

Child Maintenance System

August 2024

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Scottish Women's Aid (SWA) is the lead organisation in Scotland working to end domestic abuse and plays a vital role in campaigning for effective responses to domestic abuse.

SWA is the umbrella organisation for the majority of local Women's Aid organisations across Scotland; each providing practical and emotional support to women, children and young people who experience domestic abuse. The services offered by our members include crisis intervention, advocacy, counselling, outreach, follow-on support and temporary refuge accommodation.

We also run the Scotland's Domestic Abuse and Forced Marriage Helpline taking over 1000 calls, WhatsApp messages, and texts (24h/365) every month.

We are pleased to see the consultation on the Child Maintenance System. As the system stands, it is currently failing women across the nation, and yet has potential to make such a difference to so many households who are unable to access money that is rightfully theirs.

VS - Victims / Survivors

DA – Domestic abuse

An overview of our thoughts, concerns and solutions

Women and children's experiences of domestic abuse are inextricably linked to their experiences of poverty and to the (unpaid) caring work they do. The Child Maintenance payment is not a benefit and we must stop describing it as such. It is a legal obligation. However, it has become one that domestic abusers and others, treat as optional payment. We need systems in place that remove this loophole; it should not be able to be optional and it should not be able to be manipulated to misrepresent financial circumstances.

As reported by Women's Aid Federation England¹, almost one-third of victims / survivors (VS) who left their abusive partner had to turn to credit to do so, while many others were forced to rely on the help of family members or friends. One third of women had to give up their home as a result of leaving their abusive partner. Qualitative work being undertaken by ourselves with Scottish membership organisations over the past few weeks is proving to find that 100% of women across the Women's Aid (WA) refuges spoken to recently, have been victim to economic abuse, where their partner or ex-partner has depleted their economic and financial resources, including through the (mis)use of the Child Maintenance System (CMS) by withholding vital funds from their children. Our report outlining our findings is forthcoming; report to be available soon. This cannot be underestimated in terms of the Child Maintenance System (CMS) and the lengths that perpetrators take to control / withhold finances.

¹ <https://www.womensaid.org.uk/wp-content/uploads/2019/12/Economics-of-Abuse-Report-2019.pdf>

Our Key Points

Finances & Fees

- We see no benefit in the fee or charging system and recommend it is removed entirely; it places unnecessary barriers with very little reward.
- It is crucial that the receiving parent is not penalised with fees or any other process, due to the paying parent's non-compliance.
- Equally, penalising a non-paying parent/perpetrator can also have a detrimental outcome to women, where the perpetrator places a blame to the VS for needing to pay this money.
- With unpaid maintenance owed to parents on Collect & Pay has increased by more than £1 million a week to a total of £440 million in October 2021, and the NAO recently concluded that unless DWP writes more off, outstanding arrears will grow to £1 billion by March 2031 and "indefinitely thereafter"².
- Inconsistent payments are utilised as a form of economic abuse post-separation to continue to exert coercive control over the receiving parent. This does not seem to be considered in terms of improvements currently on the table.
- Systems need to be suitable to fully explore and understand all variations in earnings; complex earners should not be able to manipulate the system to suit their own ends.

An understanding of domestic abuse and risk

- CMS workers and systems must consider the risks relating to domestic abuse (DA) and understand these in terms of their own roles; leaving an abusive relationship does not mean the risk has been removed. The risk of serious assault and death is highest for a woman as she leaves an abusive relationship. According to the Femicide Census, 38% of women killed by their ex-partner from 2009 to 2018 were killed within the first month of separation and 89% in the first year³.
- There must be guidance and extensive training in a gendered understanding of DA (with a focus on economic abuse and coerced debt) and coercive control.
- We oppose 'evidencing' domestic abuse and see no true purpose in it remaining part of the system. Instead this should be about the offer of further support assistance where any form of DA is known, not about proving a case.
- Although a single named case worker for VS of DA is welcomed, the entirety of the CMS needs the training and needs to be able to understand and respond to cases effectively. Without a very good understanding and responses to economic abuse, people are at risk.
- The VS may still be fearful, experiencing threats and abuse from former partner and may agree to payment methods that are ultimately not suitable and not safe for them due to coercion. This must be considered in terms of systems and new solutions.

² <https://committees.parliament.uk/committee/127/public-accounts-committee/news/171590/10-years-on-child-maintenance-service-achieving-no-more-than-discredited-child-support-agency-it-replaced/>

³ https://www.femicidecensus.org/wp-content/uploads/2022/02/010998-2020-Femicide-Report_V2.pdf

- We see no mention of protection for the single-named worker; they will be exposed to vicarious trauma whilst working in this role.
- If a Direct Pay (DP) arrangement is working, CMS withdraw from these after six months and arrangement goes back to VS and perpetrator. This is not a long-term solution and places VS at continued/renewed risk. It must be understood that a perpetrator might 'play along' for six months and then revert to withdrawing payments, making them inconsistently or paying less than the required amount.

Language & Systems

- In line with the Callan Review (noted further on) we must remove Direct Pay. The CSA's own research evidence suggests that users find it 'ineffective or not sustained'⁴.
- VS are potentially still missing out on payments because they are worried about reporting the paying parent to CMS, which could result in further conflict and/or abuse. Protocols must be sought to avoid this.
- The system relies on accurate and true information being provided. Financial information of the paying parent being deliberately withheld or sabotaged to lower or avoid payments altogether is currently not considered, or safeguarded against.
- Direct Pay Survey was conducted for 2017-2019 and is therefore no longer reflective of current income and financial situations. Since the survey was conducted there has been a global pandemic and the UK has experienced an intensive and prolonged cost-of-living crisis in which DA has escalated and economic abuse has been utilised extensively to restrict access to finances⁵.
- More detail needs to be provided about what a pilot entails. If the named person will work solely with the receiving parent or *also* with the paying parent, info on GDPR, and how this person communicates and logs the information they receive in the CMS system (to avoid colleagues inadvertently duplicating work/handling the case incorrectly/leaking contact information / increasing the risk of harm to VS).
- There appears to be no provisions within the system for when a couple 'reconciles' or when a VS is forced to return to their abusive partner for survival. The partner may interfere with CMS arrangements fraudulently (without the consent or knowledge of the VS).
- The language throughout the CMS suggests that parents being (directly) in contact and in communication with one another is the aim and best outcome, without considering that this, for many, poses risk.
- The length of time it takes for payments to come through is unacceptable (2 to 3 months) and does not reflect a digital world; during which time a VS can be left in substantial financial difficulties/limbo and, for many, at a constant risk of returning to an abusive relationship due to having no money to survive.
- The paying parent has 6 months to adhere to DP during which time they can/do interfere with payments (late, inconsistent, no payment, etc.). We would advise that all timings are revisited to look to improve these.

⁴ <https://www.gov.uk/government/publications/direct-pay-research-2017-to-2019/direct-pay-research-2017-to-2019>

⁵ <https://www.womensaid.org.uk/wp-content/uploads/2023/01/The-Domestic-Abuse-Report-2023-The-Annual-Audit-FINAL.pdf>

- Moving from Direct Pay to Collect and Pay must be done swiftly and without financial loss to the receiving parent or as an excuse for non-payment from the paying parent.
- Data protection must be understood and maintained to the highest standard to ensure personal information is not inadvertently shared with the abusive ex-partner.
- The current system is
- Stronger enforcement or consequences must be in place if an arrangement is not upheld, including erratic payments.
- Systems must also reflect the needs of society in terms of being available in a range of languages.

Other

- Additional legislation should be scoped, to support the prosecution of cases of financial coercion and control (abuse) committed in the context of a child maintenance arrangement.
- There should be a minimum payment available where parents are in prison.

Questions

1. Do you think the current CMS initiatives (Get Help Arranging Child Maintenance and the current online calculator), help parents to make effective family-based arrangements?

No

2. Please could you explain your answer?

On the face of the system, the calculator appears to be a useful tool and something that provides information where otherwise it can be difficult to navigate.

Withholding financial information for legal and CMS purposes is a common form of domestic abuse, in the form of economic abuse; something perpetrated post-separation. Some perpetrators withhold financial information for many years to financially disadvantage the VS. It is known that during court processes some will purposely make themselves unemployed or under-employed to lower or avoid payment. Some will also hide assets and incomes through family members (e.g. their mother's bank account) to give the appearance that they do not have funds to make the payments.

In a digital world it seems that too much of the system as it stands relies on information provided, instead of utilising information available. For any true changes to be made, there needs to be transparency and access to all financial evidence in terms of a perpetrators financial standing.

The calculator assumes knowledge of financial situations, but we would like to see more work taking place in terms of true financial circumstances being sought and used.

In addition to this, information around economic abuse would be a useful addition to any calculator pages.

3. How could Get Help Arranging Child Maintenance be improved?

Solutions lie partly within systems and partly within knowledge.

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. Demonstrating a system that is not fit for purpose⁶.

We know from the report as well as discussions with VS and experts working on the ground, that there has been some increasing knowledge within CMS of domestic abuse. However, there remains room for this to improve further to the aim that there is a consistently good understanding of domestic abuse, with the required understanding and knowledge that considers the legislative differences across nations.

Scottish Women's Aid would like to see a specific focus not only on domestic abuse as mentioned in the report outline, but economic abuse be considered as an integral part of all CMS systems, training and ongoing knowledge building. Until this is the case, there will always be the risk of perpetrators avoiding payments.

As a system overall, it also reads as though there is an expectation that a family being in contact with one another, knowing where one another is, and working harmoniously is the pinnacle to be striving for within this system. Having systems that push for 'family contact' can put people, often children and young people, at risk. The language and undertones across this area of work must be reconsidered, with a view that anonymity can be a much-needed element of a system for someone, and for many, contact should not be what is strived for as the optimum outcome; that the risks posed as a result of that can even outweigh financial gain.

We would also ask that all/any online tools are strengthened by presenting more information targeted to survivors earlier in the process. We echo the suggestion of our colleagues in Women's Aid Federation England to include the wording 'Get help if you or your children have experienced domestic abuse' making information more relevant to those who may not recognise their experience as abuse.

⁶ <https://www.nao.org.uk/wp-content/uploads/2022/03/Child-Maintenance.pdf>

4. Government is considering introducing a service which provides a full maintenance calculation using verified income data held by government (for example HMRC data).

Would you find this useful?

Yes

5. Please could you explain your answer?

There needs to be more data linked into calculations than is currently the case within the system. The information there is also only as rich as the information given and currently has no ways to truly reflect a person's finances. Without ways to pull together a wealth of financial information on someone, linking to creditors and credit checks, stocks and shares, to name but a few, there is a likelihood of finances not being seen / included / declared. This must change. Complex earners should not be able to 'work the system'.

In the context of economic abuse, it must be understood that perpetrators will deliberately divert income to exert further control over their ex-partner. This could include, but is not limited to:

- Business owners influencing the level of their own salary together with payment and level of dividends;
- Use of tax avoidance schemes;
- Self-employed earners conducting 'off the books' transactions, e.g. payments in cash;
- Wages being paid to third parties/family members;
- Salary re-direction, i.e. taking a cut in salary in exchange for a company vehicle.

CMS should consider these tactics unreasonable and not in line with the welfare of the child, for whom the payment is intended.

Economic abuse is vast and so needs a system that can work in tandem with the magnitude it brings, to be able to make a difference.

6. What else could CMS do to improve the online calculator?

We would suggest some research is undertaken with VS across the Women's Aid membership (places of refuge and advice) to provide input from women who will have used it already, or will use it in the future. The findings from this work can then be used to make the needed improvements.

We are also very aware that the calculator is currently unable to truly reflect earnings where a parent is a complex earner – company director, self-employed, profit / loss related roles. In a digital age with such a wealth of financial information available, this seems somewhat ridiculous and requires significant changes to ensure monies paid truly reflect someone's financial stature. DA is found across all of society and is not poverty-driven.

7. What are your views on the accessibility of support available to separated parents to help them maintain family-based-arrangements outside of the CMS? For example: mediation, co-parenting and relationship programmes.

We would recommend that expertise on the ground, from across the Violence Against Women and Girls (VAWG) sector is resourced and utilised to help in terms of support. In Scotland we are very aware of a lack of legal advice, as well as mediation services. The CMS should not simply signpost and mention these without knowing these are available. Resourcing of these would be very useful. Every case should be recognised and dealt with on a case by case basis in terms of advice and support.

We would strongly recommend a pathfinder is then trialled that reflects findings from initial research recommended above. The purpose would be to find solutions that a) consider all possibilities around economic abuse, b) improve the speed of systems and money being received, and c) increased and improved anonymity and minimising risks.

8. What more could be done to help parents make effective family-based arrangements, where appropriate?

When looking to improve the current system, we must start from a point of avoiding risk. The system should automatically provide a route for contact that keeps addresses, phone details, and banking anonymous.

Timings are also key. The current system takes far too long, often making the options of leaving an abusive relationship one that is financially out of reach.

9. Are you in favour of CMS signposting and where possible embedding support to parents to resolve conflict, where appropriate?

No

10. Please could you explain your answer?

As it currently stands, the CMS would need further training and ongoing expertise building and resource on all areas of DA, with specific knowledge on economic abuse. Until these are in place we have concerns around risk.

However, were these embedded and seen as long-term ongoing areas of knowledge and understanding, our answer to this would change.

11. What are your views on how Direct Pay and Collect and Pay currently operate?

Tying to our answer above and reflected elsewhere, a key theme raised by Women's Aid workers and VS was that CSA lacked understanding and awareness of the dynamics of domestic abuse, of the risk to women and children, or of coercive control and how a perpetrator will use child maintenance payment arrangements to continue to exert control.

12. Are you in favour of consolidating the CMS into one service that monitors and transfers all maintenance payments?

Yes

13. Please could you explain your answer?

Please consider the effect of monitoring payments on compliance in your response, the effect on parents making their own arrangements and the effect on parents who choose not to have an arrangement in place. Please refrain from discussing fees in your response, as this topic will be addressed in the following section.

Across many systems run by public bodies, we receive feedback about confusing systems. Any opportunities to reduce this confusion, in this case, by consolidating the service, can only be a positive step to reducing this.

17. Are you in favour of a 2% fee for receiving parents and a 2% fee for compliant paying parents under a scheme where the CMS monitors and transfers all maintenance payments?

No

18. Please could you explain your answer?

The 2% fees add an additional barrier to the scheme working. We see this only as a hurdle adding another place for risk in terms of anonymity. We would urge that all charging to be removed entirely.

25. Do you think CMS domestic abuse procedures help support victims and survivors of domestic abuse when using the CMS?

Yes

26. Please could you explain your answer?

We are pleased to see the area of DA within the planning and training, this is an area currently lacking across the system, yet has the possibility of making huge differences in terms of

money reaching people and one so with as few risks as possible. However, we would highlight some points in addition to what has been outlined in the report so far:

- Economic abuse requires significant focus, not only in terms of knowledge building and maintaining, but across systems and what money a perpetrator is holding back.
- DA has different legislation across the UK and training, systems and decisions need to be made considering all of these and make the necessary changes to encompass these.
- DA cannot just be a training session or two to be completed, but a practice embedded throughout the system and considered at all times.
- As a large employer, DA must also be considered for employees and reflected across internal policies and procedures.

27. What are your views on the single, named caseworker for victims and survivors of domestic abuse?

In terms of all areas of support, consistency and not having to retell the story of circumstances time and time again is crucial. Women's Aid and several other agencies have asked for this over many years. This does of course still require someone to disclose from the outset that they fall into the category of being a victim or survivor of domestic abuse.

Instead, we recommend that best practice across the entire system is any case requiring additional work / discussions / casework, that an allocated, named worker is implemented.

28. Do you agree removing Direct Pay completely would benefit victims and survivors of domestic abuse who use the CMS?

Yes

29. Please could you explain your answer?

The first of the recommendations in the Domestic Homicide Review led by Dr Samantha Callan, published in January 2023⁷ 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.

In addition to this the CSA evidence suggests that users find it 'ineffective or not sustained'⁸, which makes a stronger argument for its removal altogether.

⁷ <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#chapter-9-recommendations>

⁸ <https://www.gov.uk/government/publications/direct-pay-research-2017-to-2019/direct-pay-research-2017-to-2019>

30. Assuming the CMS did manage the collection and transfer of all maintenance payments, what further support would you like to see the CMS offer to victims and survivors of domestic abuse?

There is a wealth of expertise and support available across the Women's Aid services across the country. We would suggest that (resourced) links into these services takes place, providing the opportunity to link VS into support, as well as building community relationships that enable support outwith the claim itself.

CMS staff should also seek to work with other agencies in addition to WA to access existing evidence which is already available to them, for example from a Local Authority or Housing Association. In Scotland, 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. This example should be replicated for CMS.

As noted elsewhere, we would also ask that there is a focus on economic abuse, and support to be provided specifically around this.

31. How do you think we could improve the CMS for victims and survivors of domestic abuse who are receiving parents?

Anonymity and the understanding of risk is key to receiving parents and processes need to put this as the highest of priorities. We would also like to see a move, both in terms of language, as well as systems to move from the push for communication across parents; this can put women at extreme risk and offers more routes to further abuse. Awareness-raising and training should be embedded across staff on DA and EA. There should be no instance where it depends on the VS speaking to 'the right person at the right time' to get the relevant support.

We would also add that improving on the data recorded, and research conducted, by the DWP about the CMS could be used to improve domestic abuse survivors' experience of the service.

32. How do you think we could improve the CMS for victims and survivors of domestic abuse who are paying parents?

As 31 through, the elements of control in terms of payments – paying late, withholding payments should also be considered.

VS who are required to pay child maintenance to their ex-partners face a unique set of challenges, particularly if the ex-partner is using the payments as a form of continued coercion and control. Collect and Pay should be the standard payment option to allow VS to make payments without direct interaction with their ex-partner to reduce further risk of harassment or manipulation.

Moreover, if relevant the history of the Da should be considered when determining child maintenance arrangements, e.g. can payments be adjusted or even waived in cases where the payments are understood to exacerbate the VS's financial insecurity and safety.

33.What do you think the barriers are to accessing the CMS for victims and survivors of domestic abuse?

Fees/charge are barriers to the system and must be removed as it moves forward.

Department for Work and Pensions (DWP) statistics found that 93% of parents paying maintenance through the CMS are men⁹ and yet there has not been a gendered approach to the systems and solutions to date.

As noted elsewhere, there should be no requirement to evidence DA. As noted in the Callan Review¹⁰, fewer than one in five people who experience domestic abuse report it. Placing this as part of the system, places yet another barrier.

Publishing & Availability

We thank you for the opportunity to respond to this. We are more than happy for our response to be published, with names and details.

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⁹ <https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-september-2022-experimental>

¹⁰ <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#chapter-9-recommendations>