



## **Child Support Collection (Domestic Abuse) Bill HL Bill 110 of 2022–23**

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On 21 April 2023, the second reading of the [Child Support Collection \(Domestic Abuse\) Bill](#) is scheduled to take place in the House of Lords. It is a private member's bill sponsored by Lord Farmer (Conservative). The bill was introduced in the House of Commons by Sally-Ann Hart (Conservative MP for Hastings and Rye) and completed its House of Commons stages on 3 March 2023. It received its first reading in the House of Lords on 6 March 2023.

Under existing legislation, the default option for receiving child maintenance through the Child Maintenance Service (CMS) is through the direct pay service. This requires parents to make a financial arrangement themselves. Some stakeholders, including the domestic abuse commissioner, have warned that use of these arrangements could increase the risk and harm posed to victims of domestic abuse because they have to ask the perpetrator directly for payments.

Therefore, the bill would amend the [Child Support Act 1991](#) and the [Child Support \(Northern Ireland\) Order 1991](#) to expand the circumstances in which either the secretary of state, or the Department for Communities in Northern Ireland, may arrange for the collection of child maintenance payments on behalf of the receiving parent (through the Child Maintenance Service's collect and pay service) in cases where there is evidence of domestic abuse.

The government supports the bill. In October 2022, the Department for Work and Pensions (DWP) published [explanatory notes](#) for the bill following its introduction in the House of Commons. In November 2022, the department published a [delegated powers memorandum](#) for the version of the bill introduced in the House of Commons. In March 2023, it published a [revised delegated powers memorandum](#).

The government made several amendments to the bill during its report stage in the House of Commons to extend the bill's provisions to the United Kingdom. The bill received cross-party support.

## I. What is child maintenance?

Child maintenance is a financial arrangement that covers how a child's living costs will be paid when one of the parents does not live with the child (a 'non-resident parent').<sup>1</sup> An arrangement must be in place if a child is under 16, or under 19 if in full time education. Child maintenance can be arranged either privately between parents, if both parents agree, or through the Child Maintenance Service (CMS).<sup>2</sup> The role of the CMS is to:

- calculate the amount of child maintenance that should be paid
- arrange child maintenance payments
- locate the other parent if their location is unknown
- take enforcement action if a parent does not pay

The CMS manages cases through one of two service types:<sup>3</sup>

- **Direct pay:** Under the direct pay service, the CMS calculates how much child maintenance needs to be paid by the non-resident

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<sup>1</sup> HM Government, '[Child Maintenance Service: What child maintenance is](#)', accessed 24 March 2023.

<sup>2</sup> HM Government, '[How the Child Maintenance Service works out child maintenance](#)', accessed 24 March 2023.

<sup>3</sup> HM Government, '[Child Maintenance Service: Making and receiving payments](#)', accessed 24 March 2023.

parent to the person living with the child (a ‘person with care’) and arranges a payment schedule, and then the non-resident parent pays the maintenance to the person with care.

- **Collect and pay:** Under this service, the CMS calculates how much maintenance should be paid, collects the money and pays it to the person living with the child. However, the use of this service incurs collection charges of 20% on top of the liability for the non-resident parent and 4% of the maintenance received by the person with care.

Under existing legislation (the Child Support Act 1991 and the Child Support (Northern Ireland) Order 1991), the secretary of state has the power to collect child maintenance payments through the collect and pay service only where:

- the paying parent agrees to the arrangement
- the CMS is satisfied that without the arrangements, child maintenance is unlikely to be paid

Therefore, under the 1991 act and 1991 order, direct pay is the default option, unless the non-resident parent either agrees to use collect and pay or is “deemed unwilling to pay” by the CMS for “demonstrating an unwillingness to pay their liability”.<sup>4</sup> The DWP states that this applies to all cases “irrespective of any other personal circumstances between parents, including domestic abuse”.

### **1.1 How does the CMS support victims of domestic abuse?**

The government has previously stated that the CMS has “robust procedures” in place to support parents who have experienced domestic abuse.<sup>5</sup>

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<sup>4</sup> [Explanatory notes](#), p 3.

<sup>5</sup> House of Commons, [‘Written question: Children—maintenance’](#), 27 January 2022, 110642.

This includes:

- waiving the £20 application fee to the CMS for survivors of domestic abuse that have reported this to an “appropriate” person, such as the police, a court, a domestic violence organisation or an employer<sup>6</sup>
- delivering domestic abuse training to all CMS caseworkers
- ensuring there is no “unwanted contact” between parents and providing information on how parents can set up a bank account with a non-geographical sort code, to prevent the other parent from being traced
- signposting CMS customers to external organisations, such as charities and support groups

## **2. What problems with the CMS have been identified?**

As explored below, several reviews have found problems with how the CMS supports victims and survivors of domestic abuse. This includes issues surrounding domestic abuse victims having to use the direct pay service, which could increase the risk of harm to them by having to ask the perpetrator directly for payments and staff not having awareness of domestic abuse to support such victims.

### **2.1 Independent review examining how the CMS supports survivors of domestic abuse**

In 2021, the DWP commissioned Dr Samantha Callan to conduct a review examining how the CMS supports survivors of domestic abuse.<sup>7</sup> The review was commissioned in response to a recommendation made in a 2019 domestic homicide review which examined the circumstances behind the

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<sup>6</sup> Department for Work and Pensions, '[Guidance on regulation 4\(3\) of the Child Support Fees Regulations 2014: List of persons to whom an applicant must have reported domestic violence or abuse](#)', updated 1 August 2017.

<sup>7</sup> House of Commons, '[Written question: Child Maintenance Service—domestic abuse](#)', 1 December 2022, 97629.

murder of Emma Day.<sup>8</sup> Ms Day was a CMS customer who was killed by her ex-partner in 2017 after refusing to cancel a child maintenance claim.<sup>9</sup>

Submitting written evidence to the 2021 review, the domestic abuse commissioner, Nicole Jacobs, stated that data from the DWP showed that 58% of new applicants to the CMS in the quarter ending June 2021 had disclosed that they or their child had experienced domestic abuse.<sup>10</sup> Discussing whether she felt that CMS processes provoked or exacerbated domestic abuse, she expressed concern that the use of direct pay arrangements could “increase the harm and risk posed to a victim of domestic abuse” by having to ask the perpetrator directly for payments.<sup>11</sup> Therefore, she made several recommendations, including calling for the CMS to automatically offer its collect and pay services to all victims and survivors of domestic abuse and the removal of collection fees for those applicants.<sup>12</sup>

In April 2022, Dr Callan published the findings of her review. She noted that the CMS had made operational improvements to enhance its capacity to help domestic abuse survivors set up a maintenance arrangement safely.<sup>13</sup> This included introducing mandatory domestic abuse training for caseworkers and direct interventions such as calling the emergency services on a customer’s behalf if there were indications that someone was in immediate danger. However, she stated that further steps were needed, with several of these requiring “some degree of legislative reform”.<sup>14</sup> She argued that the most important of those measures were those which would prevent the direct pay service from being “deliberately used by perpetrators

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<sup>8</sup> Department for Work and Pensions, ‘[Independent review of the Child Maintenance Service \(CMS\) response to domestic abuse](#)’, 17 January 2023, p 5.

<sup>9</sup> BBC News, ‘[Mark Morris jailed for killing Emma Day over child support payments](#)’, 1 December 2017.

<sup>10</sup> Domestic Abuse Commissioner, ‘[Independent review into the ways the Child Maintenance Service supports survivors of domestic abuse](#)’, 31 January 2022, p 1.

<sup>11</sup> As above, p 3.

<sup>12</sup> As above, p 4.

<sup>13</sup> Department for Work and Pensions, ‘[Independent review of the Child Maintenance Service \(CMS\) response to domestic abuse](#)’, 17 January 2023, p 5.

<sup>14</sup> As above, p 6.

as a form of coercion and control”.<sup>15</sup> She also made nine other recommendations, including calling on the CMS to look at how to use domestic abuse legislation to “support the prosecution of financial coercion within the context of a child maintenance arrangement”.

The government responded to the findings in January 2023.<sup>16</sup> It noted that whilst the CMS does not have a statutory duty of care and thus is not able to provide safeguarding, it had a “responsibility to minimise risks that domestic survivors may face in using its services”.<sup>17</sup> In total, the government accepted eight of the 10 recommendations. The two recommendations not taken by the government focused on updating child maintenance calculations and a specific team within the civil service tasked with monitoring the progress of the accepted recommendations. Responding to the recommendation that primary legislation should be amended to enable direct pay service cases to be moved into the collect and pay service, the government stated that it was supporting the Child Support Collection (Domestic Abuse) Bill 2022–23, which seeks to do this.<sup>18</sup>

## **2.2 House of Commons Public Accounts Committee report into child maintenance**

In June 2022, the House of Commons Public Accounts Committee published a report on child maintenance. The report focused on several areas, including how the CMS supported survivors and victims of domestic abuse or coercive control. The committee found that although the CMS “may be the safest and only way to secure maintenance [from an ex-partner]” for survivors of domestic abuse, the system of child maintenance was “not designed to protect those subject to domestic abuse or coercive control”.<sup>19</sup>

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<sup>15</sup> Department for Work and Pensions, [‘Independent review of the Child Maintenance Service \(CMS\) response to domestic abuse’](#), 17 January 2023, p 7.

<sup>16</sup> Department for Work and Pensions, [‘Government response to the independent review of the Child Maintenance Service \(CMS\) response to domestic abuse’](#), January 2023.

<sup>17</sup> As above, p 3.

<sup>18</sup> As above, p 8.

<sup>19</sup> House of Commons Public Accounts Committee, [‘Child maintenance’](#), 22 June 2022, HC 255 of session 2022–23, p 6.

The committee also noted that data from the DWP had revealed that approximately two in three applicants to the CMS for the quarter ending September 2021 did not have to pay the £20 application fee because they reported that they or their child had experienced domestic abuse.

In addition, the committee reported that parents could use the CMS to “continue to abuse their former partners”, for example by withdrawing payments or access to children.<sup>20</sup> In written evidence submitted to the committee, the charity Gingerbread stated that 90% of respondents to its survey who reported being subject to coercive control “did not feel that CMS staff had shown awareness of their situation in how they had responded to them”.<sup>21</sup>

Therefore, the committee made several recommendations. These included calling on the DWP to outline how it would identify CMS cases which potentially involved domestic abuse or coercive control and to adapt its services and communications in response. As part of this recommendation, the committee suggested that the department “build into its transformation plans” clearer routes for parents to flag and communicate domestic abuse, early identification and intervention for direct pay arrangements that were not working, and routine follow-up for cases that close or move from collect and pay onto direct pay.<sup>22</sup>

The government published its response to the committee in October 2022.<sup>23</sup> It agreed with the committee’s recommendation to the DWP relating to domestic abuse and coercive control. It also said that the DWP already had “robust processes in place” for identifying victims of domestic abuse and “ensuring they receive the right support”.<sup>24</sup> This included call scripts for CMS staff that ask directly about domestic abuse, mandatory

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<sup>20</sup> House of Commons Public Accounts Committee, ‘[Child maintenance](#)’, 22 June 2022, HC 255 of session 2022–23, p 6.

<sup>21</sup> As above, p 17.

<sup>22</sup> As above, p 6.

<sup>23</sup> Department for Work and Pensions, ‘[Government response to the Committee of Public Accounts on the ninth report from session 2022–23](#)’, 14 October 2022.

<sup>24</sup> As above, p 4.

domestic abuse training for all CMS staff, and a complex needs toolkit and domestic abuse plan which would “guide caseworker responses” to domestic abuse victims and survivors.

In addition, the government noted that the department had commissioned an independent review in 2021 into the ways that the CMS supported survivors of domestic abuse (see section 2.1). It had also committed to assessing forthcoming domestic abuse statutory guidance to assess implications for ways in which coercive control could be identified and for best practice “with regards to service delivery and communications for domestic abuse survivors”.<sup>25</sup>

### 3. What would the bill do?

The Child Support Collection (Domestic Abuse) Bill would amend existing legislation to expand the circumstances in which either the secretary of state, or the Department for Communities in Northern Ireland, may arrange for the collection of child maintenance payments on behalf of the receiving parent in cases where there is evidence of domestic abuse. As a result, the bill would give domestic abuse victims the choice as to whether to use the collect and pay service and avoid any need to communicate with the other parent.

The bill consists of five clauses.

**Clause 1** would amend section 4 of the 1991 act to expand the circumstances in which the collection of child maintenance may be arranged in cases where there is evidence of domestic abuse. This clause would give the secretary of state the power to place a child maintenance case onto the collect and pay service when either the person with care or non-resident parent applies and the secretary of state is satisfied that there is evidence of “relevant domestic abuse”. The clause also defines what is “relevant domestic abuse”.

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<sup>25</sup> Department for Work and Pensions, [‘Government response to the Committee of Public Accounts on the ninth report from session 2022–23’](#), 14 October 2022, p 5.



**Clause 2** would make similar provisions in Scottish cases involving domestic abuse by amending section 7 of the 1991 act. In Scotland, in addition to either parent or a person with care, children can apply to the CMS for a maintenance calculation.

**Clause 3** details minor and consequential amendments.

**Clause 4** would amend the Child Support (Northern Ireland) Order 1991 to make provision for the collection of maintenance in cases involving domestic abuse in Northern Ireland. In this case, the clause would give the Department for Communities in Northern Ireland the power to arrange for the collection of child maintenance if either the non-resident parent or person with care applies, and the department is satisfied that there is evidence of domestic abuse.

Lastly, **clause 5** would extend the bill's provisions to the whole of the UK and make provisions for its commencement and short title.

## **4. What happened during the bill's progression through the House of Commons?**

The bill was introduced in the House of Commons by Sally-Ann Hart (Conservative MP for Hastings and Rye) on 15 June 2022. It received cross-party support and was amended by the government during the report stage to allow for the bill's provisions to include Northern Ireland. It completed its third reading on 3 March 2023.

### **4.1 Second reading of the bill**

Second reading of the bill in the House of Commons took place on 28 October 2022.<sup>26</sup> It received cross-party support during the second reading debate and was passed without division.

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<sup>26</sup> [HC Hansard, 28 October 2022, cols 555–70.](#)

Introducing the bill, Ms Hart stated that she knew that the CMS “already has safeguards in place for victims of domestic abuse”.<sup>27</sup> However, she said that the bill was necessary to give victims of domestic abuse the choice as to whether to use the collect and pay service, ensuring they could decide what was best for their personal circumstances:

Thus they can avoid entirely any need to transact with the other parent where that is appropriate, which will help them to feel as safe as possible using the CMS, particularly if the relationship with their former partner was abusive. That will protect them from ongoing coercion and abuse in their financial arrangements.<sup>28</sup>

The shadow minister for work and pensions, Matt Rodda, stated that the Labour Party supported the bill.<sup>29</sup> He said it would make “some welcome changes to the law to protect parents, children and wider families who are victims of domestic abuse”. He also called on the government to clarify what domestic abuse evidence would be required to allow the secretary of state to collect child maintenance payments through the collect and pay service.

The government also expressed its support for the bill.<sup>30</sup> During second reading, Tom Pursglove, minister at the DWP, said that the bill would address the “limited circumstances” in which a parent or person with care had to manage relations directly with another parent or person with care, which “seems inappropriate”. He added:

It will allow a CMS case to be placed with the collect and pay service when either parent applies for it on the grounds of domestic abuse and when there is evidence that that is the right thing to do in their case.

Normally, it is only the receiving parent who can request a move of

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<sup>27</sup> [HC Hansard, 28 October 2022, col 556.](#)

<sup>28</sup> [HC Hansard, 28 October 2022, col 557.](#)

<sup>29</sup> [HC Hansard, 28 October 2022, col 565.](#)

<sup>30</sup> [HC Hansard, 28 October 2022, cols 567–8.](#)

their case to collect and pay, on the basis that they are not receiving their payments. However, we recognise the importance of supporting any parent who is a victim of domestic abuse. Whatever their role in the case, either a receiving or a paying parent will therefore be able to request collect and pay.

Responding to concerns surrounding what evidence of domestic abuse would be accepted by the CMS, the minister noted that the bill would provide the secretary of state with the power to make secondary legislation setting out the circumstances in which the power could be used. He stated that the details would need to be in secondary legislation because the “evidence requirements may be complex and likely to change over time”.<sup>31</sup> In addition, the minister said that the government would “consult widely when formulating our proposals”. He said its aim would be to produce requirements “that are sensitive to the needs of domestic abuse victims”.

## 4.2 Committee stage of the bill

On 14 December 2022, the bill was considered by a public bill committee. No amendments were tabled, and the bill passed the committee stage without division.

During committee stage, Wendy Morton (Conservative MP for Aldridge-Brownhills) and Jess Philips (Labour MP for Birmingham, Yardley) raised the issue of payees being charged to use the collect and pay service.<sup>32</sup>

Responding, Mims Davies, parliamentary under secretary of state at the DWP, said that “full consideration” was being given to exempting victims of domestic abuse from collection charges.<sup>33</sup> She also stated that although the government was “clear that charges on the whole are the right approach”, it was “willing to consider, and are rightly considering, where exemptions may be appropriate”.

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<sup>31</sup> [HC Hansard, 28 October 2022, col 568.](#)

<sup>32</sup> [HC Hansard, 14 December 2022, cols 3–6.](#)

<sup>33</sup> [HC Hansard, 14 December 2022, col 9.](#)

### 4.3 Remaining stages of the bill in the House of Commons

The bill's remaining stages in the House of Commons took place on 3 March 2023.

During report stage, the government made several amendments to the bill (supported by Ms Hart) to allow for the bill's provisions to include Northern Ireland. The bill's explanatory notes (as introduced in the House of Commons) stated that child maintenance is a devolved matter in Northern Ireland and that it is customary for the Northern Ireland Assembly to make legislation that mirrors Great Britain. However, due to the suspension of the Assembly, Northern Ireland would not be able to make the mirroring legislation at the time.<sup>34</sup>

Introducing the amendments, Ms Davies explained why the bill was being extended to Northern Ireland:

[T]hese proposals did not initially extend to Northern Ireland, as Northern Ireland colleagues were unable to obtain a legislative consent motion, which would be the normal process. However, as described, in the continued absence of a functioning Assembly, officials in the Department for Communities in Northern Ireland have confirmed that they wish Northern Ireland to be included within the scope of the changes proposed in the bill, and I can confirm to the House that approval in principle has been obtained from the relevant officials of the Department for Communities.<sup>35</sup>

Responding to the amendments, Ms Hart said that she was “delighted to co-sign them” and that the new amendments meant that domestic abuse victims throughout the UK would “benefit from the measures in this bill”.<sup>36</sup>

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<sup>34</sup> [Explanatory notes](#), p 4.

<sup>35</sup> [HC Hansard, 3 March 2023, col 1001](#).

<sup>36</sup> [HC Hansard, 3 March 2023, col 1003](#).

The amendments were agreed without division and the bill progressed to third reading.<sup>37</sup>

During third reading, Ms Hart thanked members of Parliament and the government for supporting the bill.<sup>38</sup> The bill again received cross-party support.

Despite her party supporting the bill, the shadow minister for work and pensions, Vicky Foxcroft, expressed concern that there was still “outstanding work” to be done on the 4% charge payable by the person with care using the collect and pay service.<sup>39</sup> Responding, Ms Davies stated that alongside developing secondary legislation, the government would be looking at the charging structure for the use of the collect and pay service, and how that would interact with the proposed changes for victims of domestic abuse in such cases.<sup>40</sup> She also stated that she expected this to take place in “early 2024” but that she was “keen to get on with it”.

## 5. Read more

- House of Commons Library, [‘Child maintenance: Support for victims of domestic abuse’](#), 25 January 2023

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<sup>37</sup> [HC Hansard, 3 March 2023, cols 1003–4.](#)

<sup>38</sup> [HC Hansard, 3 March 2023, col 1004.](#)

<sup>39</sup> [HC Hansard, 3 March 2023, col 1008.](#)

<sup>40</sup> [HC Hansard, 3 March 2023, cols 1014–15.](#)

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