



# domestic abuse commissioner

## Independent Review into the ways the Child Maintenance Service supports survivors of domestic abuse

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### About the Domestic Abuse Commissioner

The Domestic Abuse Act establishes in law the Office of the Domestic Abuse Commissioner to provide public leadership on domestic abuse issues and play a key role in overseeing and monitoring the provision of domestic abuse services in England and Wales. The role of the Commissioner is to encourage good practice in preventing domestic abuse; to identify adult and child victims and survivors, as well as perpetrators of domestic abuse; and to improve the protection and provision of support to people affected by domestic abuse from agencies and government.

### Introduction

The Domestic Abuse Commissioner welcomes the invitation from Dr Samantha Callan to submit written evidence to the Independent Review into the ways the Child Maintenance Service supports victims and survivors of domestic abuse. It is vital that all public and voluntary services come together to play their part in the Coordinated Community Response to domestic abuse, and the Child Maintenance Service has a vital role to play. The majority of Child Maintenance Service applicants disclose experiences of domestic abuse. Withholding Child Maintenance Service payments is also one tool perpetrators of domestic abuse can use to economically abuse their ex-partner. It is therefore vital that the Child Maintenance Service and its staff are equipped to recognise and respond to the signs of domestic abuse, including economic abuse.

### Prevalence of domestic abuse among CMS applicants

In May 2018, the Child Maintenance Service (CMS) began to ask parents directly if they have experienced domestic abuse. Since then, data from the Department for Work and Pensions shows that 58% of new applicants to the CMS in the quarter ending June 2021 disclosed that they or their child had experienced domestic abuse.<sup>1</sup> With the vast majority of new applicants being receiving parents, this data suggests a strong prevalence of domestic abuse among receiving parents accessing the CMS, which is also reflected in evidence from domestic abuse services provided to the Domestic Abuse Commissioner. Data provided to the Commissioner by Refuge, largest provider of specialist services for women and children escaping domestic abuse, shows that 18.3% of Refuge service users in 2021 reported the perpetrator refusing to contribute to household costs, and 15.9% reported the perpetrator refusing to pay child maintenance. Department for Work and Pensions data also suggests that 93% of parents paying maintenance through the CMS are male, suggesting a gendered understanding of domestic abuse is particularly important.<sup>2</sup>

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<sup>1</sup> Fee exemptions were granted in 12,500 of 21,300 applications. 12,400 of these were due to domestic abuse.

[Child Maintenance Service statistics: data to September 2021 \(experimental\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-september-2021-experimental)

<sup>2</sup> [Child Maintenance Service statistics: data to September 2021 \(experimental\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-september-2021-experimental)

The Domestic Abuse Act 2021 formally recognises that domestic abuse can continue post-separation, extending the Coercive and Controlling Behaviour offence so that it includes abuse committed by an ex-partner. Dealing entirely with a client group of separated parents, it is particularly vital that the CMS and its staff are equipped to recognise and respond to the signs of post-separation abuse, as the point of separation is a time when victims and survivors are at increased risk of homicide.<sup>3</sup>

### **Economic abuse**

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. Evidence from the charity Surviving Economic Abuse finds 95% of cases of domestic abuse include some form of economic abuse.<sup>4</sup> Economic abuse can continue or begin for the first time after a relationship has ended, with 1 in 4 women and 1 in 5 men reporting economic abuse post-separation in response to a survey by Refuge.<sup>5</sup>

Withholding Child Maintenance payments is one way perpetrators of domestic abuse can continue to economically abuse their former partner. A survey by Gingerbread, the charity for single parents, found that around half (48%) of single parents had experienced some form of economic abuse by a former partner.<sup>6</sup> 97% of those who had experienced economic abuse were women, and separated single parents were found to be considerably more likely to experience economic abuse than those who have always been single parents – 60% compared to 39%. In response to a survey by Surviving Economic Abuse during the pandemic, victim-survivors of economic abuse said that child maintenance was the most frequent issue they required support with of all support needs.<sup>7</sup> 84% of survivors surveyed either strongly agreed (68%) or agreed (15%) with the statement 'as a result of the perpetrator's actions during the [covid] outbreak, I am worried about my current access to child maintenance payments'. Some victims/survivors reported that interference with child maintenance payments had left them struggling to pay for necessities, including food.

Research has found that in the UK, for children of single parents, who are both in poverty and not receiving maintenance, child maintenance payments actually being received would lift them out of poverty in around 60% of all cases. The Commissioner supports calls for the DWP to make a minimum payment of child maintenance, where it is not being paid, to offset the loss caused to the receiving parent.

### **Coordinated Community Response**

A coordinated community response (CCR) to all forms of domestic abuse, including economic abuse, brings together a wide variety of relevant organisations and agencies to work in collaboration to prevent further harm and help victims and survivors establish safety.<sup>8</sup> The Domestic Abuse Commissioner recommends that the Independent Review examines existing good practice in financial services as part of this review, such as the Banking Commission coordinated by Refuge, and the Lloyds Banking Group pilot in partnership with Surviving Economic Abuse.<sup>9</sup> However, with such a high prevalence of

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<sup>3</sup> [Sharp-Jeffs and Kelly, 2016](#)

<sup>4</sup> [Statistics-on-economic-abuse.pdf \(survivingeconomicabuse.org\)](#)

<sup>5</sup> [Money-Matters.pdf \(cwasu.org\)](#)

<sup>6</sup> [https://www.gingerbread.org.uk/wp-content/uploads/2021/02/The-single-parent-debt-trap\\_web.pdf](https://www.gingerbread.org.uk/wp-content/uploads/2021/02/The-single-parent-debt-trap_web.pdf)

<sup>7</sup> [SEA-Cost-of-Covid-Report\\_2021-04.pdf \(survivingeconomicabuse.org\)](#)

<sup>8</sup> <https://www.standingtogether.org.uk/blog-3/in-search-of-excellence>

<sup>9</sup> [Lloyds Banking Group pilots pioneering new tool to identify economic abuse - Surviving Economic Abuse](#)

domestic abuse among CMS recipients, a more concerted effort to tackle domestic abuse will be necessary, including ensuring robust policies and procedures, the appointment of domestic abuse champions, strong links with specialist domestic abuse services, and specialist training delivered by domestic abuse services.

### **How well do you consider disclosures of domestic abuse are handled by CMS?**

The Domestic Homicide Review following the death of Emma Day identified significant concerns with the way that disclosures of domestic abuse by Day were handled by CMS. The Prevention of Future Deaths report for Emma Day also identified a 'system failure' in CMS, stating: *"On 1st November 2016 she applied to the Child Maintenance Service for maintenance, reporting the history of domestic violence. On 3rd November she asked that the claim be withdrawn as her ex-partner had threatened her life. On 16th May 2017 a Child Maintenance Options officer hears in a call that the applicant said that her ex-partner had been violent to her and had heavily implied that if she continued with the maintenance claim, her life would be in danger, but the threat to her life is not passed to the known CMS case worker, to whom Ms Day applied that day to get the claim reinstated."*<sup>10</sup>

While some steps have been taken since the death of Emma Day, such as the introduction of enquiry into domestic abuse, evidence presented by domestic abuse services to the Commissioner shows ongoing concerns with the response to victims and survivors of domestic abuse, indicating a lack of a proactive response, and of the CMS system being used by perpetrators of domestic abuse to further economic and emotional abuse. Victims and survivors of domestic abuse who spoke to Surviving Economic Abuse reported that no inquiry was made into their safety when they disclosed domestic abuse, and they were not signposted to a specialist domestic abuse service. A lack of transparency and data collection from DWP on the process that occurs in response to disclosure of domestic abuse means that it is difficult to monitor practice and improve outcomes. The Commissioner recommends that the Child Maintenance Service routinely collect data on the response to disclosure of domestic abuse, including signposting and referrals to domestic abuse services as well as any changes to their arrangements with the CMS.

### **Do you believe that CMS processes either provoke or exacerbate domestic abuse? If so, how?**

#### **Collect and Pay and Direct Pay arrangements**

64% of children are covered using Direct Pay, whereby the Child Maintenance Service calculates maintenance payments, and parents arrange the payments between themselves. Either parent can choose Direct Pay without needing the other's consent, unless there's evidence that the paying parent is unlikely to pay. The Commissioner is concerned that use of Direct Pay arrangements can increase the harm and risk posed to a victim of domestic abuse of having to ask the perpetrator directly for payments. Domestic abuse services have reported examples where CMS staff have asked a victim/survivor to try to put Direct Pay arrangements in place first before asking for intervention by the CMS. Refuge also reported that CMS staff have asked victims/survivors of domestic abuse to try to find out details of the

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<sup>10</sup>[https://www.judiciary.uk/wp-content/uploads/2021/08/Emma-Day-Prevention-of-future-deaths-report-2021-0263\\_Published.pdf](https://www.judiciary.uk/wp-content/uploads/2021/08/Emma-Day-Prevention-of-future-deaths-report-2021-0263_Published.pdf)

perpetrator's earnings and workplace themselves, which also carries a risk as it involves the victim having to contact the perpetrator.

While the DWP advises receiving parents that they can open a non-geographic bank account to manage their safety when using Direct Pay, SEA have reported that perpetrators can continue to abuse victims and survivors through: harassment using payment reference fields on bank statements, non-payment, and deliberate payment on irregular days to interfere with means tested benefits entitlements. One victim/survivor also told SEA that non-geographic accounts are difficult to access and her bank did not know what a non-geographic account was when she asked for one.

In cases where parents cannot arrange payments between themselves, or if the Paying Parent does not keep up with the payments, the Receiving Parent can ask the CMS to switch the case to the Collect & Pay service whereby the CMS collects maintenances from the Paying Parent and pays it to the Receiving parent. Collect and Pay can help ensure victims and survivors of domestic abuse do not have to contact the perpetrator of domestic abuse to access payment. However, there are ongoing charges for use of Collect and Pay, with 20% charged to the Paying Parent on top of the maintenance payment and 4% charged to the Receiving Parent, taken out of the maintenance amount. Services have also highlighted concerns with Collect and Pay, with one survivor describing to SEA that they were 'forced' to use Collect and Pay after disclosing domestic abuse, despite not wanting to incur the additional fees. Victims and survivors have also reported to SEA that perpetrators can request a return to Direct Pay arrangements against the victim/survivor's wishes and despite evidence of long-standing non-compliance and economic abuse.

The Domestic Abuse Commissioner recommends that Collect and Pay be automatically offered to all victims and survivors of domestic abuse and all fees be removed. Collect and Pay should not be mandatory for receiving parents who disclose experiences of domestic abuse. Safeguards should also be put in place to prohibit abusive paying parents from requesting a return to Direct Pay in order to further their economic abuse. CMS guidance and policies should stipulate that no victim or survivor of domestic abuse should be told to contact a perpetrator, and that all efforts should be made to access information about the paying parent without requiring a victim or survivor to contact the perpetrator.

CMS call handlers and caseworkers will also need specialist training and support to deal with perpetrators of domestic abuse who object to the child maintenance arrangement under Collect and Pay. SEA reported to the Commissioner that it is common for perpetrators of domestic abuse to be abusive to CMS staff, demanding that staff send harassing messages to the receiving parent or demanding that the arrangement be cancelled. It is important that CMS staff are adequately supported, including recognising that many employees will have personal experience of domestic abuse.

### **Economic abuse through incorrect or non-payment**

Incorrect or non-payment of Child Maintenance payments where this has substantial adverse effect on a victim/survivor's ability to acquire, use or maintain money or other property, or obtain goods or services constitutes economic abuse under the Domestic Abuse Act 2021. £421 million is currently owed to parents with care, and domestic abuse services have reported issues with the CMS system which exacerbates or perpetuates incorrect and non-payment of Child Maintenance. For example, responding to a survey by Surviving Economic Abuse, a number of victims and survivors of economic abuse reported issues accessing the Child Maintenance Service (CMS) during the pandemic, including struggling to get in touch with the CMS and a lack of enforcement activity to recover missed payment.

Evidence from SEA also suggests that perpetrators can incorrectly declare their income in order to underpay the receiving parent, which may constitute a form of economic abuse. For example, where the parent is self-employed or owns a limited company, they can decide how much to declare they are being paid and make up the remainder in dividends. The onus is then on the victim-survivor to raise the issue of dividends and request an income variation. Concerningly, survivors of economic abuse have also reported to Surviving Economic Abuse that when they provided evidence to Child Maintenance staff of their abuser lying about their income and capital report, they were told that any evidence they provide would be immediately shared with the abuser. SEA suggests that the CMS should automatically take dividends into account where that information is available, and that evidence requirements of the paying parent to show that their income has decreased should be strengthened.

**The Domestic Abuse Commissioner recommends the Independent Review adopt the following recommendations:**

1. The Department for Work and Pensions should commission a specialist gender-informed domestic abuse service to deliver training on recognising and responding to domestic abuse, including economic abuse, to Child Maintenance Service staff. This training should be refreshed on an annual basis and provided to all new starters, with the clear recognition that victims and survivors of domestic abuse make up the majority of CMS customers.
2. This training should be accompanied by clear protocols for responding to disclosures of domestic abuse, developed in close consultation with the specialist domestic abuse sector and with CMS customers. These protocols should include staff safeguarding responsibilities, the role of multi-agency information sharing processes to tackle domestic abuse such as MARAC, as well as a clear referral pathway to specialist domestic abuse services.
3. The Child Maintenance Service should also work to prevent economic abuse by being accessible and responsive to receiving parents' needs and pursuing enforcement where perpetrators of domestic abuse interfere with payments.
4. The Child Maintenance Service should also support victims and survivors of economic abuse by making a minimum payment to them where there are non-payments by the perpetrator so that they do not fall into poverty as a result of the abuse.
5. Collect and Pay should be automatically offered to all victims and survivors of domestic abuse and all fees be removed. Collect and Pay should not be mandatory for receiving parents who disclose experiences of domestic abuse. Safeguards should also be put in place to prohibit abusive paying parents from requesting a return to Direct Pay in order to further their economic abuse.
6. CMS guidance and policies should stipulate that no victim or survivor of domestic abuse should be told to contact a perpetrator, and that all efforts should be made to access information about the paying parent without requiring a victim or survivor to provide such information.

7. In assessing maintenance payments, CMS staff should automatically take dividends into account where that information is available, and evidence requirements of the paying parent to show that their income has decreased should be strengthened.
8. The CMS should routinely collect and publish data on disclosures of domestic abuse and the actions taken in response to disclosures, including any referrals made and changes in CMS arrangements as a result of disclosures of domestic abuse.