

Women's Aid Federation of England's response to the Department of Work and Pension's consultation on Child Maintenance Enforcement

Background

Women's Aid Federation of England (Women's Aid) is the national charity working to end domestic abuse against women and children. We are a federation of over 170 member organisations which provide just over 300 local lifesaving services to women and children across the country. Over the past 49 years, Women's Aid has been at the forefront of shaping and coordinating responses to domestic abuse through practice, research and policy. We empower survivors by keeping their voices at the heart of our work. Our support services, which include the Live Chat Helpline, the Survivors' Forum, the No Woman Turned Away Project, the Survivor's Handbook, Love Respect (our dedicated website for young people in their first relationships), and the national Domestic Abuse Directory, help thousands of women and children every year.

Women's Aid welcomes the opportunity to respond to the Department for Work and Pension's consultation on the enforcement of child maintenance; this is an issue survivors often raise with us. We also welcome the passage of the Child Support (Enforcement) Act 2023 and the Child Support Collection (Domestic Abuse) Act 2023, which will go some way towards ensuring that survivors receive the child support to which they are entitled.

In this response, we draw on our research and experience to highlight the impact of the proposed reforms on survivors and their children. Through our research, such as our 2019 *Economics of Abuse* report¹ and 2022 cost of living survey², we have built a deep understanding of how child maintenance can be weaponised by perpetrators as part of a pattern of post-separation abuse and how the Child Maintenance Service (CMS) responds to this. Our engagement with survivors, through support services and through consultation with our experts by experience network, gives us insight into impact of the non-payment of child maintenance by perpetrators and the changes which survivors want to see to ensure their safety.

Introduction

Whilst the payment of child maintenance is a legal obligation, just as much as tax, it is not currently treated as such. At least half of paying parents on Collect & Pay still do not pay, pay less than they should, or pay late.³ The mean amount owed, according to a Gingerbread survey of single parents, is £9,355, and 79% of survey respondents who were owed child support said the CMS had refused to take any meaningful enforcement action.⁴ This can push the children of separated parents into poverty and damage their wellbeing, health and life chances.

¹ Women's Aid. (2019) *The Economics of Abuse*. Bristol: Women's Aid. Available [online](#).

² Women's Aid. (2022) *Cost of Living and the impact on survivors of domestic abuse*. Bristol: Women's Aid. Available [online](#).

³ NAO. (2022) *Child Maintenance*. London: NAO. Available [online](#).

⁴ Gingerbread. (2020) *Data released today from Mumsnet and Gingerbread show stark findings on CMS*. London: Gingerbread. Available [online](#).

Given the scale and impact of the non-payment of child support, it is very welcome that the Department for Work and Pensions (DWP) is taking steps to improve the effectiveness of enforcement – which a 2022 select committee report highlighted as the main issue for receiving parents using the CMS.⁵

However, the proposals on administrative liability orders fail to consider domestic abuse, despite its prevalence among CMS cases in general and cases with arrears in particular. Currently, around 3 in 5 applicants to the CMS receive a fee waiver due to domestic abuse⁶ and survivors of domestic abuse are less likely to receive maintenance payments in full and on a regular basis.⁷ Perpetrators withhold child support in order to exert continued control over survivor as part of a strategy of post-separation abuse. This constrains survivors' ability to build a new life and keep themselves and their children safe and well.

When the Child Support Collection (Domestic Abuse) Act 2023 comes into force, there will be even more survivors of domestic abuse on Collect and Pay, and it is vital that the CMS is able to effectively identify and respond to tactics of economic abuse by paying parents. Perpetrators go to extraordinary lengths to avoid paying child maintenance – such as resigning from their job or diverting income through various businesses – and the CMS must be alert to how perpetrators will seek to discharge and appeal liability orders as a form of economic abuse.

A key focus of the proposals is whether the suggested process provides adequate protections for the paying parent, which is of course important, but we would suggest that the balance of rights is already skewed in their favour. The simple fact that child maintenance arrears are increasing at a rate of £1 million a week and are forecast to reach £1 billion by 2031⁸ demonstrates that receiving parents are not adequately protected by the CMS. Many survivors tell us that they feel the CMS is on the perpetrator's side and that they get nothing for the fees they pay for the Collect and Pay service.

We urge the DWP to assess these proposals not just against existing processes (such as deductions from bank accounts) and paying parents' rights, but against their ability to recognise and block abusive tactics. This is essential to ensuring that adult and child survivors receive the money and protection which they are owed.

Question 2. What are your thoughts on the proposal to discharge a liability order in the circumstances set out above?

Whilst we agree with the proposal to discharge a liability order where the arrears are paid in full, we have concerns about the other conditions: where the amount of arrears has changed since the order was made and where an appeal is made about the maintenance calculation. These could easily be weaponised by perpetrators of domestic abuse.

We know that perpetrators often already appeal maintenance calculations as a tactic to delay paying and to control the survivor. They may appeal in response to the annual CMS

⁵ Work and Pension Committee. (2023) *Children in poverty: Child Maintenance Service*. London: House of Commons. Available [online](#).

⁶ Work and Pension Committee. (2023) *Children in poverty: Child Maintenance Service*. London: House of Commons. Available [online](#).

⁷ 24% of receiving parents who had experienced domestic abuse receive maintenance payments in full and on a regular basis, versus 38% of receiving parents who had not experienced abuse.

Richardson, J. Butler, A. (2021) *The single parent debt trap*. London: Gingerbread. Available [online](#).

⁸ NAO. (2022) *Child Maintenance*. London: NAO. Available [online](#).

calculation, or they may do appeal when they have been obscuring their circumstances/manipulating income and investigations reveal that the payment amount should be higher, in order to delay or avoid paying the higher amount.

Perpetrators have been employing similar tactics in the family courts, making repeat applications in order to force survivors back to court and cause them stress, re-traumatisation and expense. Recognising this issue, the Government legislated in the Domestic Abuse Act 2021 to support the family courts' ability to make 'barring orders' to prevent individuals from making further applications to a court without the court's permission, which prevents perpetrators from repeatedly bringing victims back to court for no reasonable purpose.

As has been done in the family court with barring orders, the DWP should consider how to safeguard against appeals with abusive intent. The regulations governing liability orders should include mechanisms to prevent perpetrators from manipulating the process, which may involve screening for abuse, flagging and investigating repeat appeals over a CMS case, or raising the bar for discharging the order. Women's Aid would be happy to support with training for CMS staff and first-tier tribunal judges on abusive appeals and allegations.

Question 4. What, if any, unintended consequences do you think there may be as a result of any of the administrative liability order proposals?

It appears that these proposals have been designed without explicit consideration of the dynamics of domestic abuse, which could lead to the unintended consequence of perpetrators being able to manipulate the process and continue their abuse through the CMS. As set out above, this could involve making false appeals in order to cause the order to be discharged and/or the amount of maintenance to be lowered. In order to guard against adverse impacts on survivors, **we recommend that the DWP consults with specialist domestic abuse organisations, like Women's Aid, and survivors in order to identify the range of tactics perpetrators may employ to avoid liability orders being made.**

It also appears that these proposals are based on existing processes for making deductions from paying parents' bank accounts, for example in terms of the notice period and appeal rights. Whilst the consultation paper states that this would 'maintain consistency'⁹, **we would urge the DWP to take this opportunity to consider how existing protocols could be strengthened**, as the amount of child maintenance arrears is testament to the shortcomings of many current enforcement options.

Question 5. Do you think the proposals will allow the CMS to move quickly to get money to children where parents fail to meet their obligations to pay child maintenance?

Whilst it will be quicker than the existing mechanism, there are still opportunities for perpetrators to delay the process beyond the anticipated six to eight weeks – as we have set out above.

⁹ DWP. (2023) *Child Maintenance: Accelerating Enforcement*. London: DWP. Available [online](#).

We also question whether the new process is quick *enough*. Survivors often leave an abusive relationship with little/no money and significant debt¹⁰, following years of economic abuse. They then face the significant costs involved in setting up a new life, such as paying for housing and replacing essential possessions like clothes and a phone.¹¹ In the current cost of living crisis, these costs are even higher and the pressure to return to an abuser is even greater. To keep themselves and their children safe, fed and well, survivors need regular and full payments of child maintenance.

Given these stakes – which apply to the majority of receiving parents – **the DWP should provide a minimum payment to parents who are owed arrears whilst they pursue enforcement action**. This payment would be recouped through effective enforcement and, in the meantime, would help prevent survivors being forced to return to an abusive relationship in order to access the bare essentials.

Question 6. What are your views on our proposals to allow a right of appeal to the Family Court (in England and Wales) or the Sheriff Court (in Scotland) within 21 days from the date that an administrative liability order is made?

The right of appeal must balance the rights of both parents and the needs of the children. Of the 10,000 parents a year who will be affected by the new liability order regulations, many will be perpetrators of abuse. Given this, we are concerned that the DWP does not propose to make any restrictions upon the grounds for appeal in child maintenance regulations, instead leaving this up to the relevant court. This could have the unintended consequence of privileging the rights of the paying parent, if the family court leaves procedures too open.

In England, there are significant issues in the family court's understanding of domestic abuse. This is clear not just from the anecdotal evidence of survivors and Women's Aid's own research¹², but also from the findings of an independent expert panel set up by the Government – which reported that the family court systematically minimised domestic abuse and disbelieved allegations.¹³ This has been recently reaffirmed by the Domestic Abuse Commissioner's report on the family courts, which cited recent survey findings that 80% of magistrates and 66% of district judges have a poor understanding of domestic abuse and coercive control.¹⁴ **Women's Aid continues to call for specialist multi-agency training on the domestic abuse to be rolled out across the family justice system**, as this is an essential component of the culture change which is so urgently needed.

In the meantime, **we recommend that the DWP develops restrictions for appeal in conjunction with specialist domestic abuse organisations, like Women's Aid, and survivors**, ensuring that these take account of the range of tactics perpetrators may employ. These grounds for appeal should apply to the administrative liability order proposals as well as to the existing process for appeals against deductions directly from a bank account.

¹⁰ Surviving Economic Abuse has found that the average individual debt a survivor has is £20,000 – six times more than in 2020.

SEA. (2023) *Cost of Living Crisis*. London: SEA. Available [online](#).

¹¹ Women's Aid. (2023) *Emergency Fund Evaluation*. Not yet published.

¹² Women's Aid. (2022). *Two years, too long: Mapping action on the Harm Panel's findings*. Bristol: Women's Aid. Available [online](#).

¹³ Ministry of Justice. (2020) *Assessing Risk of Harm to Children and Parents in Private Law Children Cases*. London: MoJ. Available [online](#).

¹⁴ Domestic Abuse Commissioner. (2023) *The Family Court and domestic abuse: Achieving cultural change*. London: Domestic Abuse Commissioner's Office. Available [online](#).

Question 7. Do you have any comments on whether the proposals provide a paying parent with sufficient protections in order to appeal the decision to make an administrative liability order?

By the time in the enforcement process that an administrative liability order is issued, it is likely that the non-resident parent is choosing not to pay. In that light, we believe that the protections for paying parents afforded by these proposals are too broad and are likely to be at the expense of the protections needed by resident parents and their children so that they can access the child maintenance which they are legally owed.

The proposals document states that is important for robust mechanisms to be in place to allow paying parents to challenge the decision to make a liability order where appropriate. However, these proposals do not give sufficient information about what when appeals would be considered appropriate and when they would be considered abusive or inappropriate. It is important that this distinction is carefully considered and set out in any guidance or restrictions to courts, to guard against manipulated by perpetrators.

Meanwhile, we welcome ongoing work by the DWP to uphold the rights of receiving parents by strengthening enforcement, including by ensuring the unearned income of paying parents is automatically taken into account for maintenance calculations. We urge the department to commit further resources to enforcement, given the huge scale of the arrears, their impact on survivors and the knock-on expense to the public purse resulting from poverty and hardship. We also urge the DWP to address the full range of tactics perpetrators employ, such as manipulating income when self-employed and making false appeals. This is essential to improving confidence in the CMS, protecting survivors and lifting children out of poverty.