

Child Support Collection (Domestic Abuse) Bill

Briefing

February 2023



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Summary

Several key commitments have been made by the UK Government in response to the Independent Review into the Child Maintenance Service (CMS) response to domestic abuse, one of which is to support the Child Support Collections (Domestic Abuse) Bill.

This is a welcome step in the right direction and we believe that this Bill can improve the experience, improve financial security and reduce the risks for survivors using the CMS.

However, in order to implement this effectively it is essential to:

- Remove Collect and Pay charges, as well as the £20 starting fee;
- Ensure that any requirement for evidence of domestic abuse, is proportionate and is established within a trauma-informed process and following consultation with survivors and representative bodies;
- Outline plans for guidance and extensive training in a gendered understanding of domestic abuse and coercive control;
- And record data which allows for the continuous improvement of the implementation of the Bill.

Background

Fewer than one in five (18%) of separated families have a statutory arrangement through the CMS, either through Direct Pay (60%), where the CMS calculates the payments owed and parents transfer the money between themselves, or through Collect and Pay (37%), where the CMS collects and transfers the money and charges parents for a portion of the amount collected.¹

Since May 2018, the CMS have asked parents directly if they have experienced domestic abuse when they apply to use the service. Those who disclose domestic abuse are exempt from the usual £20 starting fee. In every quarter from July 2018 to September 2022, between 50 to 60% of applications to the CMS said they had experienced domestic abuse.²

Department for Work and Pensions (DWP) statistics found that 93% of parents paying maintenance through the CMS are men.³ This aligns closely with the statistic that around 90% of single (resident) parents are women.⁴ In light of this it is important to recognise when talking about domestic abuse experienced by those applying for child maintenance, this is a deeply gendered issue and predominantly relates to women who have been abused by their former male partner.

This is in keeping with national statistics on domestic abuse; in Scotland over four-in-five incidents (81%) of domestic abuse in 2021-22 had a female victim and a male suspected perpetrator.⁵

The current position of the DWP is that parents using the CMS should begin on Direct Pay and that if either parent has requested Direct Pay this will be the arrangement made in the first instance. In the majority of cases, parents must have tried to make arrangements work on Direct Pay and have built up arrears before the DWP will accept an application to move onto Collect and Pay.⁶

The DWP introduced charges to use this service of 20% to the paying parent in addition to the maintenance paid, and 4% to receiving parents on the maintenance received - the government's stated intention of using these charges is to act as an incentive for parents to make their own arrangements.⁷

1 National Audit Office, 2022. [Child Maintenance. The Department of Work and Pensions.](#)

2 DWP, 2022. [Child Maintenance Service statistics: data to September 2022](#)

3 DWP, 2022. [Child Maintenance Service statistics: data to September 2022](#)

4 ONS, 2019. [Families and households](#)

5 Scottish Government, 2022. Domestic abuse: statistics recorded by the police in Scotland - 2021/22.

6 See reference 4

7 DWP, 2014. [Fairness for families, children and taxpayers as new child maintenance system is launched](#)

According to analysis by the National Audit Office (2022), ninety per cent of separated families using CMS start with Direct Pay.⁸ A DWP survey found that only 58% of parents responding 13 months after their Direct Pay calculation were on Direct Pay: 16% were on or moving to Collect and Pay, and 19% had no maintenance arrangement in place.⁹

Concerns about how the Child Maintenance Service handles cases involving domestic abuse have been raised over a number of years by charities supporting single parents and women.^{10 11 12 13}

This includes the barriers to accessing Collect and Pay; the inappropriateness of charging domestic abuse survivors a fee; withholding, stopping and starting payments through Direct Pay are used by abusive parents as a means of coercive control; and there is a lack of sufficient specialist training in domestic abuse for CMS caseworkers.

Following the death of Emma Louise Day, who was murdered in May 2017 by a former partner following a dispute over a child maintenance claim, a Domestic Homicide Review recommended in March 2019 that an Independent Review be carried out into the CMS's response to domestic abuse.

The review, led by Dr Samantha Callan, was published in January 2023¹⁴ alongside a response from the UK Government which accepted eight of its 10 recommendations.¹⁵

The first of those recommendations was to amend primary legislation to prevent Direct Pay being used as a form of coercion and control by perpetrators by ensure those who disclose domestic abuse are given the choice to start on Collect and Pay.

The Callan Review specifies that this should take place “where there is verifiable evidence of domestic abuse, not simply an allegation”, and recommends that the CMS accept the same standards of evidence as needed to claim legal aid due to domestic abuse or violence, across the UK.

It is important to recognise here that the standards of evidence required to apply for legal aid for cases relating to domestic abuse are not the same in England and Wales as they are in Scotland.

8 National Audit Office, 2022

9 DWP, 2022. [Direct Pay research 2017 to 2019.](#)

10 Gingerbread, 2016. [Child maintenance charging: evidence summary for the DWP 30-month review.](#)

11 Women's Aid, 2019. [The Economics of Abuse.](#)

12 Surviving Economic Abuse, 2020. [The Cost of Covid-19: Economic abuse throughout the pandemic Briefing two – Child maintenance.](#)

13 One Parent Families Scotland, 2022. [Child Maintenance Service: Does it deliver value for money?](#)

14 Dr Samantha Callan, 2023. [Independent review of the Child Maintenance Service \(CMS\) response to domestic abuse.](#)

15 DWP, 2023. [Government response to the independent review of the Child Maintenance Service response to domestic abuse.](#)

Purpose of the Child Support Collection (Domestic Abuse) Bill

The Child Support Collection (Domestic Abuse) Bill ¹⁶ was introduced to the House of Commons as a Private Members Bill by Conservative MP Sally-Ann Hart in June 2022 and is expected to have its report stage and third reading on 3rd March 2023. The Bill would apply to England, Scotland and Wales.

The Bill is supported by the UK Government and would, in effect, implement the first recommendation of the Callan Review. The Bill would allow for either the paying or receiving parent to have their case moved onto Collect and Pay where the other parent has subjected them or children in their household to domestic abuse.

In Scotland, an application can be made by a child aged 12 and over, and in such cases the Bill would enable them to access Collect and Pay on the basis of domestic abuse by either parent.

A stipulation is made in the Bill that a Collect and Pay arrangement will be made “if satisfied on the basis of evidence of a prescribed kind relating to relevant domestic abuse”.

The government has stated that secondary legislation will be required to set out what the criteria of that evidence will be, and that the proposals for this will be consulted on widely.¹⁷

The Bill uses the definition of domestic abuse set out in the Domestic Abuse Act 2022 “for ease of implementation”. As the Bill and CMS applies across all the nations of the UK, where definitions of domestic abuse and relevant legislation differ there should be cross-government involvement in the development of secondary legislation and criteria for evidence.

16 [Child Support Collection \(Domestic Abuse\) Bill](#)

17 [Second reading of Child Support Collection \(Domestic Abuse\) Bill](#). December 2022.

Summary of our position

We strongly support the Bill's aim of better protecting and supporting survivors of domestic abuse accessing the CMS.

Domestic abuse can, at present, be taken into consideration by the CMS when deciding whether someone can start or be moved onto Collect and Pay, however, in practice if the non-resident parent is deemed as likely to pay this will often not be the case. Therefore, this legislation sends an important message that domestic abuse survivors should not face barriers to accessing Collect and Pay.

We would regard this as a minimum, straightforward step which can be taken to improve survivors' experience of the service. There is, however, strong evidence to suggest that the system should be designed with these circumstances in mind, as opposed to regarding domestic abuse as an add-on or exception to the rule.

Given that the DWP's statistics show that majority of cases handled by the CMS involve domestic abuse, the CMS has a vital role to play in developing a gender competent domestic abuse service that responds to the majority of its clients.

Furthermore, the Callan Review notes that to access the £20 fee waiver, the question currently asked is whether the applicant has reported domestic abuse to "an appropriate person" (which could be a criminal report or reporting to a support service). The Review recommends - and the government has accepted - that the "reporting" element of this question should be dropped because, while there is currently no requirement to evidence it in practice, "it may put some victim/survivors off claiming eligibility for the waiver", given that "fewer than one-fifth of those who have experienced domestic abuse do report it due to safety or other concerns".

With this in mind, it is likely that the statistics on domestic abuse disclosed to the CMS will be an underestimation of the true figure.

The optimal solution, therefore, would be for the choice of moving onto Collect and Pay to be made easier overall (including the removal of charges), respecting that individuals will understand their own circumstances and whether the Direct Pay option will work, or is working, for them.

As outlined in the next section of this briefing, there are a number of reasons why adopting an approach where only those who can evidence domestic abuse can gain ease of access to the Collect and Pay service could still pose a barrier to those affected.

Due consideration should be given to how each of these barriers can be removed or minimised in proceeding with this Bill and related secondary legislation.

Strengthening the Bill and its impact

There are several elements of the Bill where we believe that amendment, further legislation or guidance are necessary to ensure that the commendable aims of the Bill are not undermined.

These areas are outlined below.

Charges for Collect and Pay

We oppose the use of charges to access Collect and Pay, particularly for receiving parents who are left with less money for their child as a result.

The unfair and potentially harmful nature of this policy is most acute when considering those affected by domestic abuse, who are essentially penalised for having to use a state service to access the money their children are owed because their abuser fails to keep to an agreed arrangement or uses this process to continue to abuse and exercise financial control

We are pleased that the government has stated that

“consideration is being given to exempting victims of domestic abuse in these cases from collection charges” and note its position that secondary legislation would be needed to remove charges.¹⁸ The government should ensure that Collect and Pay is automatically offered to all victims and survivors of domestic abuse and that all charges are removed.

The context of domestic abuse also raises serious concerns about unintended consequences of charges faced by paying parents. While the aim of incentivising paying parents to agree to and sustain maintenance arrangements without the intervention of the state is reasonable, this creates a source of pressure on receiving parents to avoid moving to Collect and Pay even when Direct Pay arrangements are failing.

Single mothers supported by One Parent Families Scotland have experienced intimidation from former partners against requesting Collect and Pay, specifically because of the 20% charge. Despite payments not being made or made in full through Direct Pay, parents in this situation have said they have not sought to force the case onto Collect and Pay because they fear their former partner's reaction.

If this Bill is introduced, any effect which it should have on allowing more domestic

18 See reference 13

abuse survivors to join Collect and Pay would likely be undermined by these circumstances because of the nature of coercive control.

As the Bill would apply in cases where domestic abuse can be evidenced, regardless of whether the parent is willing to pay or not, this could be even more likely to escalate hostility from an abuser and place survivors and their children at increased risk.

This leads into the point below regarding evidence, which poses a number of complications. Indeed, the charges have in themselves been highlighted in the Callan Review as an argument for the need for evidence of domestic abuse to move onto Collect and Pay because it could be regarded as unfair for one parent to instigate an arrangement which leads to charges for the other.

If charges were to be removed altogether, these complications would become irrelevant, making the process much simpler for both parents and for the CMS itself.

It is important to note here that removing charges for both parents only for those cases where domestic abuse is involved would bring its own complications. For example, it would mean that paying parents who have been accused of domestic abuse would, in effect, be better off than those who have not.

Given the high proportion of CMS cases involving domestic abuse, the nature of coercive control leading to underreporting, and potential complications arising from a two-tiered system, removing charges for Collect and Pay altogether can be seen as justifiable to achieve the intended purpose of better supporting survivors of domestic abuse.

Requirement for evidence

We have concerns about the requirement for “evidence of a prescribed kind” of domestic abuse, and would urge the government to ensure that any proposals it makes regarding the detail of this requirement is as proportionate and trauma-informed as possible.

The government has said that further work is needed to assess the standards of evidence that can be accepted within CMS operational capacity, and we welcome that the minister has said they will

“produce requirements that are sensitive to the needs of domestic abuse victims”.¹⁹

The Callan Review recommends the same standards of evidence for access to legal aid in family disputes. Those standards accept a range of forms of evidence including a domestic abuse conviction, caution, arrest or a relevant protective injunction, or a letter from a health professional, member of a Multi-Agency Risk Assessment Conference, a local authority or housing association, or an organisation providing domestic violence support services.

¹⁹ See reference 13

We have serious concerns that this could create a considerable barrier to domestic abuse survivors accessing essential financial support, adding to the stress which survivors have told us they already experience in accessing the CMS.

As noted in the Callan Review, fewer than one in five people who experience domestic abuse report it, and similarly there will be many who either do not wish to or are unable to access support from a domestic abuse support service. Just as the Review notes that some could be put off by being asked if they have reported domestic abuse for the £20 fee waiver, the same is likely to be true of this proposed process - even more so if the individual is expected to seek out and return with the evidence themselves.

The only justification for requiring this kind of evidence to access a service for the collection of the child maintenance owed to a child is that charges for both parents are attached to the service.

The Callan Review states that the evidence requirement would

“help avoid enabling the receiving parent to subject the paying parent to financial abuse by insisting on the chargeable Collect & Pay service when they are in fact willing to pay on time and in full”.

We do not consider it likely that significant numbers would specifically seek to join Collect and Pay for this purpose, however this only reiterates the point that removing charges would eliminate any such concern.

If evidence is to be required, there are some recommendations we would encourage the government to consider to ensure this process can be as unobtrusive as possible:

- As the first port of call, CMS staff should seek to work with other agencies to access existing evidence which is already available to them, for example from a local authority or housing association.

For example, Social Security Scotland for the additional Best Start Grant payment for domestic abuse victims can use existing administrative data to verify a claimant has had to move home because of domestic abuse.

- Ensure that specific training on understanding, identifying and responding to domestic abuse is provided to all staff working in this area. This would enable staff to approach the subject in a trauma-informed and supportive way and avoid any service-generated risks.

Training and understanding of domestic abuse to support implementation

Concerns have been raised for some time about insufficient specialist domestic abuse training for CMS staff, leading to poor and all-too-often distressing experiences for survivors. As highlighted above, training will be essential to ensuring that the aims of this Bill can be realised.

We were disappointed by the framing of the Callan Review's recommendation to include a broader range of agencies in CMS training, which focuses on a view that men's needs and experiences are currently "discounted". This recommendation has been accepted by the government.

While we would welcome training for CMS staff which considers all experiences of domestic abuse, including those across the protected characteristics, it is important to note that the Review's assertion that

"only specialist women's organisations appear to have been involved in the design of domestic abuse training" is not correct - women's organisations have not been involved in the design of training for CMS staff.

We support the recommendations made by the Domestic Abuse Commissioner for England and Wales on training of CMS staff, including that:

*"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."*²⁰

There is also considerable attention given in the Callan Review to resolving parental conflict, with a recommendation on cross-government coordination of early intervention outside the CMS which has been accepted by the government. It is of the utmost importance to be clear on the distinction between parental conflict and domestic abuse, the latter of which cannot be 'resolved' through the same sorts of approaches. In fact, any approach which fails to recognise and respond appropriately to domestic abuse is likely to place women and children at increased risk of harm.

Getting training right – as well as the overall understanding and messages about domestic abuse being shared by the CMS and DWP - will be fundamental to the implementation of this Bill, so plans around the development of training and guidance for staff should outlined in detail as part of this process.

²⁰ <https://domesticabusecommissioner.uk/wp-content/uploads/2022/02/2201-DAC-Offic-response-CMS-Review.pdf>

Data

The Public Accounts Committee's inquiry into Child Maintenance found that DWP does not have data on the number of cases where there is no child maintenance arrangement due to domestic abuse concerns, nor does it investigate if domestic abuse or coercive control is a reason for parents leaving the CMS.²¹

Improving on the data recorded, and research conducted, by the DWP about the CMS will be integral to improving domestic abuse survivors' experience of the service. With regards to this Bill, it would also be essential to know how many people disclose that they have experienced domestic abuse when asked but are subsequently not able to provide the required evidence, and to understand the reasons given for this inability.

Given that no evidence is required when disclosing domestic abuse for the £20 fee waiver, the data currently recorded on this could also be used to compare with the new figures on those accessing Collect and Pay due to domestic abuse.

It will also be vital to gather feedback from domestic abuse survivors on their experiences of the revised system.

These kinds of figures and comparisons will allow for evaluation of how the system implemented under this Bill is working and ensure that it can be amended and developed upon where needed.

Conclusion

Several key commitments have been made by the UK Government in response to the Independent Review into the CMS's response to domestic abuse, one of which is to support the Child Support Collections (Domestic Abuse) Bill.

This is a welcome step in the right direction and we believe that this Bill can improve the experience, improve financial security and reduce the risks for survivors using the CMS

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