup>

### How the CMS supports victims of domestic abuse

The Government is also seeking views on how the CMS support victims and survivors of domestic abuse.

It highlighted the procedures already in place (explained in section 1 of this briefing), and the independent review into the CMS support for victims and survivors of domestic abuse (see section 2.1 of this briefing). Specifically, one recommendation the review made was using a single, named caseworker in cases involving domestic abuse, which is currently being piloted.

The Government was looking for responses on using single caseworkers, as well as how removing direct pay could benefit victims and survivors. More

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<sup>36</sup> DWP, [Child Maintenance: Improving the collection and transfer of payments](#), 8 May 2024

<sup>37</sup> DWP, [Child Maintenance: Improving the collection and transfer of payments](#), 8 May 2024

widely it wanted views on the procedures in place, and on what more could be done to improve the CMS' support.<sup>38</sup>

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<sup>38</sup> DWP, [Child Maintenance: Improving the collection and transfer of payments](#), 8 May 2024

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## 2 Reports into the Child Maintenance Service and domestic abuse

### 2.1 Independent Review of the Child Maintenance Service's support for victims

In autumn 2021, the Department for Work and Pensions (DWP) commissioned an independent review of how the Child Maintenance Service (CMS) supports survivors of domestic abuse.<sup>39</sup> Dr Samantha Callan was named as the Independent Reviewer.

In evidence to the review, the [Domestic Abuse Commissioner, Nicole Jacobs](#), highlighted the prevalence of domestic abuse among CMS applicants. Data provided to the commissioner by the domestic abuse charity Refuge suggested that in 2021, “15.9% [of Refuge service users] reported the perpetrator refusing to pay child maintenance”.<sup>40</sup>

The commissioner also provided information on economic abuse<sup>41</sup> in child maintenance cases: in a survey by Refuge, 25% of women and 20% of men reported economic abuse after separation.<sup>42</sup>

The review completed in April 2022 and made ten recommendations (see Government response below).<sup>43</sup>

#### Government response

In January 2023, the [Government published its response](#) to the independent review. It acknowledged that, while the CMS “does not have a statutory duty of care and thus is not able to provide safeguarding”, it “does have a

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<sup>39</sup> PQ97629 [on [Children: Maintenance](#)], 1 December 2022

<sup>40</sup> Domestic Abuse Commissioner, [Independent Review into the ways the Child Maintenance Service supports survivors of domestic abuse](#) (PDF), February 2022, p1

<sup>41</sup> Economic abuse is defined in the Domestic Abuse Act 2021 as any behaviour that has a substantial adverse effect on a victim/survivor's ability to acquire, use or maintain money or other property, or obtain goods or services; [As above](#) (PDF), p2

<sup>42</sup> [As above](#) (PDF), p2

<sup>43</sup> Dr Samantha Callan, [Independent Review of the Child Maintenance Service \(CMS\) response to Domestic Abuse](#) (PDF), DWP, April 2022, pp64-72



responsibility to minimise risks that domestic abuse survivors may face in using its services”.<sup>44</sup>

### Accepted recommendations

The Government accepted eight of the ten recommendations Dr Callan made in the review:

**Recommendation 1:** Amending primary legislation so direct pay cases can be moved into the collect and pay service where there is evidence of abuse. The Government added it was supporting a Private Member’s Bill linked to this (see section 3 of this briefing).

**Recommendation 2:** The review said the CMS should “acquire additional legal powers to address financial coercion” and look at how to use “domestic abuse legislation to support the prosecution of financial coercion within the context of a child maintenance arrangement.”<sup>45</sup>

The Government said it would need to undertake further work to assess how these two recommendations can be best implemented.

**Recommendation 3:** An applicant should no longer be required to have reported domestic abuse for the £20 application fee to be waived. The review found the CMS did not always have enough capacity to enforce this, and “fewer than one-fifth of survivors report domestic abuse, often due to fears for their safety”.<sup>46</sup>

More recently, in June 2023 the Government said it “will look at the charging structure for the use of the collect and pay service and how this will interact with the proposed changes for victims of domestic abuse in these cases”<sup>47</sup>. More information is in section 1.4 of this briefing.

**Recommendation 4:** Piloting using a single caseworker to handle a complex domestic abuse case, so the survivor will not have to retell their experience to multiple caseworkers.

**Recommendation 5:** Making maintenance more affordable for non-resident parents with low-income. It cited a [National Audit Office report on child maintenance](#) (March 2022) which found affordability was a barrier to compliance with child maintenance for paying parents.

**Recommendation 7:** Removing the nil rate for prisoners, which the Government accepted “in principle”. The Government said this is because a person with care can already seek child maintenance against prisoners’

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<sup>44</sup> DWP, [Government response to the independent review of the Child Maintenance Service response to domestic abuse](#) (PDF), 19 January 2023, p3

<sup>45</sup> Prior to the 2021 Act, there was a non-statutory cross-government definition of domestic violence and abuse that did not include ‘economic’ abuse; [As above](#) (PDF), p8, para 18

<sup>46</sup> [As above](#) (PDF), p10, para 30 and p15, Annexe

<sup>47</sup> DEP2023-0544 ([Private Members Bill- Child Support Collection \(Domestic Abuse\) Bill](#) (PDF)), 29 June 2023

income, however the earning thresholds “are frequently not met” so the calculation consistently defaults to a nil rate.<sup>48</sup>

The review said having prisoners pay child maintenance could strengthen family ties, which can reduce re-offending.<sup>49</sup>

**Recommendation 9:** Involving a wider range of agencies in CMS domestic abuse training for staff. The Government accepted this and said it would welcome “domestic abuse training to incorporate providers that specialise in a range of perspectives, including male experiences as well as those with expertise in bi-directional abuse”.<sup>50</sup>

### Declined recommendations

**Recommendation 8:** The review recommended including the person with care’s income in the CMS calculation. The Government declined this as it believes the person with care’s income “should not remove the responsibility of a paying parent to support their child.”<sup>51</sup>

More information on why only the non-resident parent’s income is considered in a child maintenance calculation is in section 7.1 of the [Library briefing on child maintenance calculations, variations and income](#).<sup>52</sup>

**Recommendation 10:** The review said the DWP should design an Implementation Plan for the recommendations with a specifically tasked civil service team. This was declined as the Government said it does not plan to add this to the CMS’s accountability, although it did “recognise the importance of developing clear plans for implementation”.<sup>53</sup>

### Re-assessment of the child maintenance calculation

In its discussion of recommendations five and eight, the Government said that, while the current child maintenance calculation “is intended to ensure that maintenance is affordable and adapts to changes in living costs over time [...] current formulas used to determine maintenance liabilities were introduced in 2003 and are now quite dated”.<sup>54</sup>

Because of this, the Government announced it was looking into a review of the child maintenance formula:

The Government... is currently scoping a programme of unrelated strategic work that will include a review of the affordability of child maintenance. This

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<sup>48</sup> [As above](#) (PDF), p13, paras 49-50

<sup>49</sup> Dr Samantha Callan, [Independent Review of the Child Maintenance Service \(CMS\) response to Domestic Abuse](#) (PDF), DWP, April 2022, p70, para 293

<sup>50</sup> DWP, [Government response to the independent review of the Child Maintenance Service response to domestic abuse](#) (PDF), 19 January 2023, p13, para 53

<sup>51</sup> [As above](#) (PDF), p12, para 45

<sup>52</sup> Commons Library briefing CBP07770, [Child maintenance: Calculations, variations and income \(UK\)](#)

<sup>53</sup> DWP, [Government response to the independent review of the Child Maintenance Service response to domestic abuse](#) (PDF), 19 January 2023, p13, para 54

<sup>54</sup> [As above](#) (PDF), p11, paras 40 and 41

work is likely to include a re-assessment of formulas used to assess child maintenance - particularly within the context of the changing costs of raising children, current inflationary pressures, and average rates of pay – as well as ways in which calculations currently incorporate changes in tax and national insurance payments.<sup>55</sup>

In September 2023, the Government said the review was “ongoing”, and any changes would be made “according to the best interests of children”.<sup>56</sup>

## 2.2 Public Accounts Committee

The [Public Accounts Committee \(PAC\) published a report into child maintenance](#) in June 2022. Among other areas, the report investigated how the CMS supports survivors and victims of domestic abuse and coercive control.

While noting “the CMS may be the safest and only way to secure maintenance from their ex-partner”, PAC concluded the CMS “is not designed to protect” the victims and survivors of domestic abuse.<sup>57</sup>

The report also pointed to the high proportion of parents applying to the CMS who were exempt from the application fee because they had experienced domestic abuse (see section 1.3 above). More detailed statistics on exemptions can be found in section 1.2 of the Library briefing, [Child maintenance: Fees, enforcement and arrears](#).<sup>58</sup>

In its evidence to the committee, the DWP said it provided training for its staff and has controls in place to protect parents who had experienced domestic abuse and coercive control. However, PAC found the department was unaware of the number of cases where there is no child maintenance arrangement due to domestic abuse concerns.<sup>59</sup> It also said the DWP doesn’t investigate if financial or other coercion is what stops people using its services.<sup>60</sup>

Evidence provided to PAC from stakeholders suggested the CMS was lacking in “awareness, understanding and responsiveness”. For example, the single-parent charity Gingerbread said 90% of survey respondents who reported being subject to ongoing coercive control “did not feel that CMS staff had shown awareness of their situation in how they had responded to them”.<sup>61</sup>

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<sup>55</sup> [As above](#) (PDF), p11, para 42

<sup>56</sup> PQ196964 [on [Children: Maintenance](#)], 8 September 2023

<sup>57</sup> PAC, [Child maintenance](#), 22 June 2022, HC 255 2022-23, para 3

<sup>58</sup> Commons Library research briefing CBP07774, [Child maintenance: Fees enforcement and arrears](#)

<sup>59</sup> [As above](#), paras 20 & 21

<sup>60</sup> [As above](#), para 3

<sup>61</sup> [As above](#), para 21

The Domestic Abuse Commissioner told the committee the default for child maintenance arrangements to be on direct pay (which is to encourage parental collaboration), should be treated with caution:

It is vital that an emphasis on collaboration does not lead to CMS staff failing to hear concerns from victims and survivors about the risks the perpetrator poses to them and their children.<sup>62</sup>

The report also found there was opportunity for parents to continue abuse, by either restricting access to children or withholding their maintenance payments. The commissioner added that as parents must ask the other parent for payments under this service type, it can increase risk for domestic abuse victims.<sup>63</sup>

## Government response to PAC report

The [Government responded to the report](#) in October 2022. It agreed with PAC's recommendation that the DWP should outline how it will identify potential domestic abuse or coercive control cases and change its services and communications accordingly.<sup>64</sup>

The Government said the DWP had “robust processes in place for identifying victims of domestic abuse and ensuring they receive the right support” and had commissioned the Independent Review of the CMS Response to Domestic Abuse (see section 2.1).

It also committed to assessing the forthcoming Domestic Abuse Statutory Guidance to find ways to best identify coercive control and improve “service delivery and communications for domestic abuse survivors”.<sup>65</sup>

Regarding the lack of information on why people had stopped using the CMS, the Government said, “more comprehensive conversations are being considered to ensure customers are closing cases for the right reasons and are aware they can return to our service.”<sup>66</sup>

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<sup>62</sup> [As above](#), para 19

<sup>63</sup> PAC, [Child maintenance](#), 22 June 2022, HC 255 2022-23, para 19

<sup>64</sup> HM Treasury, [Government Response to the Committee of Public Accounts on the Ninth and Thirteenth to the Sixteenth reports from Session 2022-23](#), 14 October 2022, HC255, paras 3 & 3.1

<sup>65</sup> [As above](#), paras 3.2-3.4

<sup>66</sup> [As above](#), para 3.6

## 3

# Child Support Collection (Domestic Abuse) Act 2023

The [Child Support Collection \(Domestic Abuse\) Act 2023](#) amends existing legislation to allow a child maintenance case to be placed onto the collect and pay service where there is a case involving domestic abuse and one of the parents requests it.

As explained in section 1, under previous legislation the direct pay service is the default option for Child Maintenance Service (CMS) cases, unless the paying parent agrees to move to collect and pay, or they are regarded as ‘unlikely to pay’.

There was some discussion during the Act’s progress through parliament that collect and pay fees should be waived in cases involving domestic abuse. In June 2023, the Parliamentary Under Secretary of State (Minister for Lords), Viscount Younger of Leckie, said the Government would look at the charging structure for collect and pay and that “secondary legislation will be brought in as soon as parliamentary time allows... [it hopes] this to be early 2024”.<sup>67</sup> More information on this is in section 1.3 of this briefing.

When the Act passed, Viscount Younger said:

Domestic abuse and coercive control are abhorrent crimes. This positive change will enhance our existing support for domestic abuse victims and ensure they can make a child maintenance claim without the fear of having to deal with an abusive ex-partner.<sup>68</sup>

## 3.1

### The Act

The Child Support Collection (Domestic Abuse) Act 2023 originated as a Private Members’ Bill, introduced by Sally-Ann Hart MP and Lord Farmer (both Con), and had cross-party support throughout its passing from the Government and Labour.<sup>69</sup> It received Royal Assent on 29 June 2023.

<sup>67</sup> DEP2023-0544 ([Private Members Bill- Child Support Collection \(Domestic Abuse\) Bill](#) (PDF)), 29 June 2023

<sup>68</sup> DWP press release, [New law to ensure domestic abuse victims receive child maintenance gets Royal Assent](#), 29 June 2023

<sup>69</sup> [HC Deb 28 October 2022](#) c555-570

The Act is made up of five sections and extends to the whole of the United Kingdom.

**Section 1** of the 2023 Act amends Section 4 of the Child Support Act 1991. It gives the CMS power to put a child maintenance case onto collect and pay, if the non-resident parent or person with care applies for it and the CMS is satisfied there is “relevant domestic abuse”. It also defines “relevant domestic abuse” for the purpose of this clause (see section on defining domestic abuse below).

**Section 2** amends Section 7 of the Child Support Act 1991 to make similar provision to section 1 but for cases in Scotland where the child has applied to the CMS for a maintenance calculation. (In Scotland, alongside either parent or person with care of the child, the child can also apply to the CMS if they are aged 12 or over.<sup>70</sup>)

**Section 3** sets out minor and consequential amendments.

**Section 4** of the Act was introduced as an amendment at Report Stage in the Commons.<sup>71</sup> It amends the Child Support (Northern Ireland) Order 1991 to make similar provision as section 1 but for Northern Ireland.<sup>72</sup>

Section 4 of the Act comes into force at the same time as Article 127(2)(b) of the [Welfare Reform \(Northern Ireland\) Order 2015](#) (SI 2015/2006 (N.I. 1)).

**Section 5** of the Act sets out the extent, commencement and short title of the Act. The Act’s main provisions will come into force on a date set in regulations by the Secretary of State. This date has not yet been set (see section 3.3 below).<sup>73</sup>

## 3.2

## Defining domestic abuse

The Child Support Collection (Domestic Abuse) Act 2023 defines ‘domestic abuse’ according to the [Domestic Abuse Act 2021](#).<sup>74</sup>

In the second reading debate, the Secretary of State for Work and Pensions said domestic abuse would be defined in the same way across Great Britain, even though the Domestic Abuse Act 2021 does not apply in Scotland:

The Bill uses the definition of domestic abuse set out in the Domestic Abuse Act 2021. That Act does not extend to Scotland, where the definition generally used is set out in separate, devolved Scottish legislation. However, for ease of implementation in an area as complex as child maintenance, in which cases

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<sup>70</sup> MyGov.Scot, [How to apply for the Child Maintenance Service](#), 20 June 2022

<sup>71</sup> [HC Deb 3 March 2023](#) c1000

<sup>72</sup> Primary Child Maintenance legislation is a reserved matter for Wales and Scotland, but it is devolved for Northern Ireland

<sup>73</sup> [Child Support Collection \(Domestic Abuse\) Act 2023](#), section 5

<sup>74</sup> [Domestic Abuse Act 2021](#), pt 1

frequently fall within more than one jurisdiction in the United Kingdom, the Bill allows for the Act's definition to apply throughout Great Britain for the purposes of the Bill.<sup>75</sup>

However, for the purposes of the 2023 Act in Northern Ireland, domestic abuse is defined under Chapter 1 of Part 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021.<sup>76</sup>

## 3.3

### When the Act will come into force

As explained in section 3.1, the main body of the Act will come into force with the regulations set out by the Secretary of State. In September 2023, the Government said it would engage with government departments and stakeholders when it introduces secondary legislation. It also set out recent changes it has made to improve the way the CMS deals with cases involving domestic abuse:

Preventing domestic abuse within CMS remains a key priority for the department and we want to work at pace to tackle it. The Child Support Collection (Domestic Abuse) Act 2023 requires secondary legislation before it can come into force. We will engage widely with stakeholders and other government departments to ensure the changes made are right.

The department has already commenced a single caseworker pilot where there are cases of Domestic Abuse within CMS. The evaluation of this pilot will take place early next year. We have also implemented mandatory training for all CMS staff in how to respond to cases of domestic abuse and rolled out a complex needs toolkit which provides caseworkers with clear steps to follow where there are cases involving domestic abuse.<sup>77</sup>

### Improving the collection and transfer of payments consultation

As set out in this briefing, the Government has launched a [consultation on how the CMS collects and transfers payments](#). In the consultation, the Government said it wants “to go further than the measures set out in the Act”.

Rather than cases involving domestic abuse be exempt from collect and pay fees, all parents would pay the same, reduced fees<sup>78</sup>, rather than needing to provide evidence of domestic abuse.<sup>79</sup> More information is in section 1.5.

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<sup>75</sup> [HC Deb 28 October 2022](#) c568

<sup>76</sup> [Child Support Collection \(Domestic Abuse\) Act 2023](#), section 4(2)(3C))

<sup>77</sup> PQ198582 [on [Child Support Collection \(Domestic Abuse\) Act 2023](#)], 14 September 2023

<sup>78</sup> As part of the consultation, the Government is proposing a 2% fee for both the paying parent (if they are compliant), and the person with care.

<sup>79</sup> DWP, [Child Maintenance: Improving the collection and transfer of payments](#), 8 May 2024

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