

The Domestic Abuse Commissioner's response to the Government Consultation on Child Maintenance: Improving the Collection and Transfer of Payments

Role of the Domestic Abuse Commissioner

The Domestic Abuse Act establishes in law the Office of the Domestic Abuse Commissioner for the purpose of providing public leadership on domestic abuse issues and to 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 and improve the protection and provision of support to people affected by domestic abuse, by holding agencies and Government to account. The Domestic Abuse Commissioner for England and Wales welcomes the opportunity to feedback on the latest Government consultation (published under the previous Government) on the Child Maintenance Service, and would be pleased to discuss the contents of this response further, if requested to do so.

This response will set out the Commissioner's overarching position and key recommendations for improvement, before responding in more detail to address the consultation proposals, wider issues with the Child Maintenance Service and the need for the service to be significantly upskilled to reduce risk, and respond to cases of domestic abuse as safely as possible.

Intersectionality

The Domestic Abuse Commissioner understands the need to continually refine an intersectional lens by listening to all victim/survivors of domestic abuse, including children, no matter who they are or where they are located, and encourages Government to take a similar approach. Intersectionality, a term coined by Kimberley Crenshaw, is firmly located in Black women's experiences of racism and multiple forms of oppression, including domestic abuse.¹ This is a powerful lens that enables us to understand victim/survivor experiences as a whole and identify systemic oppression and marginalisation.

Domestic abuse does not exist in a single form. It is unique to each person's situation and history. Different forms of domestic abuse, including controlling and coercive behaviours, coexist in most contexts and it is important to understand how power and control manifest in these situations. 'Race'/ethnicity, age, gender, religion, sexuality, socio economic status, immigration status, disability status and other ways in which victims/survivors identify plays a crucial role in their experience of abuse, its impact and their ability to access pathways of support and recovery. Specialist pathways of support as well as any attempt to understand victim/survivor needs should be responsive to the multiple contexts of oppression and vulnerabilities that they experience.

¹ Columbia Law School (2017). *Kimberlé Crenshaw on Intersectionality, More than Two Decades Later*. [online] [www.law.columbia.edu](https://www.law.columbia.edu/news/archive/kimberle-crenshaw-intersectionality-more-two-decades-later). Available at: <https://www.law.columbia.edu/news/archive/kimberle-crenshaw-intersectionality-more-two-decades-later>.

Overarching position

The Domestic Abuse Commissioner is pleased that the DWP is consulting on provisions to improve the Child Maintenance Service. However, without a full systems overhaul, the proposed changes will not have the intended impact.

The Commissioner agrees with the proposal to consolidate the CMS into one Collect and Pay system, by removing the Direct Pay system. However, without improved and robust enforcement action, the CMS will continue to be ineffective in dealing with non-compliance of maintenance payments, and children will continue to go without the money which they deserve. The Commissioner asks that the DWP make note of the unintended consequences of the proposals, and understands the need for safeguarding to be the number one consideration in making any changes.

Recommendations for change

Recommendation: The DWP should ensure that the 'Get Help Arranging Child Maintenance' website is clear that for those who have experienced domestic abuse, the Child Maintenance Service is the best option and that victims do not have to have any contact with their ex-partner.

Recommendation: The DWP should ensure that the 'Get Help Arranging Child Maintenance' website has targeted, accessible information about domestic abuse earlier in the process. The service should give examples of the types of behaviours which constitute 'economic abuse' or 'emotional abuse', as examples. The Domestic Abuse Act Statutory Guidance gives examples of behaviours which constitute domestic abuse.²

Recommendation: The DWP should ensure that the 'Get Help Arranging Child Maintenance' website is clear on what types of domestic abuse support is available, such as advocacy, therapeutic care or help to navigate complex legal systems.

Recommendation: The DWP removes the need for a receiving parent to know their ex-partners income to calculate maintenance payments. The onus must be removed from the receiving parent.

Recommendation: The maintenance calculator must be vastly improved to take into account salary sacrifices and pension contributions and make efforts to independently verify any self-reported figures where a paying parent is self-employed.

Recommendation: The CMS must make greater use of enforcement tools, such as the deduction from earnings orders, direct contact with employers, and the removal of passports/driving

² Home Office (2022). *Domestic Abuse Statutory Guidance*. [online] Available at: https://assets.publishing.service.gov.uk/media/62c6df068fa8f54e855dfe31/Domestic_Abuse_Act_2021_Statutory_Guidance.pdf.

licences. The use of these enforcement tools must be monitored to understand increased risk to the victim where these are imposed.

Recommendation: Government should put in place minimum payments when payments are missed, which can be recovered through enforcement.

Recommendation: DWP should improve Collect and Pay compliance by monitoring and reporting against the effectiveness of enforcement actions, and coordinating with family courts to access financial information where non-resident parents are actively seeking to avoid paying maintenance.

Recommendation: Non-compliance should be redefined as anything below 90% of the maintenance, over a 3-month period.

Recommendation: The CMS must do more to actively investigate non-compliance and remove the requirement for the receiving parent to provide evidence where fraud is suspected.

Recommendation: Unless changes can be made to ensure that victims of domestic do not mistake terminology of parental conflict as pertaining to them, Reducing Parental Conflict Programmes must not be signposted on the website.

Recommendation: The DWP should ensure that CMS staff have domestic abuse sector-developed training, to ensure that staff can spot signs of post-separation abuse through the service, intervene early and implement stronger enforcement powers. This training must include content about trauma-informed practice, the gendered nature of domestic abuse, and how to recognise tactics such as DARVO (set out below) and mutual claims of abuse. This training must positively influence professional judgement so that families can be easily referred to single named caseworkers where appropriate.

Recommendation: Single-named caseworkers must have more in-depth training on domestic abuse, particularly on how to risk assess, engage appropriate third parties and make robust and legally sound notes. There must also be clinical supervision put in place for these workers and enough single-named caseworkers to meet demand.

Recommendation: The DWP must collect accurate data on how many victims of domestic abuse access the CMS.

Recommendation: All fees are abolished for receiving parents.

Recommendation: The 20% non-compliance fee should not be enforced in cases of non-compliance and other enforcement measures should be strengthened, such as the timely removal of a driving licence.

Recommendation: DWP should uprate benefits payments to be in line with the current cost of living, to ensure parents can afford to pay maintenance.

Recommendation: Implementation proposals should be tested with the specialist domestic abuse sector to manage risk.

Recommendation: The DWP should set up a lived experience group to ask victims and survivors for their views on how the implementation should be managed.

Recommendation: The CMS must model demand and increase their caseworkers as needed to ensure an effective system, with better enforcement and investigation.

Response

Introduction

The Commissioner understands that this consultation was published by the previous Government, and that the new Government may have a different view on the best approach to improving the Child Maintenance Service. The Commissioner welcomes the new Government's focus on tackling child poverty and believes that her recommendations to improve and strengthen the enforcement of Child Maintenance will significantly contribute to this focus.

Parents have a legal responsibility to provide financially for their children even if they no longer live with them. Despite this, the current Child Maintenance system does not uphold this responsibility, as a result of poor enforcement in cases of non-payment and where sporadic payments are made.

Where maintenance is not paid, it is the child who suffers, as they are not receiving the maintenance and additional resources that brings which they deserve. **One study has found that if child maintenance was to be paid in full to all children in separated families living in poverty, who do not receive financial support from the non-resident parent, it could lift 60% of them out of poverty.**³

Experiencing domestic abuse only compounds this. Leading charities such as Surviving Economic Abuse have highlighted the economic vulnerability that survivors often face as a result of being subject to domestic abuse, such as mounting debts and housing instability. For many victims and survivors, this economic vulnerability does not end when they leave the perpetrator. Domestic abuse can often continue, and in some cases worsen, after separation. To reflect this, the Domestic Abuse Act 2021 formally recognised post-separation coercive control as a type of domestic abuse.⁴

³ [Children in poverty: Child Maintenance Service \(parliament.uk\)](#)

⁴ GOV.UK (2021). *Domestic Abuse Act 2021*. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2021/17/contents>.

As acknowledged in Samantha Callan’s independent review, ‘it is not uncommon for domestic abuse survivors to report that the CMS is used by ex-partners as a weapon in post-separation control and economic abuse.’⁵ The Work and Pensions Committee has also received evidence which demonstrates that paying parents can ‘weaponize the CMS systems to maintain levels of coercion and control.’⁶ For example, by failing to pay maintenance, or by making sporadic payments so that a victim is unable to rely on the regular payment and have financial independence. Maintenance arrangements can often be seen by perpetrators as the survivor taking back control, which can trigger some abusers to ramp up aggression and abusive tactics in an effort to regain control over their victim and children.⁷

The latest available data shows that 55% of new applicants to the Child Maintenance Service are victims of domestic abuse.⁸ Therefore, the Child Maintenance Service has a vital role to play in the response to domestic abuse. This role is multifaceted, and the Child Maintenance Service must help to safeguard victims of domestic abuse using the service, monitor how the service may be used as a tool of post-separation abuse and take the right, timely action when that does happen.

Moreover, the Domestic Abuse Act 2021 recognised children as victims in their own right.⁹ Non-payment of maintenance as a form of post-separation abuse subjects the child and adult victim to continued abuse, and the Child Maintenance Service must recognise its role in stopping this, for the benefit of both the child and adult victim. It is the view of the Domestic Abuse Commissioner that the Child Maintenance must do more to be child led, and hold the perpetrator to account.

GET HELP WITH CHILD MAINTENANCE

As part of this consultation exercise, the DWP are seeking views on the ‘Get Help with Child Maintenance’ page, and whether it is fit for purpose. Whilst the website offers some support and advice for those experiencing domestic abuse, the content could be strengthened and help/advice should be signposted sooner in the process. From the very beginning of the user journey, it is vital that the Child Maintenance Service is as domestic abuse-informed as possible, in recognition of the high number of victims who will use the service.

⁵ Callan, S. (2022). *Independent review of the Child Maintenance Service (CMS) response to domestic abuse*. [online] Available at: <https://www.gov.uk/government/publications/independent-review-of-the-child-maintenance-service-cms-response-to-domestic-abuse/independent-review-of-the-child-maintenance-service-cms-response-to-domestic-abuse>.

⁶ [Children in poverty: Child Maintenance Service](https://www.parliament.uk/resources/reports/children-in-poverty-child-maintenance-service) (parliament.uk)

⁷ Callan, S. (2022). *Independent review of the Child Maintenance Service (CMS) response to domestic abuse*. [online] Available at: <https://www.gov.uk/government/publications/independent-review-of-the-child-maintenance-service-cms-response-to-domestic-abuse/independent-review-of-the-child-maintenance-service-cms-response-to-domestic-abuse>.

⁸ GOV.UK. (2023.). *Child Maintenance Service statistics: data to December 2023*. [online] Available at: <https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-december-2023> [Accessed 29 Jul. 2024].

⁹ GOV.UK (2021). *Domestic Abuse Act 2021*. [online] Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/2021/17/contents>.

It is the view of the Domestic Abuse Commissioner that the current website is not clear enough that a private arrangement or a family-based arrangement is not appropriate in cases of domestic abuse. As a starting point, the website must be clear that for those who have experienced domestic abuse, the Child Maintenance Service is the best option and that victims do not have to have any contact with their ex-partner in order to receive maintenance. Moreover, one of the biggest problems with the current service is that the safest option for victims, which is the Collect and Pay Service, is not the default one offered. Instead, victims are advised to set up a non-geographical bank account as bank details may be shared with their ex-partner, but the website offers no advice/support on how this can be done. This alone may deter victims from using the service, and not receiving any child maintenance.

To go further, the website could be improved by having more targeted, accessible information earlier in the process with active links. Moreover, on the page which refers to the Domestic Abuse Act and different types of abuse, the service could be improved by listing the types of behaviours which constitute 'economic abuse' or 'emotional abuse.' Many people may not recognise their experiences as abuse without these examples, and end up using a service which is inappropriate for their situation. The Domestic Abuse Act Statutory Guidance gives examples of behaviour which constitutes domestic abuse, which may be useful for the website.¹⁰ Further, the website could be strengthened by providing detail on the types of support available to victims. Whilst the current website is clear that support is available, it is not clear what that support is and victims may not be aware of the different types of support available. As an example, it may be beneficial to make clear that there is help and support for those in need of advocacy, therapeutic care or help to navigate complex legal systems.

MAINTENANCE CALCULATOR

The consultation also seeks views on the calculator which enables users to calculate the appropriate amount of maintenance to be paid. It is the strong view of the Commissioner that significant improvements are made to this calculator so that loopholes can be closed and a more accurate assessment of maintenance established. The current calculator requires an individual to know their ex-partners income information, which in cases of domestic abuse, will be difficult to obtain and there may be significant risk for a victim to try to obtain that information. The Child Maintenance Service must do more to collect this information, and remove the onus from the victim.

Moreover, the current calculation for maintenance payments is only based on taxable gross income. Therefore, salary sacrifices (such as a car) and pension contributions are not taken into account, meaning that paying parents can hide huge proportions of their income. Similarly, those who are self-employed can declare a smaller proportion of their true earnings to HMRC. Paying parents can also hide any income from abroad, savings, property or 'cash in hand' jobs.

¹⁰ Home Office (2022). *Domestic Abuse Statutory Guidance*. [online] Available at: https://assets.publishing.service.gov.uk/media/62c6df068fa8f54e855dfe31/Domestic_Abuse_Act_2021_Statutory_Guidance.pdf.

The accuracy of the maintenance calculator must be improved by taking into account pension contributions and salary sacrifices, and by making efforts to independently verify any self-reported figures where a paying parent is self-employed. The Child Maintenance Service must take a greater role in ensuring that maintenance calculations are correct, and remove the onus from the receiving parent to provide evidence that income is being hidden.

VIEW ON PROPOSAL

The purpose of this consultation is to consider views on the removal of the Direct Pay service and in its place, CMS users would access the Collect and Pay Service or choose a family based arrangement. For all users of the Collect and Pay Service, there would be a 2% charge on both paying and receiving parents, including victims of domestic abuse. In cases of non-compliance of payments, there would be a 20% charge on the paying parent.

The Domestic Abuse Commissioner strongly agrees with the removal of the Direct Pay service due to the risk it carries to victims of domestic abuse and due to the poor enforcement for users on this service. Direct Pay is not an effective mechanism, evidenced by the fact that only 58% of new users report still using Direct Pay 13 months after the calculation.¹¹ Of these users, 16% report not receiving the full amount and 20% reported that it was usually late.¹² In the quarter ending December 2023, 12,000 parents switched to Collect and Pay and in the quarter to 10 March 2024, 11,000 parents switched to Collect and Pay.¹³ The reason for this is the lack of enforcement in cases of non-payment. The National Audit Office found that around half of new Direct Pay arrangements are either not sustained or are not effective, with £40 million in known arrears.¹⁴ This is likely to be an underestimate, as parents regularly choose not to report non-payment to avoid causing issue with the paying parent.

Whilst Direct Pay is ineffective and must go, there are also significant issues with the Collect and Pay system which must be alleviated if the changes to the CMS are to work. The National Audit Office has found that whilst enforcement of the Collect and Pay system has improved, at least half of paying parents using Collect and Pay still do not pay, pay less than they should, or pay late.¹⁵ Despite being the more enforced service, in the quarter ending March 2024, of the £82.2

¹¹ Survey of Child Maintenance Service Direct Pay Clients. (2016). Available at: <https://assets.publishing.service.gov.uk/media/5a800fb0ed915d74e622c3db/rr931-child-maintenance-service-direct-pay-clients-survey.pdf> [Accessed 29 Jul. 2024].

¹² Ibid.

¹³ GOV.UK. (2023.). *Child Maintenance Service statistics: data to December 2023*. [online] Available at: <https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-december-2023/child-maintenance-service-statistics-data-to-december-2023#:~:text=61%25%20of%20all%20CMS%20arrangements> [Accessed 29 Jul. 2024].

¹⁴ National Audit Office. (2022.). *Child Maintenance*. Available at: <https://www.nao.org.uk/wp-content/uploads/2022/03/Child-Maintenance.pdf> [Accessed 29 Jul. 2024].

¹⁵ Ibid.

million maintenance arranged to be paid, £23.5 million was unpaid.¹⁶ For users using Collect and Pay, 31% of users received no maintenance at all and 69% received some.¹⁷

The non-payment of child maintenance comes at a huge overall cost. Evidence shows that child maintenance payment arrears currently sit at around £500 million, since the CMS was established in 2012 and there was £20 million unpaid Child Maintenance in the last quarter of 2022.¹⁸ Moreover, in the financial quarter to March 2023, 140,000 of the 910,000 children covered by the CMS received no maintenance at all.¹⁹ In this period, the CMS was successful in recovering just £300,000 in owed maintenance, where there was a sanctions action in process, but £22.9 million had been accrued in arrears via collect and pay.²⁰ This demonstrates that even in the Collect and Pay system, the CMS does not currently enforce payments effectively, and more must be done to hold parents accountable for child maintenance payments. It is the strong view of the Domestic Abuse Commissioner that enforcement must be timely and must be strengthened on the Collect and Pay Service. The CMS must make greater use of enforcement tools, such as the deduction from earnings orders, direct contact with employers, and the removal of passports/driving licences.

ENFORCEMENT

As evidenced above by the alarming statistics on non-payment, the CMS must do more to strengthen its enforcement powers. The threshold for non-compliance currently sits too high, with DWP defining non-compliance as any figure paid within a 3-month period. This is not workable and there must be a stronger definition of non-compliance put in place. The Domestic Abuse Commissioner strongly agrees with Women's Aid's recommendation that non-compliance should be defined as anything below 90% of the maintenance, over a 3 month period.²¹

Evidence from Gingerbread, Surviving Economic Abuse and from survivor correspondence received by the DAC Office has indicated that the CMS does not always use the enforcement actions available, that the thresholds for using the enforcement actions are unclear and that the CMS has routinely failed to follow up on the enforcement actions taken. For example, this can include delays in using a deductions from earnings order, or failing to follow up with employers who are not complying with this order. Whilst the DWP has a range of enforcement powers – such as suspending/confiscating driving licences and passports, and imposing prison sentences, in

¹⁶ GOV.UK. (2024.). *Child Maintenance Service statistics: data to March 2024*. [online] Available at: <https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-march-2024/child-maintenance-service-statistics-data-to-march-2024#child-maintenance-due-and-paid> [Accessed 29 Jul. 2024].

¹⁷ Ibid.

¹⁸ Lords' Committee Stage Briefing on the Child Support (Enforcement) Bill. (2023). Available at: https://survivingeconomicabuse.org/wp-content/uploads/2023/06/Lords_Committee_Stage_Briefing-Child_Support_Enforcement_Bill-GingerbreadSEA_June_2023.pdf [Accessed 29 Jul. 2024].

¹⁹ Gingerbread (2023). *Child Support Enforcement Bill gains Royal Assent, but will much change for single parents?* [online] Gingerbread. Available at: <https://www.gingerbread.org.uk/our-work/news-and-views/child-support-enforcement-bill-gains-royal-assent-but-will-much-change-for-single-parents/> [Accessed 29 Jul. 2024].

²⁰ Ibid.

²¹ Please see Women's Aid's submission to this consultation.

the quarter up to March 2024, none of these actions had been taken, despite the exponentially high prevalence of non-payment.²²

Part of the problem with the system is that the CMS does not proactively pursue investigation or enforcement. The CMS will only investigate where a receiving parent is able to provide evidence. Receiving parents may not know enough about their ex-partner's financial circumstance to bring a claim when fraud is suspected. They are also unlikely to be able to obtain the level of evidence required to prove fraud and that the paying parent is misrepresenting their income. In cases where there is domestic abuse, which is 60% of CMS cases, this is even more concerning.²³ A survivor bringing a claim for a financial investigation could be a dangerous trigger for a perpetrator to further abuse their ex-partner, and could be extremely re-traumatising and unsafe. The burden should not be on the receiving parent to build a case and chase progress of enforcement proceedings, this responsibility should sit with the CMS. In giving evidence to the Work and Pensions Committee, CMS representatives explained that of cases taken to financial investigation, 80% come from the receiving parents, with only 20% coming from CMS staff.²⁴

In cases where enforcement action is finally taken, it is extremely slow and many have to wait years for successful enforcement. Gingerbread have reported from their helpline that receiving parents are waiting months, and in some cases years, for complaints to be resolved or effective enforcement action to be taken. Moreover, The National Audit Office reported to the Work and Pensions Committee that enforcement action is so slow, that even when a parent has eventually paid what was owed for a period, there are still arrears at the end of the process for the Child Maintenance that has steadily built up whilst enforcement action was being taken, so receiving parents are back to square one and have to go through the whole process again.²⁵

REDUCING PARENTAL CONFLICT

As part of the consultation, DWP are seeking views on embedding signposting for resolving conflict programmes onto the website, as part of a strategy to direct more parents to a family-based arrangements. The Domestic Abuse Commissioner is deeply concerned about this proposal due to the risk it carries for victims of domestic abuse and would recommend against it, until the programme has seen vast improvements. As evidenced in the DWP's own evaluation of the Reducing Parental Conflict Programme, ineffective screening can mean that cases of domestic abuse can wrongly end up in a parental conflict programme.²⁶ Worryingly, the

²² GOV.UK. (2024.). *Child Maintenance Service statistics: data to March 2024*. [online] Available at: <https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-march-2024/child-maintenance-service-statistics-data-to-march-2024#child-maintenance-due-and-paid> [Accessed 29 Jul. 2024].

²³ GOV.UK. (n.d.). *Child Maintenance Service statistics: data to December 2021 (experimental)*. [online] Available at: <https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-december-2021-experimental/child-maintenance-service-statistics-data-to-december-2021-experimental> [Accessed 29 Jul. 2024].

²⁴ committees.parliament.uk/oralevidence/12548/pdf/.

²⁵ National Audit Office. (2022.). *Child Maintenance*. Available at: <https://www.nao.org.uk/wp-content/uploads/2022/03/Child-Maintenance.pdf> [Accessed 29 Jul. 2024].

²⁶ GOV.UK. (2022). *Reducing Parental Conflict programme 2018 to 2022: final evaluation report*. [online] Available at: <https://www.gov.uk/government/publications/reducing-parental-conflict-programme-2018-to-2022-final-evaluation-report/reducing-parental-conflict-programme-2018-to-2022-final-evaluation-report> [Accessed 29 Jul. 2024].

evaluation states that it is unclear if any safeguarding took place in these instances.²⁷ Moreover, the evaluation also highlighted that one local authority found that there were misunderstandings among professionals around the difference between domestic abuse and parental conflict.²⁸ This misunderstanding is unfortunately, widespread, and the Commissioner is concerned that victims could be wrongly placed onto one of these programmes as a result of this misunderstanding, increasing serious risk of further abuse. Before these programmes can be signposted, the DWP must ensure that:

- the sequencing puts safeguarding first and users are assessed for potential domestic abuse before moving to a parental conflict programme to ensure risk is identified and managed appropriately. This must be done with the involvement of specialist domestic abuse trained practitioners.
- There must be clear referral pathways for domestic abuse victims and Parental Conflict practitioners must know how to do this safely.
- Parental Conflict practitioners must have substantial training on domestic abuse – in particular controlling and coercive behaviour and other issues that may come up in parental conflict work, such as child contact discussions and alienating behaviours.
- The CMS is better integrated into early intervention services, such as Family Hubs, so that parents can access a range of post-separation help based on their circumstances.

It is the Commissioner's understanding that the DWP are keen to move families, where appropriate to a family-based arrangement where possible and where safe. However, initiatives to move to a family-based arrangement are not working. In 2021, DWP found that 49% of non-resident parents and 35% of resident parents without a maintenance arrangement would like one.²⁹ It is the view of the Domestic Abuse Commissioner that a balance must be achieved and there must not be undue emphasis on this type of arrangement, and it must be abundantly clear that this is not appropriate for victims of domestic abuse. Victims of domestic abuse should not at any point feel forced into a family-based arrangement, or any shame for using the CMS. The appropriate safeguards must be put in place to avoid this.

DOMESTIC ABUSE PROVISIONS

The consultation also asks for an assessment on the usefulness of the domestic abuse provisions which currently operate in the CMS. The Domestic Abuse Commissioner believes that the DWP have made a range of improvements, but that more must be done to further protect victims and survivors.

As highlighted throughout this response, perpetrators can use the CMS to further perpetrate abuse in many ways. This can include, but is not limited to; using the appeals process to delay progress against enforcement action, appealing payment calculations, hiding their true earnings and under-declaring income, misrepresenting the number of children they are responsible for

²⁷ Ibid.

²⁸ Ibid.

²⁹ [Child Maintenance \(parliament.uk\)](https://www.parliament.uk)

and making payments inconsistently. Moreover, due to the nature of CMS enforcement action, it is the view of many survivors that post-separation abuse can be facilitated by the CMS, due to the inconsistencies with enforcement and payment loopholes for paying parents who are self-employed. The CMS must do more to identify and disrupt perpetrators using this form of abuse through safe and thorough investigation.

An in-depth knowledge and understanding of post-separation abuse is critical to a well-functioning CMS that protects survivors. However, the Commissioner understands that the current training for CMS workers does not include any content on post-separation abuse, meaning harmful actions may be taken by workers due to inconsistent understanding of domestic abuse. Moreover, in a survey by Gingerbread, 90% of respondents reported being subject to ongoing coercive control, and not feeling that CMS staff had shown awareness of their situation in how they had responded to them.³⁰

At a minimum, DWP should ensure that CMS staff have domestic abuse sector-developed training, to ensure that staff can spot signs of post-separation abuse through the service, intervene early and implement stronger enforcement powers. This training must include content about trauma-informed practice, the gendered nature of domestic abuse, and how to recognise tactics such as DARVO and mutual claims of abuse.

The Commissioner has not yet seen the evaluation of the single-named caseworker pilot, so can make limited comments about how it has worked in practice. However, the Commissioner has heard anecdotally from a number of organisations working with survivors that they are still getting multiple caseworkers and are needing to retell their story. For the single-named caseworkers to be successful, they must have more in-depth training on domestic abuse, particularly on how to risk assesses, engage appropriate third parties and make robust and legally sound notes. There must also be clinical supervision put in place for these workers. Since the removal of the £20 fee to access the service, the DWP no longer collects accurate data on how many victims of domestic abuse access the CMS. Having this data is critical, and will inform future decision making on how many single-named caseworkers are required in order to meet demand.

As identified through the survivor correspondence received by my office, there is a clear lack of trust in the CMS for victims of domestic abuse. It is also clear from interactions with the previous Ministerial team that the intention is to treat paying and receiving parents equally, but as a result, the experience of domestic abuse does not have the weight that it should in decision making on enforcement and non-payment, it is only considered in relation to providing support for the victim.

The Commissioner is concerned that the DWP is looking at the CMS with a non-gendered approach. This is in difference to the previous Government's domestic abuse strategy which

³⁰ Please see Gingerbread's submission to this consultation.

recognised domestic abuse as gendered.³¹ Moreover, the Commissioner is concerned about incorrect assumptions and language about bi-directional and mutual abuse. The DAC Office acknowledges that the picture can be complex in cases of domestic abuse and that understanding the typologies of victim or perpetrator can be difficult in certain instances. This can present complexities in practice when responding to cases of domestic abuse. Care needs to be taken to distinguish violent resistance, where a survivor may stand up for themselves in an attempt to stop the violence or protect their children, from situational couple violence, where both people in a relationship are violent to each other but in a way that is not rooted in power, control or coercion.

It is important for the CMS and DWP to carefully consider power and control and how this is manifesting in cases, so as not to misdiagnose domestic abuse as bidirectional abuse. There is a power and control imbalance inherent in domestic abuse, as demonstrated by the [Duluth Power and Control Wheel](#). The use of Deny, Attack, and Reverse Victim and Offender (DARVO) is known to be applied by perpetrators to accuse survivors of abuse, deflect from their own behaviour and so further abuse their target.³²

FEES

As mentioned above, the DWP proposes the introduction of a 2% fee for both paying and receiving parents, which is increased to a 20% fee in cases of non-payment. Whilst the 2% fee is less than the current fee for using the Collect and Pay Service, for victims of domestic abuse, this fee acts as a penalty for accessing an essential service and penalises victims for having to use a statutory scheme for keeping themselves and their children safe. The abuse is the responsibility of the perpetrator, nobody else. In order to avoid the need for unworkable evidence thresholds to remove Collect and Pay fees for victims of domestic abuse, the Domestic Abuse Commissioner recommends that fees are scrapped for all receiving parents.

Moreover, a 2% fee is a substantial amount of money which could make a difference. A recent IFS study has found that half of children living in single parent families are living in relative poverty, so any fee will significantly impact on the child's access to basic needs, such as stable housing and food.³³ The 2% fee may also be the reason that some victims of domestic abuse may choose to use a family-based arrangement, in order to receive the full maintenance payment, or perpetrators of abuse may coerce victims into using a private arrangement to avoid fees, and then pay no maintenance at all due to the lack of enforcement, putting the victim and child in an inherently vulnerable position.

³¹ Home Office (2022). *Tackling Domestic Abuse Plan - Command paper 639 (accessible version)*. [online] GOV.UK. Available at: <https://www.gov.uk/government/publications/tackling-domestic-abuse-plan/tackling-domestic-abuse-plan-command-paper-639-accessible-version>.

³² Domestic Abuse Intervention Programs (2017). *Understanding the power and control wheel*. [online] Domestic Abuse Intervention Programs. Available at: <https://www.theduluthmodel.org/wheels/understanding-power-control-wheel/>.

³³ Cribb, J., Wernham, T. and Xu, X. (2022). *Pre-pandemic relative poverty rate for children of lone parents almost double that for children living with two parents*. [online] Institute for Fiscal Studies. Available at: <https://ifs.org.uk/articles/pre-pandemic-relative-poverty-rate-children-lone-parents-almost-double-children-living-two>.

Turning to the 20% fee in cases of non-compliance, it is the view of the Domestic Abuse Commissioner that this should not be enforced and other enforcement measures should be strengthened, such as the timely removal of a driving license. However, given the potential for enforcement powers to trigger abusive behaviour from a perpetrator, these softer enforcement tools must be monitored to understand any increased risk for victims of domestic abuse post implementation.

The fear of a perpetrator's negative reaction to the 20% fee will mean that victims may choose not to pursue Collect and Pay, so this risk must be mitigated. If the 20% fee is to be brought into practice, this must be effectively monitored to understand the risk for victims of domestic abuse. The DWP are also keen to understand if the 20% should be exempted for those paying parents who are in receipt of benefits. The Commissioner is acutely aware that for some paying parents in receipt of benefits, child maintenance can be costly and in some cases, unaffordable. However, the Commissioner is also aware that this exemption is another loophole for perpetrators to exploit, with some perpetrators purposely giving up employment to avoid paying child maintenance. To achieve balance, the Commissioner recommends that instead of a blanket exemption for those on benefits, that the DWP uprates benefits payments to be in line with the current cost of living, to ensure parents can afford to pay.

IMPLEMENTATION

For these substantial changes to be made, they must be done with care and consideration for the potential safeguarding risks which they carry. The proposals are currently lacking information on how these changes would be implemented and the Commissioner is clear that any future proposals are tested with the specialist sector to manage risk.

If the removal of Direct Pay is not managed properly, many victims and survivors could end up in an unworkable family-based arrangement, or no arrangement at all. The DWP must be clear on how the transfer will be managed. If a perpetrator believes that the victim initiated the change to the Collect and Pay system, this could trigger unwanted contact and hostility from a perpetrator.

It is the recommendation of the Domestic Abuse Commissioner that the DWP sets up a lived experience group to ask victims and survivors for their views on how the implementation should be managed, including the warning period for the change, how they can be transferred to Collect and Pay without risk, and what the CMS can do to safeguard and build trust. Only by speaking to experts by experience will the DWP understand how to manage this change safely.

Finally, for this new system to work, the CMS must upscale its capacity and resource to meet demand, and ensure that the changes do not lead to a watered down version of Collect and Pay, with even worse enforcement. The CMS must model demand and increase their caseworkers to ensure an effective system, with better enforcement and investigation.