



Department
for Work &
Pensions

**Independent Review of the Child Maintenance
Service (CMS) response to Domestic Abuse**

Report by Dr Samantha Callan

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Foreword

This report is the culmination of my Review into the Child Maintenance Service (CMS) policy and procedure around domestic abuse, which was recommended by a Domestic Homicide Review (DHR) into the death of Emma Louise Day, murdered on 25 May 2017 by a former partner. Emma was a CMS customer trying to claim child maintenance from her killer, the father of her youngest child.

I need to begin by adding my own condolences to Emma Day's family. I have been acutely aware of the tragic nature of this case throughout the Review. It powerfully highlights the need for CMS staff to understand how domestic abuse can quickly escalate, including into serious violence, and be equipped to respond swiftly and safely to disclosures. The case also shows how domestic abuse can often be anticipated from patterns discernible in relational dynamics between parents before (and during) the making of applications.

Whilst a significant period of time has elapsed since her death, the delay has meant the Review was carried out against the backdrop of the Domestic Abuse Act 2021; this requires CMS processes to come into line with greater societal awareness of the many different forms abuse can take.

The DHR's assessment was that CMS processes were insufficient, potentially risky for parents who had been subject to domestic abuse, and indicative of wider systems failure within the CMS. The coroner also concluded that action should be taken to prevent future deaths.

The stakes could therefore not be higher, underlining the urgent need to implement the recommendations I make in this Review. I am aware of the political challenges of making the significant legislative changes required – which others have also called for – but facing these has now become unavoidable. I have sought to build on the 2012 reforms and to ensure my recommendations are based on the sound principles established in Sir David Henshaw's 2006 Review.¹

Henshaw reported 16 years ago, and much of the financial detail in the UK's child maintenance system was decided in 1998 and laid down in primary legislation. This Review is an alarm call that we urgently need significant legislative change, not just because so much time has elapsed since then, but also because of the clear imperative to shut down as many avenues as possible for the CMS to enable, worsen or even provoke domestic abuse.

The scope of this Review, referring back as it did to one case, means I was somewhat limited in my consideration of this complex agency of Government, which serves some of the most financially and emotionally pressured families in our society – in which over three quarters of a million children live.² So, as well as the specific legislative, policy and cross-departmental changes I have recommended, the DWP should take advantage of the impetus for change and publish a White Paper which represents a root and branch 'rethink' of how its principles should be outworked.

¹ [Recovering child support CM 6894 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/62842/130616mainreport.pdf)

² [Child Maintenance Service statistics: data to December 2020 \(experimental\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-december-2020-experimental)

Child maintenance arrangements are very unlikely to be stable and well-functioning unless they are considered just and equitable by the parties involved.

There are a very large number of people I want to thank, but foremost is Emma Day's sister who very kindly made time to speak to me at the beginning of the Review. Many parents who have been subject to domestic abuse, and who have been customers of the Child Maintenance Service, allowed me to interview them or gave evidence to trusted domestic abuse support and advocacy groups. These agencies tirelessly support and lobby on behalf of survivors of domestic abuse and were of great assistance to me. The Domestic Abuse Commissioner, Nicole Jacobs, was particularly encouraging and helpful – as were her staff.

Senior leaders in the CMS were unstinting in their efforts to facilitate this Review and I am grateful to the caseworkers and other CMS staff who took part in focus groups. I would like to mention particularly members of the CMS policy team, Simon Franklin who performed the main secretariat role and Duncan Gilchrist who advised me throughout. In addition, I would also like to thank the DWP Library for their help in providing key contextual references and literature sources.

Finally, I want to thank the staff of the Family Hubs Network (FHN) who kept the wheels turning whilst I focused on the Review and particularly Lord Farmer who co-founded FHN with me and for whom I am Parliamentary Adviser. His generosity of time kept my 'role strain' to a minimum for which I am very grateful.

(Dr) Samantha Callan
Independent Reviewer

Executive Summary

In October 2021, the Department for Work & Pensions (DWP) formally commissioned an Independent Review of the processes and procedures used by the Child Maintenance Service (CMS) to support parents who had been subject to domestic abuse in setting up a child maintenance arrangement.

The Review was commissioned in response to a recommendation made in a Domestic Homicide Review, published by Safer Lambeth Partnership in 2019, which examined the circumstances of the tragic murder of Emma Day, a CMS customer who was killed by her ex-partner in May 2017 after making a claim for child maintenance.

Since the death of Emma Day, the CMS has implemented several operational improvements to enhance its capacity to help domestic abuse survivors set up a maintenance arrangement safely.

These operational improvements have included: new mandatory domestic abuse training for CMS caseworkers; the introduction of direct questions concerning abuse (replacing a previous reliance on self-disclosure); creating new domestic abuse toolkits to guide frontline staff on steps to take if a customer discloses abuse; updating signposting material where survivors may be directed to specialist support; as well as the introduction of direct interventions such as calling the emergency services on a customer's behalf if necessary and there are indications that someone is in immediate danger.

There can be little doubt that the CMS has a very difficult public service function in managing a statutory child maintenance scheme. The CMS is a state agency that is tasked with intervening in an area of social life – parental separation – that is often highly emotionally charged, where people are not always able to act rationally, and where contact with both parties is required in order to get money flowing for the benefit of children.

It is also important to point out that the CMS – along with its governing department, the DWP – has no statutory safeguarding duty or legal duty of care. Instead it has a responsibility to administer a system – i.e. a statutory child maintenance scheme – which incorporates an architecture of rights of appeal and the right to have decisions reconsidered that protect the rights of those who use its services.

My assessment is that the CMS is a reform-minded agency that has worked hard to learn lessons from the tragedy of Emma Day's death and has taken significant steps to develop an operational framework that can support survivors in setting up a maintenance arrangement safely.

However, my assessment is also that further steps are needed as new domestic abuse legislation requires taking a 360-degree approach to the issue. The statutory definition includes physical or sexual abuse; violent or threatening behaviour; controlling or coercive behaviour; financial and economic abuse; and psychological, emotional or other abuse. Evidence obtained during this Review showed further steps are needed to reduce the risk of paying as well as receiving parents being

subject to abuse through its operations. This applies equally to both men and women.

Several of these steps will require some degree of legislative reform as well as greater levels of joint-working and interconnectedness with other parts of government and the public sector. More broadly, after ten years of operating the 2012 system anachronisms have become evident which highlight the drawbacks of depending on primary legislation for detailed aspects of CMS operations.

Also, my recommendations reinforce previous calls, including from the Social Security Advisory Committee, the Centre for Social Justice and the Conservative Manifesto to Strengthen Families, for an integrated cross-government strategy to strengthen families, prevent family breakdown where possible and support separating and separated families.

In assessing which areas needed attention my intention was that this Review's recommendations should not clash with the overriding objectives of the CMS (2012 scheme), which can be summarised as follows:

- The state has an overarching role in ensuring separated parents financially support their children
- Provide support and guidance to separated parents to help them work together to form a collaborative maintenance arrangement
- The statutory system acts as a fallback rather than a default option
- The statutory scheme is underpinned by a fee-based approach

Recommendations

1. Prevent use of Direct Pay as a form of coercion and control by perpetrators

Among measures of legislative reform, the foremost requires preventing the Direct Pay service type – which does not involve charges and where payments pass directly between parents – being deliberately used by perpetrators as a form of coercion and control (for example, by withholding maintenance or making deliberately erratic payments.) The National Audit Office (NAO) found around half of new Direct Pay arrangements are either not sustained or are ineffective. Parents often fail to report non-payment to avoid causing an issue with the paying parent.³

At present, the only factor that can be considered in denying a Direct Pay arrangement is when a paying parent is deemed 'unlikely to pay' based on their history within CMS. In my view, a legislative lever – requiring the amendment of primary legislation via an express provision – should enable the denial of a Direct Pay arrangement where there is evidence of abuse. However, defining what is 'proof' or evidence of domestic abuse can be difficult to ascertain. My recommendation is that CMS consider accepting the same standards of evidence as would be accepted for the purposes of legal aid for private family law disputes when someone has been subject to abuse or violence from another party.⁴

³ National Audit Office. (2022, page 12.)

⁴ [Legal aid if you have been a victim of domestic abuse or violence \(childlawadvice.org.uk\)](https://childlawadvice.org.uk)

In cases where Direct Pay has been denied as a result of abuse then a consequence will be their transfer into the chargeable Collect & Pay service. In my view this is defensible as both customers will be receiving the full Collect & Pay service.

2. Ensure the CMS has adequate legal powers to address financial coercion

The Domestic Abuse Act 2021 extends the controlling or coercive behaviour offence to cover post-separation abuse and that behaviour may be directed at another person including the child of a receiving parent. Therefore I also recommend that CMS should explore how best to use the new powers within the legislation, and whether any additional legislation is necessary, to support the prosecution of cases of financial coercion and control (abuse) committed in the context of a child maintenance arrangement.

This would not replace existing CMS remedies (including appeals and tribunals) but come after all CMS processes have been exhausted if an evidenced pattern of financial abuse and vindictive withholding of liabilities is still being perpetrated by paying parents.

Financial abuse can also be bi-directional and paying parents can suffer emotional/psychological abuse as a result of: (i) false allegations of non-payment; or (ii) a receiving parent deliberately restricting access to gain more in maintenance payments. Therefore, the Government should look closely at the extent to which domestic abuse legislation provides adequate legal protection for paying parents against a receiving parent unilaterally imposing non-contact/limiting contact with children as a lever to get maintenance increased. Non-legislative means are also needed, as I outline in Recommendation 6.

3. Remove the reporting requirement to qualify for the domestic abuse waiver and give the legal warning against providing false information earlier

The use of the waiver for the £20 fee to access the CMS is underpinned by secondary legislation, but it does not operate according to the accompanying statutory guidance in practice as the requirement to report is not always enforced. Fewer than one-fifth of those who have experienced domestic abuse report it due to safety or other concerns (and there is no evidence that the requirement to report acts as a spur to people accessing services.)⁵

Although its value to the Government has reduced significantly since it was first introduced, waiving the fee is still likely to send a significant signal to those who need access to the statutory system due to domestic abuse, that barriers will be lowered to facilitate this. Hence, I am recommending removal of the requirement to have reported domestic abuse to qualify for the application fee waiver.

To mitigate removing the need to report, there should be a more superficial change, whereby the legal 'warning' statement in the application stage call script is moved so

⁵ According to the Crime Survey for England & Wales in the year ending March 2018, only 17.3% of those who had experienced partner abuse in the previous 12 months had reported the abuse to the police. See: [Domestic abuse: findings from the Crime Survey for England and Wales - Office for National Statistics \(ons.gov.uk\)](#), November 2018.

it comes *before* customers are asked about domestic abuse to provide a ‘nudge’ which could strip out some false allegations that may be made simply to avoid paying the £20 application fee. Both statement and questions need to be delivered sensitively and with safety in mind, so disclosures are not inadvertently discouraged.

4. Pilot single named caseworkers for complex domestic abuse cases

The requirement to keep recounting their history of domestic abuse to different call handlers can re-traumatise parents who have been subject to it, not least because they may still be living with a sense of a very real threat to safety. Whilst it would be operationally very challenging for each CMS customer to have a single named caseworker, the CMS should pilot an approach where complex domestic abuse cases are served by a named caseworker within a dedicated team.

If this team had access to a broad range of frontline services, including those with experience in working with ethnic minority, male and LGBT+ victims/survivors, this would build considerable expertise within the organisation. It also has the potential to create a significant uplift in the quality of service that customers can expect in these circumstances, further justifying collection fees.

The effectiveness of this approach should be assessed in terms of whether it increases actual and perceived safety, reduces anxiety, and increases payments to the receiving parent and therefore the children.

5. Address issues of affordability of liabilities for low-income paying parents

Further legislative reform is also required to address issues raised by the Social Security Advisory Committee (SSAC) and others about the affordability of child maintenance liabilities in low-income cases, which could leave paying parents without the means to support themselves or their children whilst in their care. A system perceived to be unfair could exacerbate abuse or escalate conflict to increasingly harmful levels.

These concerns relate partly to thresholds determined at the end of the 20th century, which have been underpinned in statute, and to the interaction of liabilities with Universal Credit at certain points on the earnings curve that impact work incentives. The detail of rates and thresholds needs to be lifted out of primary legislation, so they can be more easily adjusted in response to wider social changes.

6. Cross-government coordination of early intervention outside the CMS

An early intervention system is needed outside the CMS, but integrated with it, where parents are helped to avoid or resolve entrenched conflict at an early stage. A likely site for such support would be in the network of Family Hubs several government departments are committed to building. These would also help address the many issues faced by separated families in this country, in which a third of all children live, which include debt, substance misuse and mental health. The private

family law Family Hub Pathfinder in Bournemouth⁶ could ensure this area was prioritised and evaluated from the outset.

The CMS should also be able to refer parents who are struggling to make stable, mutually acceptable child maintenance arrangements work, to Separated Parents Information Programmes (SPIPs.)⁷ These help parents (who attend separate sessions) understand how to put their children first while they are separating and learn principles of how to manage conflict and difficulties and how to put these into practice. This would better integrate the CMS with out-of-court family law remedies.

7. Removal of nil rate for child maintenance for prisoners

Requiring remanded and sentenced prisoners to pay some child maintenance, accords with the Ministry of Justice's two Farmer Reviews in 2017 and 2019 (on male prisoners and women in the criminal justice system respectively.)⁸ Research shows that strengthening ties between prisoners and their families can help prevent re-offending and reduce intergenerational crime. The reports also emphasise the need to avoid effectively stripping away parental responsibility when men and women are held in custody, regardless of whether the relationship with the other parent of their child(ren) is ongoing.

Although prisoners' low earnings may mean the £7 flat rate is unfeasible, even small amounts per week would add up and make a difference to children. The principle of requiring prisoners on 'enhanced' earnings to pay child maintenance already applies in legislation and should be extended. As part of the wider review of prisoner pay, the CMS should work with the Ministry of Justice to develop a workable system for enabling parents with care of prisoners' children to claim child maintenance if they choose to do so.

8. Update the maintenance calculation formula to include both parents' income

Fundamental reform is also required to acknowledge the very different world the CMS is now operating in, ten years after the 2012 reforms, where both parents often have primary caring responsibilities towards the child as well as employment outside the home. This reality makes it hard to justify the current situation where only the non-resident parent's income is included in child maintenance liability calculations.

This would require a far more complicated formula which takes account of the incomes of both parents and other outgoings including debt repayments and would contradict the 2012 system's drive for greater simplicity. However, the inclusion of only one income in the calculation is becoming increasingly untenable and, again, the greater the perceived unfairness of a system, the more it is likely to drive conflict and even abuse.

⁶ Pioneering approach in family courts to support domestic abuse victims better - GOV.UK (www.gov.uk)

⁷ Separated Parents Information Programme - Cafcass - Children and Family Court Advisory and Support Service

⁸ Farmer, Lord. (August 2017 and June 2019.)

9. Include a broader range of agencies in CMS training

Whilst it is undeniably the case that women are disproportionately more likely to be subject to and severely harmed by domestic abuse, its complexity was particularly apparent when reviewing the CMS. As well as the broader statutory definition bringing more behaviours into scope, it became clear that abuse can be mutual or bi-directional.

Men's needs and experiences are often discounted and only specialist women's organisations appear to have been involved in the design of CMS domestic abuse training. In recognition that men (and paying parents) can also be subject to domestic abuse, a broader range of agencies, including those which specialise in men's perspectives, should be included in CMS training.

10. Design an Implementation Plan with a specifically tasked civil service team

The DWP should produce an Implementation Plan and a specifically tasked civil service team to take forward the recommendations made in this Report. The team should meet regularly (for example, six-monthly) with the Reviewer to ensure progress. The Implementation Plan should be aligned with the Domestic Abuse Plan – published by the Home Office in March 2022⁹ – and statutory guidance¹⁰ (published July 2022) that outlines ways in which key provisions in the Domestic Abuse Act 2021¹¹ should be interpreted by local agencies.

This Plan should include research (designed with the input of key stakeholders) to measure the success of the reforms proposed by this Report. This would require systematic recording of disclosures of domestic abuse and how the CMS responded.

⁹ Home Office. (March 2022.)

¹⁰ Domestic Abuse Statutory Guidance (July 2022)

¹¹ Domestic Abuse Act 2021

Part 1 – Setting the Scene

Chapter 1: Introduction

1. In March 2019, Safer Lambeth Partnership published a Domestic Homicide Review (DHR) concerning the homicide of a resident of the London Borough of Lambeth – Emma Day – who was murdered by her ex-partner after making a claim for child maintenance.¹² The DWP was one of several organisations asked to contribute to the Review as both the victim and perpetrator were involved with the Child Maintenance Service (CMS) leading up to the murder.
2. The dreadful tragedy of Emma Day’s murder following her claim for child maintenance, also represented the first time the CMS had been directly implicated in a death. The Department responded to the DHR, which criticised the CMS for its response to the domestic abuse issues in the case, and which assessed CMS processes as insufficient and potentially raising a risk to victims when making a maintenance application. In particular, the Review:

‘...identified systemic issues in relation to how domestic violence and abuse are addressed by the CMS.’¹³

3. One of the recommendations was for DWP to commission an independent review into CMS process and procedures around domestic violence. The full recommendation is as follows:

Recommendation 9: *The DWP to urgently commission an independent review into the CMS’s policy and procedure around domestic violence, informed by substantive consultation with victim/survivors and specialist domestic abuse services. This review to include in scope: the response to disclosures of domestic abuse when making a child maintenance application; provision of independent specialist advice in that context; and the identification and management of risks by (alleged) perpetrators.*

4. In addition, following an inquest into the death of Emma Day in April 2021, Her Majesty’s Senior Coroner issued a Prevention of Future Death’s Report (PFD).¹⁴ The PFD included a focus on the need for improved domestic abuse training among CMS caseworkers, and to assess ways of better identifying and supporting customers who may be at risk of abuse or coercion after submitting a claim for child maintenance.

¹² A Domestic Homicide Review (DHR) is a locally conducted multi-agency review of the circumstances in which the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by: a person to whom he or she was related, or with whom he or she was or had been in an intimate personal relationship; or, a member of the same household as himself or herself. DHRs were introduced as part of the Domestic Violence, Crime and Victims Act 2004 and came into force on 13 April 2011. Their purpose is not to reinvestigate the death or apportion blame, but to:

- establish what lessons are to be learned from the domestic homicide, regarding the way in which local professionals and organisations work individually and together to safeguard victims;
- apply these lessons to service responses including changes to policies and procedures as appropriate; and to,
- prevent domestic violence homicide and help improve service responses through improved intra- and inter-agency working.

¹³ Safer Lambeth Partnership, Domestic Homicide Review. (May 2017.) Executive Summary, p121 (para 1.6.12.)

¹⁴ Prevention of future deaths report. (3 August 2021.) .

5. Since Emma Day's death, the CMS has implemented several operational changes and introduced new processes to strengthen its capacity to help domestic abuse survivors set up a maintenance arrangement safely. Many of these processes were outlined in the Department's response to the DHR and further outlined in a response to the PFD.¹⁵
6. The parameters for this Independent Review can be summarised as an assessment of the current framework of CMS operational policies and procedures that are intended to provide support and assistance to customers experiencing domestic abuse. The Review also assessed the extent to which policies and practices of the CMS exacerbated existing domestic abuse or provoked it in the first place.
7. This Review has incorporated substantive consultation with specialist domestic abuse services, engagement with survivors of domestic abuse, and proposes some recommendations – both legislative and non-legislative – that the Government needs to consider as a framework for further enhancing the levels of support the CMS can provide to parents who have been subject to domestic abuse.
8. The CMS has an atypical role as a state agency in that it often intervenes in an area of social life – i.e. relationship separation and breakdown – that is often very emotionally charged and where the separated parties are not always able to act rationally. To quote one of the UK's leading academic experts on child maintenance, Professor Christine Skinner, *'When a couple separate, there's often a lot of anger, as well as feelings of loss and mistrust. These can be powerful overwhelming emotions...'*¹⁶
9. The CMS (along with the DWP more generally) has no safeguarding responsibility but it does have a strategic objective to help ensure that the child maintenance system works, primarily, in the interests of children. Ideally that means parents working together following separation and, where possible, making a private 'family-based arrangement', thereby avoiding state intervention altogether.¹⁷
10. Where separated parents do not meet their responsibilities to support their children, a statutory scheme is in place with the intention of encouraging cooperation and, where necessary, enforcing payments.¹⁸

¹⁵ Not published by the Department.

¹⁶ University of York. (June 2015.)

¹⁷ A child maintenance arrangement which is made between the two parents without any involvement of the CMS. Family-based arrangements (FBAs) may sometimes be known as private or voluntary arrangements.

¹⁸ The statutory child maintenance scheme includes:

- *Collect & Pay*: A legally binding child maintenance arrangement, whereby the CMS calculates the amount of maintenance, then collects the payment from the paying parent and pays it to the receiving parent. There are ongoing collection charges for use of the Collect & Pay service.
- *Direct Pay*: A legally binding child maintenance arrangement set up by the CMS, where the CMS calculates the amount of maintenance that should be paid, and parents make their own arrangements for payments. The CMS provides the calculation and no further use of the service is required. Neither parent pays collection charges under Direct Pay.
- A £20 application fee is charged for both service streams, unless waived because of factors including current or historical domestic abuse.

11. The recommendations made in this Report should not detract from the primary goals of the Child Maintenance Service, which can be summarised as follows:

- Ensuring separated parents financially support their children
- Providing support to collaborate in making a maintenance arrangement
- The provision of a free gateway – previously in the form of ‘*Child Maintenance Options*’ but now replaced (from April 1st 2022) with the ‘*Get Help Arranging Child Maintenance*’ service via GOV.UK – that provides guidance on options for setting up a child maintenance arrangement
- The statutory system acts as a fallback rather than a default option for customers.
- A statutory scheme that is underpinned by a fee-based approach.

12. Clearly aspirations of co-operation and private arrangements are often highly unsuitable for parents who have been subject to domestic abuse. However, if customers are to use the CMS to arrange a maintenance arrangement, then engagement with both parties will always be necessary to set a financial liability. In the case of Emma Day, CMS contact with her estranged ex-partner and father of her children inflamed a certain kind of violent abuser and contributed to tragic consequences.

13. It is my hope that this Review will offer a pathway to help the CMS further develop its domestic abuse processes to support survivors in setting up a maintenance arrangement safely.

1.1 Methodology/Approach to the Review

14. The methodology for the Review incorporated the following key components:

- One-to-one qualitative interviews with parents who had been subject to domestic abuse particularly regarding their experiences of dealing with the CMS.
- Consultations with a range of stakeholders and specialist domestic abuse services – including the Domestic Abuse Commissioner – to gather views and comment on how the CMS engages with survivors. The Review also received several written submissions from a range of domestic abuse support organisations and advocacy groups, some of which included first-hand accounts from parents who had experienced domestic abuse and were customers of the CMS.
- Discussions with CMS senior leaders and caseworkers who operate child maintenance systems and processes.

15. The Review began in October 2021 and completed in April 2022.

Chapter 2: The Domestic Abuse Context

16. The Domestic Abuse Act received Royal Assent in April 2021 and (as at April 2022) is not yet fully in force. The aim of the Act is to facilitate a lasting cultural change that leads to improved support for all those impacted and victimised by abuse.¹⁹

17. The broad intention of the Domestic Abuse Act 2021²⁰ is to transform the approach towards domestic abuse within the justice system and wider statutory agencies. The Act has introduced a wide range of provisions in relation to domestic abuse – including the introduction of a Domestic Abuse Commissioner – and acts as a potential instigator for a range of state agencies to strengthen current support for victims of abuse and to assess whether there are ways in which domestic abuse support services can be further improved.

2.1 Definition of domestic abuse

18. The Act creates a cross-government statutory definition of domestic abuse, to ensure that domestic abuse is properly understood, and can be actively challenged in public attitudes as well as in the processes and practices of key statutory agencies.

19. The definition of ‘domestic abuse’ for the purposes of the Domestic Abuse Act²¹ describes the behaviour of a person (‘A’) towards another person (‘B’) as ‘domestic abuse’ if:

- A and B are each aged 16 (abuse directed at a person aged under 16 is regarded as child abuse) or over and are personally connected to each other, and
- the behaviour is abusive.

20. Behaviour is ‘abusive’ if it consists any of the following:

- physical or sexual abuse
- violent or threatening behaviour
- controlling or coercive behaviour
- financial abuse – a form of controlling or coercive behaviour such as a perpetrator using or misusing money which limits and controls B’s current and future actions and their freedom of choice.
- economic abuse – any behaviour that has a substantial adverse effect on B’s ability to: (a) acquire, use or maintain money or other property; or (b) obtain goods or services.²²

¹⁹ Foster et al.. (July 2021, p5.)

²⁰ [Domestic Abuse Act 2021](#)

²¹ [ibid](#)

²² Economic abuse is wider in its definition than ‘financial abuse’ and recognises that it is not just money and finances that a perpetrator can control through restricting access, but also essential resources such as food, clothing, transportation and housing and the means to improve a person’s economic status (for example through employment, education or training.) Economic abuse is a form of coercive control through which domestic abuse perpetrators seek to reinforce or create economic

- emotional or psychological or other abuse.

21. It does not matter whether the behaviour consists of a single incident or reflects a course of conduct over an unspecified period of time.

2.2 Prevalence of domestic abuse

22. Domestic abuse is a widespread phenomenon, both globally and at a national level. At its most extreme, the World Health Organisation notes that 38% of all murders of women globally were committed by their intimate partners.²³ Similarly, in the UK, 44% of female homicide victims are killed by partners or ex-partners.²⁴ In the year to March 2020, 2.3 million adults experienced domestic abuse;²⁵ and the estimated cost of domestic abuse for victims is £66 billion (Home Office estimates for England & Wales, 2016/17.)²⁶

23. Anyone can be a victim of domestic violence and abuse, regardless of sex, gender, age, ethnicity, socio-economic status, sexuality or background. However, statistically it is women and particularly younger women, who are disproportionately affected by domestic abuse.²⁷

24. According to the Office for National Statistics, 7.3% of women (1.561 million) and 3.6% of men (757,000) were victims of domestic abuse in 2019/20 equating to a ratio of two female victims to every one male victim.²⁸ One in four women and one in six men will be a victim of domestic abuse in their lifetime.

25. The following Office for National Statistics figures show the structure of households with respect to domestic and partner abuse (partner abuse is a subcategory of domestic abuse involving current or ex-partners)²⁹

	Partner Abuse	
	Men	Women
Single adult and child(ren)	8.3%	18.7%
Adults and child(ren)	2.8%	4.8
Adult(s) and no child(ren)	2.2%	4.9%

26. Domestic abuse is often a hidden crime, which is frequently unreported to the police. Many cases will not enter the criminal justice process as they are not

dependency and/or instability thereby limiting choices victim/survivors can make and their ability to access and build economic safety.

²³ World Health Organisation (2013.)

²⁴ ONS (2016) '*Findings from analyses based on the Homicide Index recorded by the Home Office covering different aspects of homicide*', available online at: <http://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2015/chapter2homicide> (accessed 19 October 2017.)

²⁵ Domestic abuse prevalence and trends, England and Wales - Office for National Statistics (ons.gov.uk)

²⁶ Macdonald, M. (2021)

²⁷ Robbins and Cook (2018.)

²⁸ ONS Crime Survey for England and Wales (March 2020)

²⁹ Ibid)

reported, and thus data held by the police tends to present an incomplete picture of the prevalence of domestic abuse.³⁰

2.3 Domestic abuse among CMS applicants

27. In May 2018, the CMS began to ask parents directly if they have experienced domestic abuse, as a screening question for the application fee waiver, at the point of application. Data from the Department for Work and Pensions shows that 60% of new applicants to the CMS in the quarter ending December 2021 disclosed that they or their child had experienced domestic abuse and thus did not have to pay the £20 application fee.³¹

³⁰ Office of National Statistics. (November 2021.)

³¹ In the quarter ending December 2021, there were 19,500 new applications to the CMS. 60% were exempt from paying the £20 application fee. This was mainly due to applicants who had previously experienced domestic abuse. Child Maintenance Service statistics: data to December 2021 (experimental) - GOV.UK (www.gov.uk)

Chapter 3: Literature Overview

28. A high-level literature search by the DWP Library was undertaken providing an overview of some key themes arising from a large number of research studies.

3.1 The complexity of domestic abuse

29. Research (Podaná 2021) indicates the multiple forms and complexities that domestic abuse can take.³²

30. In particular, intimate partner violence (IPV) is a widespread phenomenon which is estimated to affect about 30% of ever-partnered women worldwide, posing serious consequences for physical and mental health, and often comprising different forms of physical, sexual and psychological abuse.³³

31. Though there is no single definition of IPV in research studies, Podaná outlines a hierarchy of categories encompassing:

- i. *'Intimate terrorism'*: including the most severe IPV cases taking the form of extreme coercive control, extensive physical violence, and often sexual abuse by their partners.
- ii. *'High coercive control'*: where partners frequently use a variety of coercive control tactics, though their physically violent behaviour is typically limited to a few incidents of a less serious nature, such as violent threats, slapping or shoving.
- iii. *'Situational couple violence'*: combining occasional verbal abuse with a few incidents of minor physical violence; often more likely to be indicative of episodic conflicts in the relationship.
- iv. *'Situational psychological abuse'*: where partners occasionally use some forms of psychological violence but are otherwise non-violent.

32. Podaná and others describe how the 'situational' behaviour in the third and fourth types is likely to be the result of inappropriate reactions (loss of control) during badly managed conflict, the objective of which is not to maintain general control over the partner.³⁴

33. Analysis indicates that positive risk factors with regards to IPV include: a partner's level of alcohol or other substance abuse; the extent of a partner's violent behaviour outside the relationship; and the degree to which someone had either suffered or witnessed abuse in childhood³⁵.

34. The manifold nature of domestic abuse is also reflected in the fact that abuse can be bi-directional and mutual. For example, a study undertaken jointly by the Children & Family Court Advisory and Support Service (Cafcass) and Women's Aid found that 126 fathers (76%) and 40 mothers (24%) were alleged

³² Podaná, Z. (2021.)

³³ Ibid

³⁴ Ibid

³⁵ Ibid

perpetrators of domestic abuse and 11 out of 166 individuals were recorded as both an alleged victim and perpetrator.³⁶ More recently, some internal analysis was conducted in 2021 by Cafcass of 200 child records where domestic abuse was flagged on the case file and which found that the alleged/established perpetrator of domestic abuse was: the father only in 52% of cases; both parents in 39% of cases; the mother only in 6%; and 'other' in 3% ('other' included parents being the perpetrator or victim in previous/current relationships not with the other parent.)³⁷

35. Cafcass also kindly provided this Review with the following quote as a further recognition of the complexity of domestic abuse and the fact that it can be mutual between parents.

'Many of the experiences of children subject to family proceedings are complex, and sensitive work is required to safeguard and promote the best interests of the child. For example, assessing whether the child has experienced domestic abuse including coercive control, whether they have been exposed to abusive behaviour, which is mutual between their parents, or if they have experienced harmful conflict which is distinct from domestic abuse and will require a different assessment from professionals, services and the courts.'

3.1.1 Men & domestic abuse

36. The complexity of domestic abuse is also reflected in the increased interest amongst researchers in the experiences of male domestic abuse victims.

37. The growing recognition that men can also be victims of domestic abuse has led to an increase in men reporting it as well as a rise in support services that are tailored towards male victims. The Mankind Initiative, the charity that supports men who are subject to domestic abuse, receives approximately 2,500 calls to its helpline every year. Over half (55%) of callers to the ManKind Initiative domestic abuse helpline between April 2020 and March 2021 had children within the household, and approximately one-third (33%) reported being victims of economic/financial abuse.³⁸

38. Further research (Refuge/Co-Op, 2020)³⁹, indicated that one in six men (16%) and one in six women (17%) had experienced economic abuse, and that four-fifths (80%) of men who had experienced economic abuse had also suffered physical, sexual and emotional abuse.

39. Furthermore, research on the perpetuation of intimate partner violence by women against men is often limited by a reluctance amongst men to identify as 'victims' and a reticence to relate to commonly used IPV terms such as 'domestic violence.'⁴⁰ In addition, male victims/survivors have often reported that disclosing

³⁶ See: 'Allegations of domestic abuse in child contact.' (July 2017.) Cafcass & Women's Aid. Cafcass and Women's Aid collaborate on domestic abuse research - Cafcass - Children and Family Court Advisory and Support Service

³⁷ Internal Cafcass analysis. (2021.) Unpublished.

³⁸ ONS (November 2021.)

³⁹ Report by Co-op and Refuge called (Know-Economic-Abuse-Report) was published in 2020 <https://bit.ly/3fWDQxh> and the Report by Co-op and Refuge entitled Money Matters was published in 2015: <https://bit.ly/2Wib0xD>

⁴⁰ Walker, A, et al. (2020.)

abuse to the police and/or support services was often met with ridicule, scepticism and indifference.

40. In response, support services for male victims/survivors in Australia introduced the term '*boundary crossings*' (i.e. a violation of boundaries and rights) rather than '*domestic violence*' to explore male experiences of female perpetrated abuse. A subsequent evaluation of the change in terminology indicated that this had successfully encouraged a higher level of disclosure by male victims/survivors.⁴¹

3.1.2 Domestic abuse & same-sex relationships

41. Though national statistics on domestic abuse do not generally disaggregate data by gender identity and sexual orientation, it is estimated that between 60% to 80% of LGBT+ survivors have never reported abuse or sought advice from support services.⁴²

42. Research indicates that many women in same-sex relationships are unlikely to use domestic abuse services as they do not often feel they are tailored towards their circumstances.⁴³ In addition, studies suggest that many in the LGBT+ community would like services not to assume that women are being abused by a male partner and that gender-neutral terms (i.e. the 'ex-partner' in a CMS context) should always be used to identify the abuser.⁴⁴

3.1.3 Differences between urban & rural areas

43. It is also worth noting that domestic abuse can often be experienced differently, depending on whether a survivor lives in an urban or rural area. Research indicates that rural victims are often subject to abuse for longer and thus live with increased risk.⁴⁵ They experience a greater degree of isolation and face barriers to disclosing and/or leaving abuse that can be unique to a rural setting, such as a lack of local services, limited transport links, and pressures that may arise from being part of a close-knit local community.

44. Thus, rurality by itself can be used by perpetrators to increase their level of control over abuse victims.

3.1.4 Systems abuse

45. Systems abuse is increasingly recognised by researchers as a method of coercive control by perpetrators. For example, abusers will often report or threaten to report malicious and false accounts about their ex-partners to public agencies. Douglas and Fell (2020) specifically mention child support systems as sites where this abuse occurs.

⁴¹ Ibid

⁴² Magić and Kelley. (2021)

⁴³ Moreton, E. (2019.)

⁴⁴ Ibid

⁴⁵ National Rural Crime Network. (2019.)

46. In this regard, their research and other studies that examine false reports of child mistreatment to child protection services tend to conclude that improved processes for investigating both separated parties could act as a greater deterrent to this form of coercive control.⁴⁶

47. Machado et al (2020)⁴⁷ refer similarly to legal–administrative abuse (when one partner uses the legal and administrative system against the other partner.) Whilst both men and women are subject to this form of abuse, their research backed previous findings that men appear to be particularly vulnerable.

3.1.5 Financial/economic abuse

48. There is also increasing recognition of the role that financial⁴⁸ and economic⁴⁹ abuse can play as a form of coercion and control used by perpetrators. Many survivors experience financial and/or economic abuse as a distinctive form of control that can act as a barrier to leaving the perpetrator. In addition, both forms of coercive control can often continue post-separation, often with regard to lack of compliance with child maintenance arrangements, refusal to disentangle joint assets, and getting benefits put in the abuser’s name.⁵⁰

49. Several domestic abuse stakeholders, including Refuge, argue that aspects of the benefits system, particularly Universal Credit’s system of default payment in arrears via a single household payment, makes it easier for abusers to control the entire benefit income. Refuge, as well as the Joint Committee on the Draft Domestic Abuse Bill, have recommended split UC payments by default to prevent the UC system itself being used to facilitate economic abuse.

50. The Government have rejected this default approach, arguing that it will create too much operational complexity, in favour of a tailored approach that includes split payments on request, easements in benefit conditionality, and referrals to local specialist support.⁵¹

3.2 Support needs of domestic abuse survivors

51. The support needs of survivors are highly likely to be multifaceted and dependent on the types of abuse suffered and the circumstances in which it was experienced.

52. In the context of this Review, it is worth noting that a significant body of evidence points to the benefits of approaches to mental health support that are trauma-informed and can support survivors through approaches that combine: group

⁴⁶ Douglas and Fell. (2020, pp. 827-837.)

⁴⁷ Machado, Hines, and Douglas. (2020.)

⁴⁸ Financial abuse involves a perpetrator using or misusing money which limits and controls their partner’s current and future actions and their freedom of choice. It can include using credit cards without permission, putting contractual obligations in their partner’s name, and gambling with family assets. (See: www.womensaid.org.uk.)

⁴⁹ Economic abuse is wider in its definition than ‘financial abuse’, as it can also include restricting access to essential resources such as food, clothing or transport, and denying the means to improve a person’s economic status (for example, through employment, education or training.) (Ibid)

⁵⁰ Howard and Skipp. (2015.)

⁵¹ See: *The Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill*, Session 2017-19. (July 2019.) HL Paper 378/HC 2017, Domestic Abuse Bill.

activities, peer support and specialist one-to-one counselling by professionals who understand the correlation between abuse, trauma, discrimination and mental health etc.⁵²

53. In addition, research that identifies significant barriers to escaping an abusive relationship provides pointers to aspects of policy and practice that can help such obstacles be overcome.⁵³ Such barriers and potential policy/operational responses are likely to include:

- Fear of the perpetrator and retaliation thereby emphasising the need to ensure survivors are safe.
- Controlling abuse and isolation, pointing to the importance of breaking down a perpetrator's control. In particular, if a perpetrator is engaging in forms of financial abuse then ensuring that child maintenance liabilities are enforced can help reduce the level of control the abuser holds.
- Lack of awareness of what constitutes domestic abuse and thereby indicating the need for high-quality sex and relationship education.
- Fear of involvement with statutory agencies, emphasising a need for improved frontline training and the integration of domestic abuse advisors and services within multi-agency partnerships.
- Lack of information on existing services and how to access them, thereby indicating an increased need for the visibility of support services and greater collaboration with health services.
- Emotional manipulation and the need to ensure greater education and awareness of the many forms that domestic abuse can take.
- Pressure from the community and minority status, thus demonstrating the need to ensure all survivors have access to services and safety regardless of their life experience, identity, background or migrant status etc.
- Challenges in contacting survivors and the need to improve information provided by the police.

3.3 Post-separation abuse

54. Research evidence highlights that domestic abuse often continues and can even worsen after separation,⁵⁴ often having detrimental impacts on the welfare of children and challenging what can be default professional assumptions by practitioners that contact is in a child's best interests.⁵⁵

⁵² Birchall and McCarthy. (2021.)

⁵³ Dinisman and Moroz (2019.)

⁵⁴ James-Hanman and Holt.(2021, pp. 991-1001.)

⁵⁵ Holt, S. (2020, pp. 325-332.)

55. Post-separation coercive control is recognised in the Domestic Abuse Act 2021, which now includes the offence of coercive control being extended to post-separation and liable to prosecution under the Serious Crime Act (2015.) At the time of writing (April 2022), the Home Office have published a Domestic Abuse Plan, which builds on previous domestic violence strategies and sets out how aspects of the Domestic Abuse Act 2021 will be delivered.⁵⁶ At this point they are yet to publish statutory guidance⁵⁷ to support the interpretation of this new offence as well as the implementation of the wider definition of domestic abuse in the 2021 Act.
56. Post-separation tensions and difficulties can also lead to allegations by paying parents that they are being emotionally and/or psychologically abused including by being denied access to their children. A growing body of research demonstrates male (and the overwhelming majority of paying parents are male⁵⁸) experiences of post-separation abuse. These include the manipulation of systems,⁵⁹ harassment, false allegations, ‘parental alienation’ (defined by Cafcass as ‘the unjustified resistance or hostility from a child towards one parent as a result of psychological manipulation by the other parent’⁶⁰) – and the barriers they experience in getting support.⁶¹ There is also evidence that such experiences have been highly impactful and have left large numbers of men with serious mental health difficulties.⁶²
57. The recognition that post-separation tensions and difficulties can exacerbate abuse indicates the potential importance of early interventions to prevent the relational dynamic from becoming increasingly destructive.
58. Models of effective early intervention during post-separation may be evidenced through an evaluation of the work of Australia’s Family Relationship Centres (FRCs) – whereby many FRC clients come from family circumstances that have experienced violence or other forms of dysfunction.⁶³ FRCs were created mainly as a default alternative to legal interventions and court processes and there are indications that a potential strength lies in their capacity to work constructively with separated parents as well as with the legal system and agencies that provide relationship support services. The role Family Hubs could similarly play is investigated in this report.

3.4 Domestic abuse and the Child Maintenance Service (CMS)

- 59 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.⁶⁴ In particular, survivors and domestic abuse support services have frequently

⁵⁶ ‘Tackling Domestic Abuse Plan’. (March 2022.) HM Government.

⁵⁷ Published in July 2022.

⁵⁸ 93% of paying parents in the CMS statutory scheme are male. Child Maintenance Service statistics: data to September 2021 (experimental) - GOV.UK (www.gov.uk)

⁵⁹ Hines D et al. (2015, pp 295-309)

⁶⁰ Cafcass reissues position on parental alienation - Cafcass - Children and Family Court Advisory and Support Service

⁶¹ Bates, E. (2019, pp. 1336-1358.)

⁶² Berger, J., Douglas E. and Hines A. (2016, pp346-361.)

⁶³ Moloney L et al. (2013.)

⁶⁴ Bate M. (2020.)

suggested that post-separation abuse can be facilitated by CMS processes that can be 'inconsistent' with regard to collection of payments and 'ineffective' in their approach to enforcement.

60 Survivors and charities report that post-separation abuse can be facilitated by abusers taking advantage of the child maintenance system and deliberately withholding and/or making erratic payments, for example, as a means of continuing post-separation coercion and control.

61 A Work & Pensions Select Committee Report (2017) assessed the operations of CMS with regards to domestic abuse and recommended some reforms to make the system safer for survivors and their children, given that abuse, control and coercion can continue even when a relationship has ended.⁶⁵ In particular, the Committee pointed to the prevalence of domestic abuse within the statutory caseload, which leaves victims with the choice of re-engaging with their abuser and risking further coercion and control, or not applying for money owed to them for their children. They concluded that this necessitated specialist training for frontline staff and moving survivors of abuse straight to the Collect & Pay service without charges.⁶⁶

62 In response, the Government accepted the need for specialist training but rejected the recommendation that survivors should be fast-tracked to a free Collect & Pay service. Instead the Government pointed to research evidence indicating that domestic abuse was not necessarily a barrier to an effective Direct Pay arrangement.⁶⁷

63 Very recently however, the National Audit Office pointed to testimony from receiving parents that the CMS gave ex-partners financial control and enabled abuse.⁶⁸ They also quoted paying parents' experiences of receiving parents using the system to financially abuse or bully them:

*I have had numerous appeals made by my ex-husband against my payments even when he had no facts to support them...As a paying parent it's very stressful. My ex-husband is allowed to keep challenging the system even when I provide all the information asked of me.*⁶⁹

3.5 Domestic abuse and COVID-19: the 'Shadow Pandemic'

64 Studies and reports during the COVID-19 pandemic have drawn attention to ways in which the dramatic impact of the pandemic and subsequent lockdowns exacerbated domestic abuse.

⁶⁵ House of Commons Work and Pensions Select Committee. (2017.)

⁶⁶ A legally binding child maintenance arrangement set up by the CMS. The CMS calculates the amount of maintenance, then collects the payment from the paying parent and pays it to the receiving parent. There are ongoing collection charges for use of the Collect & Pay service.

⁶⁷ Child Maintenance Service: Government Response. (September 2017)

⁶⁸ Child Maintenance, National Audit Office. (March 3rd 2022) Session 2021-22, (HC 1139), Figure 7, p43.

⁶⁹ Ibid, p43

65 Undoubtedly, the pandemic worsened economic pressures on domestic abuse survivors. Many specialist support services received a significant increase in queries concerning access to welfare benefits, loss of employment, emergency loans and food banks. Large numbers of survivors reported being cut off from support networks.⁷⁰ In addition, serious concerns were raised about the safety of migrant women and their children being placed in unsafe living situations with perpetrators. Approximately 20% of LGBT+ survivors also reported feeling unsafe during lockdown.

66 Research documented ways in which abusers used the pandemic to increase levels of coercion and control, including using lockdown restrictions as an excuse to move back into the victim/survivor's home and exerting economic control by withholding child maintenance payments and restricting access to employment and education.

67 Over four-fifths of receiving parents surveyed were worried about access to child maintenance payments as perpetrators took advantage of the emergency steps taken by the DWP in response to the pandemic.⁷¹ In particular, the Department redeployed large numbers of CMS staff to provide support in managing a massive uplift in claims for Universal Credit.

68 The CMS also subsequently introduced several temporary measures such as suspending enforcement actions that relied upon third party support from banks and courts and began accepting verbal evidence from paying parents in relation to income changes. Thus, measures introduced to protect society from a new pathogen inadvertently created opportunities for perpetrators to ramp up levels of economic abuse including exercising control by withholding payments.⁷²

69 In mitigation, during the pandemic, CMS public messaging included the following:

- Parents should still pay what they owe, and any new applications would be calculated from the date of receipt.
- CMS would still pursue deductions from paying parent salaries through Deduction from Earnings Orders (DEOs)
- CMS would progress the recovery and enforcement of outstanding arrears by reviewing all non-paying cases to make sure each one is up to date, with outstanding changes actioned and arrears balances corrected.
- The CMS also issued text messages to all non-paying parents and followed those up by phone/letter to secure payment or initiate enforcement action as required.

70 Additionally, the exceptional circumstances of the pandemic meant that the CMS had to accept that many separated parents were facing financial difficulties that might make maintenance payments difficult. CMS thus emphasised that each case would be assessed on its individual circumstances and that negotiated payments could be arranged where necessary.

⁷⁰ Dawsey-Hewitt *et al.* (2021.)

⁷¹ *Ibid*, page 31.

⁷² Surviving Economic Abuse. (2021.)

71 However, in summary, child maintenance, welfare benefits and employment are all essential for many who have been subject to domestic abuse, and the pandemic allowed many perpetrators to undermine these sources of economic security.

3.6 Early intervention, building trust and managing risks

72 Research highlights the potential benefits of early intervention from practitioners during the early stages of relationship separation.⁷³ For example, the perinatal pregnancy period can be a focal point for domestic abuse to begin and where relationship separation is often prevalent.⁷⁴ In 2006 it was estimated that at least 15% of British babies were born to parents who have already separated,⁷⁵ and that by 2013 approximately 33% of children between <1 and 16 were not living with both birth parents,⁷⁶ a proportion which is unlikely to have significantly changed.⁷⁷

73 Evidence also points to the importance of health practitioners and support services being able to recognise and respond to coercive control during the perinatal period in reducing levels of distress and isolation and ensuring women receive effective support at a life changing transition.⁷⁸

74 The risk of abuse during pregnancy, birth and the postpartum period offers several touch points for supporting survivors and illustrates the importance of holistic and early intervention services that can provide face to face and digital support from public, private and voluntary organisations in a single place.⁷⁹

75 Thus, early intervention services, such as those accessed through Family Hub networks of integrated local support which enable parents who are in conflict to access a range of post-separation help, will be engaging with populations who have a child maintenance interest.⁸⁰ Such early intervention services have the potential to play an effective role in helping to reduce levels of conflict between separated parents and thereby helping to stabilise child maintenance arrangements.

76 The likely benefits of early intervention in the post-separation process are further highlighted by research that shows that it can be difficult for practitioners and public-facing organisations to gain the trust of victims/survivors.⁸¹ Practitioners need to be mindful of the impacts of abuse, particularly the fear and isolation that

⁷³ Buchanan and Humphreys. (2021, pp. 325-335.)

⁷⁴ *Perinatal: Generally defined as the time-period between the start of pregnancy until approximately one year after birth.*

⁷⁵ Kiernan, K. (2006.)

⁷⁶ See: 'Percentage of children living with both birth parents, by age of child and household income; and estimated happiness of parental relationships', (April 2013.) DWP.

⁷⁷ The 2013 figures for % of children between <1 to 16 not living with birth parents have not been formally updated since and thus a direct comparison for 2022 is not possible.

⁷⁸ Buchanan and Humphreys. (2021, p333.)

⁷⁹ 'The Best Start for Life: A Vision for the 1,001 Critical Days; The Early Years Healthy Development Review Report. (March 2021.) Presented to Parliament by the Secretary of State for Health and Social Care, HM Government.

⁸⁰ Family Hubs Network - Helping local authorities and VCS help families

⁸¹ Robbins and Cook. (2018.)

is generated by coercion and manipulation and which can often lead many victims/survivors to feel threatened by government systems and professional power.

77 Survivors are more likely to respond positively within a system if they feel that practitioners are knowledgeable and caring, and where abuse is regarded as a trauma through which survivors should be supported, rather than a hurdle that needs to be overcome.⁸²

78 Studies also highlight the importance of support services and practitioners identifying and responding to risks faced by survivors through the development of effective screening systems as well as forms of intervention and modes of collaboration between practitioners at different points in a customer journey.⁸³

79 Finally, evidence from the DWP's Reducing Parental Conflict Programme indicates that helping parents better manage the conflict that often continues and can be exacerbated post-separation when issues to do with money and contact with children come to the fore, reduces the likelihood of abusive behaviours developing.⁸⁴

3.7 Domestic abuse and ethnic minorities

80 As referenced earlier, it is difficult to gauge accurately the extent and pervasiveness of domestic abuse due in part to under-reporting. This is especially the case amongst survivors (both women and men) from ethnic minority communities, many of whom experience key barriers to reporting abuse. These include community influences, difficulties with language and communication, and perceptions that staff within frontline services are often uncooperative and unsupportive.⁸⁵

81 Such barriers highlight the need for mainstream services to grasp the complexities within which ethnic minority victims/survivors, particularly women, experience domestic abuse. An indication of the extent of domestic abuse is presented from the Crime Survey for England and Wales (2021) in the graph below, which shows the percentages of 16 to 74 year olds who reported being victims of domestic abuse in the previous 12 months, disaggregated by sex and ethnicity.⁸⁶

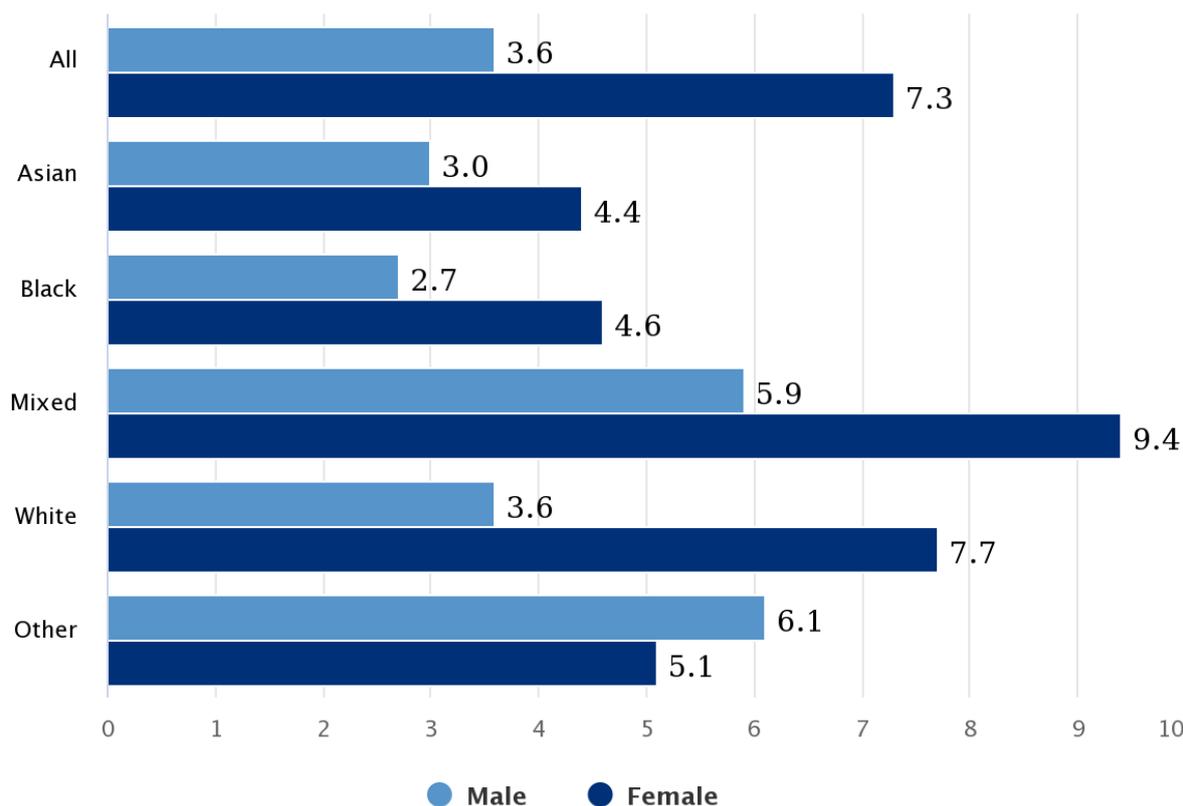
⁸² Ibid

⁸³ Dixon, Jeremy, and Megan Robb. (2016, pp. 773–88.)

⁸⁴ See: Written evidence submitted by *All Party Parliamentary Group for Strengthening Couple Relationships and Reducing Parental Conflict* (CYP0113) to the Health and Social Care Committee's enquiry into Children's Mental Health. (March 2021.) (<https://committees.parliament.uk/writtenevidence/23562/html>.) Also see: <https://tavistockrelationships.ac.uk/policy-research/policy-briefings/1360-delivering-online-interventions-through-the-reducing-parental-conflict-programme-reach-safety-take-up-and-outcomes>

⁸⁵ Femi-Ajao, O., Kendal, S. and Lovell., K. (2020, 732–746.)

⁸⁶ Domestic abuse - GOV.UK Ethnicity facts and figures (ethnicity-facts-figures.service.gov.uk).



3.8 International comparisons⁸⁷

82 In considering how the CMS could be further reformed to improve its response to domestic abuse, the Review has assessed some internal – as yet unpublished – evidence on how international child maintenance systems compare with each other. There are a few points of interest worth drawing attention to in regard to overarching differences in the structures of maintenance systems and intended outcomes and objectives.

83 In essence, there are three kinds of maintenance systems in operation across countries that could be most usefully compared with the UK:

- Agency-based (Australia, Denmark, New Zealand, Norway as well as the UK)
- Court-based (Austria, Canada, Czech Republic, France, Germany, Ireland, Slovakia) and
- Hybrid – not categorizable as following strictly one or the other model (Finland, Netherlands, Sweden, and the USA)

84 Overall, it is the case that what works well in one system cannot necessarily be easily transplanted into another system with an expectation of similar outcomes. This is because child maintenance systems do not operate in a policy, cultural or structural vacuum. Instead, they are embedded within broader interlinked family policy, structural and cultural ecosystems. Thus, the system in each country is

⁸⁷ DWP (2021) Unpublished

the specific product of legislative, policy, structural and social evolution within that country. In addition, it is extremely difficult to compare accurately outcomes between systems to determine which system delivers child maintenance most effectively – even between those systems that are most similar.

85 First, not all countries publish monitoring data in a comparable way or even monitor the same things and several are unwilling to share ‘internal’ data. Secondly, some of the key areas of interest – such as the contribution child maintenance can make to reducing child poverty – are influenced to a much greater extent by systems and levers outside the child maintenance policy space.

86 However, despite these caveats, there are a few structural features from international comparator systems worth flagging, and which may contain some potential learning points for the UK.

3.8.1 Learning from dual income models

87 Whilst the UK operates a ‘one primary breadwinner/one primary carer’ model, comparator countries such as Australia and New Zealand are now using both parents’ incomes to make a calculation. The adoption of a dual income model may be worth considering in the UK to increase fairness, reduce post-separation conflict and even diminish the potential for financial and emotional abuse.⁸⁸ It would also be more congruent with prevailing social norms where both parents are often working.

88 It should also be acknowledged that a dual income model is likely to be more in alignment with public opinion. For example, a 2015 UK research study by the Nuffield Foundation using Public Attitudes Survey⁸⁹ data, indicated favour for an approach where both parents’ income are taken into account (as well as greater state intervention in child maintenance, and requiring better-off non-resident parents to pay a higher percentage of their income in child maintenance.)

89 However, it is important to state that if the UK did want to change its calculation methodology, it is likely that there will need to be a significant period of adjustment before a new system stabilised. Australia’s experience of doing this in 2008 saw an initial increase in the numbers of complaints, requests for reassessment, objections to assessments, increased costs per case and an increased number of cases taken to tribunal; however, these indicators did stabilise in time.

3.8.2 Lessons from ‘proactive’ maintenance systems

90 One can also refer to a difference between maintenance systems that can be broadly described as ‘proactive’ or ‘reactive’. Proactive systems can be largely

⁸⁸ Many receiving parents are very understanding of paying parents’ straitened financial circumstances, however some can use these against them in spirals of post-separation conflict and abuse. Low-income paying parents (including those just above the benefits threshold) who are unable to afford good quality accommodation can as a result, be disallowed from having their children overnight by higher income receiving parents. This in turn increases their child maintenance liabilities and can further impoverish them. Yet the higher income receiving parent may have less genuine need of the child maintenance than the paying parent in terms of their relative abilities to provide for the child when under their roof.

⁸⁹ Bryson and Ellman. (2015.)

categorised as having features outside the child maintenance policy framework where interventions and support can be accessed outside of child maintenance and which are not necessarily connected to separation.

91 In general, it is feasible to describe ‘proactive’ systems as those that operate in Nordic countries. These generally offer a wide range of universally accessible and free support for all families (whether together or separated) to help sort out financial, health and parenting problems including through access to relationship, family and child-centred counselling and psychotherapy services.

92 This proactive approach also includes the provision of Family Centres hosting a full spectrum of pregnancy and family-focussed services. These also generally operate in conjunction with high levels of paid parental leave and universal access to free or low-cost subsidised child-care. All Nordic countries also operate ‘guaranteed maintenance’ schemes, whereby maintenance payments are funded from tax revenues.

93 Such proactive policies are further underpinned by a ‘*dual earner, dual carer*’ family model that underpins Nordic welfare policy rather than a ‘*primary earner, primary carer*’ model as is the case in the UK.

94 The UK system can be described as positioned more broadly towards the more ‘reactive’ side of the scale, which offers forms of support and intervention that are based around collaboration, and which are specific to separation (including arranging child maintenance.) If the UK were to consider moving towards a system that is more focussed on proactive support and interventions – which could boost child maintenance outcomes in the longer-term – then systemic changes to the wider fabric of welfare and family policy are likely to be needed, rather than by simply making changes to child maintenance policy and structures in isolation.

95 Thus, a system based on more ‘proactive’ state involvement and support is likely to require considerable cross-government engagement as well as the development of a cross-departmental strategic agenda for strengthening families and specifically for separated parents.⁹⁰

3.8.3 The role of Nordic Family Centres: Some pointers for the UK?

96 Consideration as to how Family Centres operate in other countries are pertinent to the discussion of proposals to further develop Family Hubs in the UK which would move us to a more proactive system. Key considerations here include funding, longevity, role, effectiveness and how far they effectively bring to life wider family strategic intentions.

97 Family Centres in Nordic countries have a much deeper and wider role than Family Hubs (currently in England only) because they are a much more integral part of the delivery mechanism for universal service delivery of family policies to

⁹⁰ The development of a cross-government strategy for separated parents (including those without the main caring responsibility) and their child with respect to the social security system was a major recommendation by the Social Security Advisory Committee in 2019. See: *SSAC Occasional Paper 22, ‘Separated Parents and the social security system.’* (October 2019) (Updated July 2020.)

all families. They have also been established for a considerably longer time. They were established at scale in Sweden in the 1990s and Norway began to develop their own infrastructure in the mid-2000s, modelling them on what they saw across the border. Whilst they are decades ahead of the Family Hubs movement the initial impetus for both the Swedish and English models came from professionals seeking better collaboration to offer parents and carers the best care.⁹¹

98 Whilst there are some individual differences in Nordic countries, generally services such as pregnancy testing and monitoring, and ante-natal classes for all expectant parents are delivered through Family Centres, as are all children's health services including immunisations, health visitor services, development checks, paediatricians, and child/adolescent mental health services.

99 Family Centres generally also incorporate the municipal day care centres that are accessible to all parents either free or heavily subsidised/at low cost. The Family Centres in Nordic countries are therefore highly integrated into the lives of families (whether intact or separated) from pre-birth, during infancy and throughout childhood.

100 If something occurs in the parental relationship that means separation is being considered, families are generally already linked into the services that Family Centres provide in some way. It is therefore comparatively easy for separating parents in Nordic countries to access mediation/dispute resolution support because there is broad continuity of service access and provision in terms of childcare and any additional services that parents and child(ren) may need to support them through separation.

101 Though Nordic countries – with their higher levels of taxation and welfare spending – have a different economic and social model to the UK, the integrative role of Family Centres in post-separation life suggests that families here with deeply entrenched conflicts and high support needs will also benefit from additional, tailored and bespoke services within a broader system of child maintenance and family policy.

⁹¹ Holte A. (2012.)

Chapter 4: CMS Policy and Operational Context

102 In setting out the current ways in which the CMS supports parents who have experienced domestic abuse, it is important to set out the context in which the CMS operates:

- Applications to the scheme are voluntary rather than compelled.
- Many separated parents arrange child maintenance between themselves, whether privately through a Family-Based Arrangement⁹² or through a Child Maintenance Service ‘Direct Pay’⁹³ arrangement. The statutory Collect & Pay service⁹⁴ is for separated parents who cannot arrange child maintenance between themselves.
- The parent who applies to the CMS must pay a £20 application fee. The application fee only applies to separated parents intending to use either the Direct Pay or Collect & Pay service types. Family Based Arrangements exist outside the statutory scheme and no fee applies. There is provision to waive the fee in cases of domestic abuse.⁹⁵ No further charges apply for use of the Direct Pay service. Charges apply for use of the Collect & Pay service.⁹⁶
- Once an application has been made then it is necessary for the CMS to contact the paying parent and seek information from both parties to get money flowing. The parent due to receive maintenance can contact CMS at any time to stop action on their case and close it.
- ‘*Get Help Arranging Child Maintenance*’ service via GOV.UK (replacing Child Maintenance Options (CMO) in April 2022) provides impartial information to support parents in making the most appropriate maintenance arrangement for their circumstances. The supporting guidance available includes information about how to stay safe and access domestic abuse support.
- Although maintenance can be an important source of income for separated parents with care of children, since 2007 it is no longer treated as income for benefit purposes and parents are no longer obliged to seek it if they are in receipt of welfare benefits.

4.1 Brief overview of the customer journey

103 During the application stage, once information has been provided on how to make a child maintenance arrangement by ‘*Get Help Arranging Child Maintenance*’ (formerly CMO), and if the customer decides to make a statutory

⁹² A ‘Family-Based Arrangement’ is a private arrangement between the two separated parents. Parents arrange everything between themselves, and the CMS has no involvement. The separated parties agree how much the payments should be and when they should be made. No fees or charges apply.

⁹³ Direct Pay is where child maintenance is paid directly to the other parent after a maintenance calculation has been made by the CMS. The CMS simply provides the calculation and no further use of the service is required. Direct Pay can be chosen by either parent with the other’s agreement. Neither parent pays collections fees under Direct Pay.

⁹⁴ Under Collect & Pay, the CMS collects payments of maintenance from the paying parent and passes them on to the receiving parent who has day to day care of the child/children. The service carries a collection fee charge: 4% of the maintenance collected is paid by the receiving parent; and 20% of the amount collected is paid by the paying parent. The CMS can only provide the Collect & Pay service if the receiving parent (or child applicant in Scotland) requests the service and the paying parent agrees, or if the CMS is satisfied that the paying parent is otherwise unlikely to pay.

⁹⁵ The Guidance on regulation 4(3) of the Child Support Fees Regulations 2014 states the definition of domestic violence or abuse also includes an applicant who has witnessed the abuse of their child by a current or previous partner, or by a member of their own or the partner’s family.

⁹⁶ Paying parent pays a 20% collection fee each time a payment is collected from them. The receiving parent pays a 4% collection fee each time a payment is passed onto them.

arrangement – via Collect & Pay or Direct Pay – then the responsibility to receive and support that application lands with the CMS.

104 Applications to the CMS are predominantly made via two channels:

- Digitally – Customers receive a Uniform Resource Locator (URL)⁹⁷ and a CMS reference number enabling them to apply online
- Telephone – Customers are provided with a CMS reference number and their call is transferred to a CMS caseworker

105 Approximately 85%⁹⁸ of customers start their application to the CMS via Apply Online and if a customer chooses to use the CMS the application stage will include:

- Verifying all parties to the case
- Locating the non-applicants named on the case
- Confirming parentage of the child
- Confirm the service type that the case will begin with
- Confirm the paying parent income
- Confirm/decide shared care arrangements
- Set the correct liability for the paying parent
- Protecting vulnerable customers and signposting to supporting information where concerns may be identified

4.2 CMS and domestic abuse

106 The primary measures that CMS currently has in place, to support parents who have been subject to domestic abuse make arrangements, include:

- Waiving the £20 application fee.
- Providing advice and support to help survivors use the Direct Pay service and ensure no unwanted contact between parents.
- Acting as an intermediary to facilitate the exchange of bank details and ensure personal information is not shared.
- Providing information on how to set up a bank account with a non-geographic⁹⁹ sort code, which do not allow parents to be traced.
- Providing advice and signposting information to specialist domestic abuse support organisations, as well as information on staying safe.

4.2.1 The application fee waiver

107 Three-fifths (60%) of CMS customers receive the £20 application fee waiver as a result of domestic abuse, eligibility for which requires the abuse to have been

⁹⁷ A URL (Uniform Resource Locator) is a unique identifier used to locate a resource on the Internet. It is also referred to as a web address.

⁹⁸ Internal management information.

⁹⁹ A non-geographic account is one that cannot be traced and will help protect a person's identity and location.

reported.¹⁰⁰ This requirement is in secondary legislation.¹⁰¹ Discussions with stakeholders indicated that some consider this is an under-representation due to a reticence to disclose domestic abuse, whilst others suggested it may in fact be an over-representation due to the incentive to avoid the £20 application fee.

108 Consultation with DWP Analysts indicates little 'hard' evidence of disclosures of domestic abuse being significantly driven by incentives to gain the application fee waiver. It seems fair to state that the prevalence of domestic abuse in the CMS caseload may seem high compared to the frequency with which domestic abuse tends to be reported to the police. However, it is also reasonable to assume that the very nature of the CMS caseload – i.e. separated parents experiencing some form of conflict – is likely to be characterised by relatively high incidents of domestic abuse. It is also rational to assume that many incidents of domestic abuse are still unlikely to be reported.

109 This makes it difficult to judge what one should reasonably expect the incidence of domestic abuse to be within the CMS customer group and therefore whether the high proportion of exempt application fees is accurate or reflects some level of evasion for the purpose of avoiding the fee.

110 It is worth noting that the percentage of CMS applications with an exemption from the application fee rose from 38% in the quarter ending December 2017,¹⁰² when the CMS relied on self-reporting, to 52% in the quarter ending September 2018 and then rose further to 54% in the quarter ending June 2019.¹⁰³ The CMS started proactively asking about domestic abuse in May 2018. In addition, DWP research in 2019 on the outcomes of the CSA case closure programme reported that just over half (54%) of receiving parents stated that they had experienced domestic abuse from the paying parent.¹⁰⁴

111 Standing back from these statistics, the requirement to report domestic abuse to a 'suitable person' to qualify for the waiving of the £20 application fee – even though CMS seek no evidence that this has been done – seems unlikely to act as a significant barrier to false allegations of domestic abuse.

112 One operational change to underline the seriousness of making false allegations (a form of 'system abuse') could be made to the call script CMS caseworkers use to process the application stage (see Annex A to this report.) It includes the following legal statement, which is positioned after the question about domestic abuse in the ordering of questions:

As we are asking for information under Child Support law, I have an obligation to advise you it is a criminal offence to fail to provide information when requested to do so, or to knowingly provide false information.

¹⁰⁰ Child Maintenance Service statistics: data to December 2021 (experimental) - GOV.UK (www.gov.uk)

¹⁰¹ The Child Support Fees Regulations 2014 (legislation.gov.uk)

¹⁰² Child Maintenance Service statistics: data to December 2017 (experimental) - GOV.UK (www.gov.uk)

¹⁰³ Child Maintenance Service statistics: data to September 2018; data to June 2019 (experimental) - GOV.UK (www.gov.uk)

¹⁰⁴ CSA Case Closure Outcomes. (2019.)

113 As I outline further in Chapter 8, I consider there is merit in moving the above legal statement higher up the call script and situating it prior to questions about domestic abuse. Both this statement and the questions need to be delivered sensitively and with safety in mind, so disclosures are not inadvertently discouraged.

4.3 CMS changes in response to the Domestic Homicide Review

114 Since Emma Day's death, the CMS has also made several additional operational changes intended to enhance processes with regard to domestic abuse. These have included:

115 A **new application call script** specifically directing caseworkers to ask customers about domestic abuse.¹⁰⁵ (As stated earlier, before 2018 the onus was on the customer to self-declare domestic abuse.) The new script also includes an online link to a list of support services allowing caseworkers to advise customers about the help available for them at the earliest opportunity.

116 Introduction of **mandatory domestic abuse training** to all CMS staff in 2018. The training is intended to enable CMS staff to have direct conversations with customers about domestic abuse sensitively and without bias. The training guides caseworkers to recognise and understand customer behaviours if they were experiencing, or had experienced, coercive or controlling behaviour.

117 Introduction of a **Complex Needs Toolkit** in 2019. The Toolkit is an online facility, access to which is simple and immediate via the DWP internal intranet on the CMS specific pages. This Toolkit provides improved and additional guidance to support caseworkers when talking to customers who have life challenges including, but not limited to, domestic abuse. It also provides internal links to guidance and instructions which helps to support caseworkers when conducting often difficult and sensitive conversations.

118 A **Domestic Abuse Plan**: A step-by-step guide built into the Toolkit to help caseworkers through the appropriate actions to take when a customer discloses domestic abuse during their conversations. The CMS Domestic Abuse Plan provides advice on how to report incidents of domestic abuse and lists organisations that can provide advice to customers. Caseworkers can provide this information to customers directly or provide the GOV.UK website details to allow customers to access the site themselves.

119 The Domestic Abuse Plan also includes: (i) the broad government definition of domestic abuse; and (ii) information on how domestic abuse is identified by CMS. Instructions within the Domestic Abuse Plan focus on the following three different scenarios, but the first step with all customers who have stated that domestic abuse is an issue for them is to check if they feel safe at that moment.

¹⁰⁵ "To make sure we are providing you with the most appropriate information, can I ask if you or your child/children have experienced any domestic abuse? This could include things like: a pattern of controlling, coercive or threatening behaviour; psychological, physical, sexual, financial or emotional abuse. Do you think this applies to your situation? Have you ever reported any of this domestic abuse to a recognised authority?"

<u>Scenario</u>		<u>Action to take to support the customer</u>
A	<i>If the customer states that they are not safe</i>	<ul style="list-style-type: none"> ask the customer to phone 999 ask the customer whether they want you to phone the emergency services on their behalf where the customer refuses to give consent, or where a response cannot be obtained, a team leader or deputy manager will decide if it's necessary to call the emergency services consider a referral to an Advanced Customer Support Senior Leader
B	<i>If the customer indicates that they are safe, but the caseworkers has concerns about their immediate safety</i>	<ul style="list-style-type: none"> encourage the customer to seek help and to signpost them to specialist support services.(listed in scenario C) following the call, seek help to establish whether a call to the emergency services is appropriate consider a referral to an Advanced Customer Support Senior Leader
C	<i>Customer states they are safe, and the caseworker has not identified concerns</i>	<ul style="list-style-type: none"> advise the customer to contact their neighbourhood policing team for advice if the abuse is ongoing but is not an emergency encourage or help the customer to seek help. the Complex Needs Toolkit holds links to signposting information that can be used to support vulnerable customers including victims of domestic abuse.

120 **Enhancements to domestic abuse training** in 2020: Building on the training delivered in 2018, and providing instruction on the use of the Complex Needs Toolkit and Domestic Abuse Plan; and which is designed to ensure issues of – and CMS reactions to – domestic abuse are entrenched in day to day interaction with customers.

121 **Guidance for supporting customers who are not at ‘immediate risk’**: CMS has introduced further guidance in both the Complex Needs Toolkit and the Domestic Abuse Plan to address concerns for customer safety, when there has been a history of domestic abuse or the caseworker considers safety is an issue, irrespective of whether the customer declares abuse or not. The CMS has put in place a procedure to take appropriate action when domestic abuse is noted in historic computer records, but the customer does not express any immediate danger.

122 The additional guidance advises caseworkers to encourage customers to seek help and support using prescribed specialist support services; to recognise

whether the action being requested by the customer or taken by the CMS may exacerbate or reignite a domestic abuse situation; and to seek support from a team or senior leader as to whether the emergency services should be contacted. Where necessary, this can lead to the police being informed straight after contact with the customer is concluded, or with the aid of a supervisor, while the customer is still on the telephone.

123 Both the Domestic Abuse Plan and the Complex Needs Toolkit are continuously updated and amended with improvements to ensure information available for caseworkers remains relevant, accurate, and up to date.

124 **Future improvements:** CMS is also in the process of developing a new application call script, which will specifically ask customers whether they have any concerns about the reaction of the other parent when CMS contacts them in relation to the maintenance application. The caseworker will, depending on the response, be able to have a conversation with customers, signpost them to support services and confirm their willingness to continue with the application.

125 The question whether the customer has concerns about the other parent's reaction to the maintenance application is also being built into the online application facility during the application process; and links to support services will be accessible.

126 In both scenarios, if customers indicate that they, or a child, face risks to their safety, the situation will be escalated to senior management; and, if necessary, information will be proactively shared with the emergency services.

127 In addition, the CMS is also progressing with innovations for digital My Child Maintenance Case accounts that customers are managing online. These include the capacity to enable caseworkers to scan for key words (i.e. such as 'domestic abuse', 'violence', 'refuge' etc) that customers may have added into their online accounts and which will allow CMS to identify customers who are vulnerable or facing threats and who could be directed to suitable help.

4.4 Issues of legislation

128 Other than the application fee waiver, which was introduced in 2014,¹⁰⁶ there has never been any specific legislative provision regarding domestic abuse. An intention behind the fee waiver was to remove a potential barrier to the statutory scheme as domestic abuse victims are considered highly unlikely to be able to make a family-based arrangement. No evidence is required to prove domestic abuse, which can be current or historic, and survivors are simply asked if they have reported the abuse to an 'appropriate person'.¹⁰⁷ In addition, CMS do not ask for any evidence that this has been done.

¹⁰⁶ Regulation 4 (3) of the Child Support Fees Regulations (Child maintenance application fee: exemption for victims of domestic violence - GOV.UK (www.gov.uk)).

¹⁰⁷ Guidance on regulation 4(3) of the Child Support Fees Regulations 2014: List of persons to whom an applicant must have reported domestic violence or abuse - GOV.UK (www.gov.uk).

- 129 A key rationale for the absence of any legislative framework around domestic abuse stems from a recognition that CMS is not in a position to decide who is an abuser and who is telling the truth about conflict and/or abuse in a relationship. Furthermore, an intention underpinning the establishment of the 2012 child maintenance scheme was the introduction of measures to simplify the statutory system coupled with an acknowledgement that CMS does not have expertise within the area of domestic abuse.
- 130 However, this lack of any legislative drivers concerning domestic abuse is now being challenged, particularly with regards to CMS caseworker decisions on service types for customers. Some stakeholders, as well as the Independent Case Examiner, have raised concerns that there is no legislative stipulation to refuse a Direct Pay arrangement for a perpetrator. The concern being that Direct Pay – which is a private arrangement where CMS provide a calculation but do not administer or monitor payment – can enable an abuser to perpetuate forms of coercion and control by deliberately withholding or reducing maintenance payments.
- 131 Strikingly in this regard, one of the key findings in the recent National Audit Office (NAO) report is that around half of new Direct Pay arrangements are either not sustained or are not effective and one reason parents fail to report non-payment is concern about causing an issue with the paying parent.¹⁰⁸
- 132 Conversely, it is also the case that Direct Pay can be open to forms of emotional or psychological abuse on the part of receiving parents. For example, some receiving parents may falsely report the non-payment of maintenance to deny the paying parent contact with children and/or seek to force them into the Collect & Pay service where they will face a 20% surcharge.
- 133 The framework for a surprising level of detail of CMS operational policy, including how to decide whether to let a paying parent opt for Direct Pay, is contained within primary legislation.¹⁰⁹ This states that CMS can only prevent a paying parent from choosing Direct Pay when they are deemed ‘unlikely to pay’. Thus, allegations of domestic abuse, carry virtually no weight in decisions to move an arrangement from Collect & Pay to Direct Pay.¹¹⁰ The only real issue that is considered is whether a paying parent had made regular and full payments on Collect & Pay and are thus deemed ‘likely to pay’ under Direct Pay.
- 134 Decisions on service types can only be based on evidence of a paying parent’s behaviour in the CMS, which cannot accept unsubstantiated statements from a receiving parent, or any evidence of behaviour outside the CMS (even, for example, an old Child Support Agency (CSA) case.)
- 135 The policy position has also been that domestic abuse was not regarded as a barrier to a Direct Pay arrangement working successfully because of the capacity

¹⁰⁸ National Audit Office, (2022, page 12.)

¹⁰⁹ See: Sections 4 and 7 of the Child Support Act 1991 as amended by section 137 of the Welfare Reform Act 2012

¹¹⁰ In very exceptional circumstances, CMS can take issues of domestic abuse into account – where it leads to a discretionary decision that the paying parent is unlikely to pay – and when considering representations from all parties concerned as well as all available evidence and the specific circumstances of the case.

to avoid direct contact through the set-up of central (non-identifiable) bank accounts etc. This position was further informed by the 2017 publication of a 30-month review of charging, which showed that cases where domestic abuse was a factor were no less likely to have a successful Direct Pay arrangement than any other case.¹¹¹

136 However, the current policy position, developed when service types were agreed in 2012, reflected a time when domestic abuse was more likely to be viewed through the narrow lens of 'domestic violence'. Also, the proposition that child maintenance service types are blind to the reality of domestic abuse has often been challenged by stakeholders and advocacy groups. For example, Gingerbread's position has long been that survivors should be passported straight into the Collect & Pay service without charges.¹¹²

137 In contrast to when the current statutory scheme was designed, there is now likely to be a greater level of awareness about the complexities of domestic abuse and ways in which decisions regarding service types could be informed by a more up to date understanding should be considered.

138 However, it will also be important to ensure that applying a wider definition of domestic abuse does not undermine CMS policy intent,¹¹³ or trigger either financial abuse of paying parents or the denial of a preferred service type, as a result of false allegations.

4.5 CMS and safeguarding: Does CMS have a 'Duty of Care'?

139 A 'duty of care' refers to the obligations placed on individuals or organisations to act towards others in a certain way, in accordance with certain standards.¹¹⁴

140 Though the precise meaning of a 'duty of care' will often depend on the legal context in which it is used, it can be generally summarised as a legal and professional obligation to safeguard others whilst they are using an individual or organisation's services or are exposed to their activities. This generally refers to the importance of always acting in their best interests, and not acting, or failing to act, in a way that causes harm.

141 However, in the context of the policy and operational context within which the CMS as well as the wider DWP works, the CMS does not have a statutory safeguarding duty or legal duty of care.

142 The reason for this is that decisions taken by CMS, and the DWP more generally, are subject to appeal and as long as there is a right of appeal then there is no legal duty of care.¹¹⁵ Instead, the duty of the CMS/DWP is to

¹¹¹ Policy paper overview: Child maintenance reforms: 30 month review of charging. (2017.)

¹¹² Gingerbread (2021)

¹¹³ See: Part 1 'Setting the Scene', pages 6/7 of this report

¹¹⁴ Duty of Care | Safeguarding in Health and Social Care (highspeedtraining.co.uk)

¹¹⁵ See: Evidence given to the Work & Pensions Select Committee by Secretary of State for the DWP, Rt Hon Dr Therese Coffey, during an Evidence Session that examined the DWP's response to the coronavirus outbreak, 22 July 2020.

administer a system and this does not include a legal duty to safeguard the wellbeing of its customers.

143 The historical position has always been that the architecture of the child maintenance system has included a structure for rights of appeal and a procedure for making complaints – as well as opportunities for customers to raise issues via arbiters such as the Parliamentary Ombudsman, Independent Case Examiner and Judicial Reviews. In addition, customers also have rights of protection under the Equality Act 2010 and Human Rights Act 1998.

144 The Department also operates on the assumption that customers who cannot administer their own affairs will have support from other sources of support (i.e. specialist organizations, general practitioners etc.) The DWP (and therefore the CMS) does have a responsibility to guide customers to appropriate support but is not in a position to perform the role of protecting or safeguarding its customers.

145 The DWP will often support and attend safeguarding investigations at the local level, and will often liaise with agencies (such as the police, local authorities, NHS etc) that do have safeguarding responsibilities, but the process is not led by the DWP and there is no legal duty on behalf of the Department.

146 The remit of the Independent Review after the tragic death of Emma Day does not involve setting out where CMS may have a legal liability. It is instead focused on setting out a policy and operational framework, within which the CMS operates, to provide support for domestic abuse survivors to help them set up a child maintenance arrangement safely. (I have also considered if and where the CMS could unintentionally exacerbate or even provoke domestic abuse.)

147 In summary, given the long-standing position that the DWP has had with regard to the issue of safeguarding, this Review will not include a recommendation that it is necessary for the CMS to acquire a duty of care in order to improve domestic abuse practices. However, the wider definition of domestic abuse engendered by the Domestic Abuse Act 2021 as well as increased awareness of the prevalence and social costs of domestic abuse, point towards a requirement for the CMS to acquire legal obligations to enforce maintenance within what is currently Direct Pay in order, for example, to prevent financial and economic abuse.

Part 2 – Collecting the Evidence

Chapter 5: Interviews with CMS Customers who have experienced domestic abuse

- 148 Seeking first-hand testimony from survivors about their experiences of CMS was particularly challenging. Attempting to conduct primary research amongst survivors was always going to be an exercise that needed to be undertaken safely and sensitively.
- 149 The original intention was to seek testimony from survivors by sending email invitations to a representative sample of CMS customers, outlining the purpose of the Review, and inviting opt-ins to a discussion about domestic abuse if customers had any particular experiences that they wanted to share. The aspiration underpinning this proposed approach was that it might elicit a more representative perspective from the CMS customer base than was possible by seeking survivor testimony directly from domestic abuse support or advocacy groups.
- 150 After some consideration, it was decided to abandon this approach, partly due to the sensitivity of the subject-matter but also to the very real risk of perpetrators potentially hacking phone accounts or emails and intercepting correspondence. The approach adopted therefore was to reach out to specialist domestic abuse services for their support in engaging survivors through them, instead of contacting CMS customers directly. I am very grateful for the assistance they gave me in this.
- 151 Specialist services have robust safeguarding and risk assessment measures in place as well as the capacity to help with preparation and aftercare for survivors so that they can be supported if discussions about their experiences of abuse become distressing and re-traumatising.
- 152 However, the Implementation Plan to take forward the recommendations of this Review should ideally be informed by domestic abuse research that is safe and secure but based on a more randomly selected and representative sample of CMS customers than the service-led sample which informed this Review. A programme of research, designed with the input of key stakeholders, should also measure the success of the reforms proposed, including by systematically recording disclosures of domestic abuse and how the CMS responded.
- 153 I interviewed several survivors with the support of SafeLives and Families Need Fathers, and testimony was also gained indirectly from a further six survivors via Refuge and Surviving Economic Abuse. All were receiving parents unless otherwise stated. Clearly the number of survivors contacted for the Review is far too small to provide any kind of representative profile of survivors who have experienced CMS processes, but the testimony gained was powerful and rich and illustrated some of the difficulties faced by CMS clients who have experienced abuse.

154 The key questions asked of survivors were as follows:

1. *How did the Child Maintenance Service respond when you mentioned that domestic abuse was an issue?*
2. *In your opinion and based on your experience, did the Child Maintenance Service worsen or even cause domestic abuse in the first place?*
3. *How do you think payment of child maintenance liabilities could be more successfully enforced when domestic abuse is an issue?*
4. *In your experience, what words would you use to describe how it feels to engage with the Child Maintenance Service?*

5.1 How did the CMS respond when you mentioned that domestic abuse was an issue?

155 Some key themes that emerged in discussion included those outlined below.

'They responded well, and I didn't feel judged in any way.'

(Surviving Economic Abuse service user)

'As a man...They were the first organisation to believe me when I said "I was a victim of domestic abuse"'

(Families Need Fathers service user – Paying Parent)

'The CMS was very good on the phone when I first got in contact with them and explained what had happened. They also agreed to waive the fee because I had experienced domestic abuse.'

(Surviving Economic Abuse service user)

'I don't think they understand domestic abuse. They didn't use trauma-informed language. Many people use the CMS because of domestic abuse and yet they are far removed from a trauma-informed service.'

(Surviving Economic Abuse service user)

'They didn't seem overly caring, they just asked about it for the £20 [application fee].'

(SafeLives service user)

'Someone who can reassure you, say they will help, that would have made a big difference.'

(SafeLives service user)

156 Testimony indicated how difficult it can be for many survivors to articulate their experiences of abuse to public sector agencies due to fears of inflaming situations with ex-partners. Several survivors recounted difficulties in trying to make a collaborative Direct Pay arrangement work.

'They recognised that I had experienced financial abuse without question or requirement for evidence and waived the £20 application fee. At the time, I was not so sure of myself in terms of saying strongly that I had experienced wider domestic abuse and I don't think that the CMS joined the dots based on the

financial abuse. Therefore, they suggested the Direct Pay route...He did things like constantly shifting the payment date...And skipping a few. In other words, he was exerting power and control to try and get a reaction from me. Although I recognised this, I didn't raise it with the CMS as I didn't want to provoke him.'
(Refuge service user)

'I felt that I was forced into Direct Pay ... and he was then erratic in his payments...and all the onus was on me to try to provide information on what his income was. There should be more recognition that it was dangerous for me to try and engage directly with him.'
(SafeLives service user)

'I was too scared to regularly raise the issue of non-payment or go to Collect & Pay...for fear of provoking him to cause more hurt. I don't feel that the CMS has the expertise to deal with this.'
(Surviving Economic Abuse service user)

'He bullied me into saying that I did not want to pursue the payment of the arrears and he was threatening me. I informed the Child Maintenance Service of this and wrote a letter saying that I no longer wanted him to make these payments. They checked in with me once and I told them I sent the letter because I felt like I had no other choice and they accepted this.'
(Surviving Economic Abuse service user)

5.2 In your opinion and based on your experience, did the CMS worsen or even cause domestic abuse in the first place?

157 There is clearly a view amongst some survivors that CMS processes may inadvertently worsen levels of abuse/conflict amongst separated parents.

158 In particular, some testimony by survivors illustrated that when a state agency is intervening to seek the transfer of financial support for the well-being of children this can run the risk of inflaming a situation and inadvertently antagonise a particular kind of perpetrator who will experience CMS intervention as a loss of control.

'CMS makes it worse because the perpetrators know they can abuse the system with no consequences; they work out quickly that no matter what lies they tell they won't get into any trouble.'
(Refuge service user)

'CMS also need to crack down on perpetrators hiding money, assets and income- it is very easy for them to do this and justify paying as little child support as possible.'
(Refuge service user)

'... now that I have gone down the route of using the CMS he's calling me a gold digger and I have had some crappy messages from his family about the money (I only get £8.47 per week.) He owns a few houses – the rent of which is paid to him in cash – but the CMS payments are worked out using his wage slips, which are quite low. I think equity should be looked into when working out how payments are calculated.'

(Refuge service user)

159 Though testimony indicated that the Direct Pay service channel was inappropriate for some survivors, nevertheless, precautions established by the CMS – such as non-geographic bank accounts for example – were welcomed.

'I requested that any payments be paid via CMS, but because my ex offered to pay me directly, they opt for that option first. I felt violated, I would have to give my bank details to be forwarded to him. I didn't feel comfortable with him having my bank details, especially given the level of abuse. I approached my bank, they offered me a 'non geographical account' which means I can have a bank account with no address to be traced to. So, it took a bit longer, but we got there in the end.'

(Refuge service user)

160 Some survivors outlined ways in which they perceived CMS processes were being abused or weaponised by perpetrators, including by falsely alleging non-payment.

'The CMS definitely antagonised him. When I pursued non-payments of maintenance, he retaliated by maliciously alleging that I was fraudulently claiming child tax credits and working families tax credits.'

(Surviving Economic Abuse service user)

'He has been allowed to use the CMS as a goading exercise. The CMS is not fit for purpose. He is allowed to ignore emails from the CMS and there are no consequences for him.'

(Refuge service user)

'...getting the CMS involved did cause tension and friction as he didn't want to pay or wanted to dictate how much to pay etc. My abuser became very familiar with loopholes and ways to avoid paying in full, delaying payment and making false claims.... Contacting the CMS has been very difficult, the website doesn't work very well and I have felt ignored by them when raising issues. When I had no website access and nobody was answering the phone I sent them a letter which they completely ignored. They seem to be very responsive with my ex though and acted very quickly on information provided by him. It feels one sided, he knows this too and it gives him power over me.'

(Surviving Economic Abuse service user)

'CMS processes worsened the abuse post-separation...He manipulated the process to suit his circumstances...an abuser will easily find loopholes in the CMS that enable them to perpetuate abuse.'

(SafeLives service user)

'The way my ex-partner's using child maintenance...it's continuing coercive control and financial control and it's also harassment...she gave false information so each year there's been miscalculations that seemed to be a legacy of that and kept saying I hadn't paid when I had...last year my full-time job was responding to child maintenance and yet I'm supposed to run a business...So it's affecting my ability to make money.'

(Families Need Fathers service user – Paying Parent)

161 Some survivors expressed perceptions of how verifiable non-payment of maintenance constitutes economic abuse, whilst others talked of sacrificing the financial support they were owed as it was 'not worth the trouble'.

'The non-payment of child maintenance is a form of economic abuse. I feel like the CMS were powerless to help me.'

(Refuge service user)

'I have contacted the CMS twice. The first time I contacted them, I had an advisor who was really good...I felt like she fought my corner and was aware of domestic abuse. I felt like she got it and understood how manipulative perpetrators could be ... the second time I contacted the CMS was after my kid's dad stopped paying, they weren't interested...I chose not to pursue maintenance because I don't think there is any point in dealing with the CMS. It is too much hassle...I would rather go without than force him to pay.'

(Surviving Economic Abuse service user)

5.3 How do you think payment of child maintenance liabilities could be more successfully enforced when domestic abuse is an issue?

162 Survivors often referenced the need for CMS to be more trauma-informed in its approach. In addition, reference was often made to the effective use of enforcement powers.

'On the portal, it shows me that there are (thousands) in arrears. It is not easy to use or navigate the portal. I don't think the CMS understands or takes into account how trauma can affect someone's life. Going forward, they need to recognise trauma. It breaks my heart seeing the arrears on the portal, it is like a cheque you cannot bank when you are experiencing poverty.'

(Refuge service user)

'Be strict with the parent who refuses to pay, non-payment should be dealt with quickly and not allowed to build up. Loopholes should be closed. Child maintenance should be treated like a tax, you can't avoid tax so why should you be allowed to avoid paying to support your children...If CMS were trained that financial abuse equals domestic abuse, then maybe that would work. CMS workers are not trained in the dynamics of post separation abuse, power and

control. I have accepted that I won't get the money from the ex as he stopped paying altogether last year (despite the fact that the CMS tell me he owes £400 per month) but I'm not prepared to go to Collect & Pay in case that escalates the post-separation abuse and causes myself or our child harm.'

(Surviving Economic Abuse service user)

'If a perpetrator fails to make payments, the CMS should take them to court, remove their passport, have the payments directly taken from their salary and it should affect their credit rating...I can't say they caused or worsen it; surely they did absolutely nothing to help me resisting the abuse. It seems the system is put in place to 'protect' the paying parent from the receiving parent.'

(Surviving Economic Abuse service user)

'Personally, I think the CMS needs to scrap the different tiers. I tried doing Direct Pay at first, but this did not work. I think as soon as you file for the service, you should be placed on Collect & Pay...create specialist teams for domestic abuse with staff who have been trained in trauma-informed practice.'

(Refuge service user)

'Prison for six weeks and losing driving licences needs to be enforced – the majority of men need cars for work.'

(SafeLives service user)

163 One survivor whose ex-partner had spent time in jail raised an issue about parents who are legally exempt from liabilities.

'I don't know why prisoners don't pay child maintenance – they have jobs in prison, and something could be deducted...even £10 a month would make a difference.'

(SafeLives service user)

5.4 In your experience, what words would you use to describe how it feels to engage with the CMS?

164 There were indications that some CMS survivors perceive frontline staff as lacking the expertise and training to respond to the complexity of domestic abuse, and the different forms that this can take, particularly with regard to economic abuse.

'Staff lack training and understanding of how withholding child maintenance is a form of economic abuse... If they don't want to pay, they will find a way not to. The CMS does not do anything and gives up chasing them at the first hurdle. The CMS is unable to keep up with complicated financial arrangements or people who move their money around.'

(Surviving Economic Abuse service user)

'A bit frustrating at times. I don't really feel listened to when I do make contact with them so try to avoid it altogether because it's a waste of time.'

(Surviving Economic Abuse service user)

'In the beginning it was validating as the financial abuse was seen and I was supported to get the ex to pay what he owed...However, in the longer term the only way of enforcing payments is so potentially harmful that it wasn't worth it in my case, so I suppose fruitless, unenforceable or unsafe in the long term.'

(Surviving Economic Abuse service user)

'I had to contact my MP to get him put on Collect & Pay. Before this, the CMS were sending my ex-partner letters which he ignored and they said there was nothing they could do. You shouldn't have to contact your MP to get the CMS to act.'

(Refuge service user)

165 Some described the difficulties of talking with different CMS staff about something so sensitive:

'It would really help to have a named caseworker, to avoid the embarrassment of saying every time what he had done, it would save a lot of hurt.'

(SafeLives service user)

Chapter 6: Stakeholder Engagement

166 The Review consulted extensively with key stakeholders and commentators within domestic abuse support services and advocacy groups who have extensive expertise and work closely with survivors.¹¹⁶ This engagement included detailed discussions and several organisations also contributed written submissions.¹¹⁷

167 The Review invited views and perspectives across two broad questions:

- *How well are disclosures of domestic abuse handled by CMS?*
- *Do CMS processes either provoke or exacerbate domestic abuse? If so, how?*

168 The feedback gained elicited a rich and extensive overview of themes and issues. In general, all stakeholders recognised that the CMS is a complex public service to run and that the agency has a difficult role in seeking to balance conflicting emotions and interests in circumstances of parental relationship breakdown.

169 At this point it is worth pointing out that some of the views expressed by some stakeholders appeared to indicate a misunderstanding of some CMS internal domestic abuse procedures. One cannot expect external parties to retain an in-depth and up to date understanding of the complex internal mechanics of the CMS. However, such misunderstandings suggest that the CMS needs to communicate these important processes more frequently and effectively to stakeholders.

6.1 How well are disclosures of domestic abuse handled by CMS?

170 Stakeholders raised some common themes in relation to CMS processes. An issue that was particularly prominent in both discussions and via written submissions, was the need for specialist expertise and for effective training as to when caseworkers should refer clients to more specialist services.

6.1.1 Domestic abuse expertise & training

171 The need for frontline staff to have expertise in the complexity of domestic abuse and the needs of survivors was seen as particularly important in order to understand the risks that CMS customers may be facing.

172 Several stakeholders conveyed the view that parents who have been subject to domestic abuse repeatedly report that they would appreciate CMS caseworkers being much more direct in asking about the abuse they might be suffering. Naturally, this goes arm-in-arm with appropriate training as to how to ask the

¹¹⁶ Advocacy After Fatal Domestic Abuse; Baby Sake Trust; Cafcass; Domestic Abuse Commissioner; Families Need Fathers; Family Separation Clinic; Gingerbread; Lorna McNamara (Emma Day's Sister); Mankind; Refuge; Social Security Advisory Committee; Surviving Economic Abuse; Welsh Women's Aid; Women's Aid (Scotland.)

¹¹⁷ Written Submissions: Domestic Abuse Commissioner; Families Need Fathers; Gender Party UK; Gingerbread; Mankind; Rights of Women; Safe Lives; Surviving Economic Abuse

right questions, and then dealing with disclosures in the best way possible. Such parents often want the onus to be on professionals – rather than on them – to ask the right questions.

173 The CMS needs to be confident that they can give out this information clearly and sensitively, especially when one considers that victims of domestic abuse may be at a heightened risk, simply because of applying through the CMS.

174 Many views expressed regarding the training of CMS caseworkers proposed that it should, at a minimum, include the following:

- having some awareness of how a parent that is subject to domestic abuse might be presenting, especially around controlling and coercive behaviour
- trauma-informed approaches that put the needs and safety of the survivor first
- direct questions about the abuse experienced
- more awareness about how perpetrators operate, including the tactics that perpetrators use to manipulate systems and professionals
- being able to refer to the appropriate services/signpost to relevant information. This can include a wide range of services, including but not limited to, the police, independent domestic violence advisors (IDVAs), specialist housing, or health-based support. This will ensure an approach to signposting and referral that is more joined-up in its approach.

6.1.2 Identifying risks

175 The importance of effective risk identification was raised by a range of commentators. Direct questions were recommended that explored key questions such as: levels of child contact; separation circumstances; whether there has been an escalation in abuse; and whether the customer has experienced any stalking or harassment. These are all indicators that could suggest a need for referral to an agency that could undertake a specialist assessment to understand and monitor the nature of the abuse as well as determine an approach towards risk management.

176 An understanding of the levels of risk that survivors may face is regarded as especially important by many domestic abuse support services and advocacy groups. In particular, the point was made that many parents subject to it may have never actually ‘named’ domestic abuse before and they may not even be aware that they have been abused. Some may only become aware of the nature of the abuse they have experienced through some sensitive discussion with a CMS caseworker.

177 It is important for decision-makers to understand the nature of the abuse and, as mentioned above, the level of ongoing risk it presents to the survivor making the declaration. For example, this could involve CMS referring customers to a specialist organisation who may be able to advise as to whether the maintenance claim is worth pursuing and discuss what level of risk the customer may be willing to tolerate.

178 Some stakeholders/commentators expressed the view that CMS staff could also ask more direct questions to help customers decide whether a maintenance application is safe and not going to leave them exposed to greater risk. If an application is thought likely to put a customer in danger, then the CMS can advise referral to the police. However, if the application is deemed by the customer as safe enough to pursue, but the paying parent is not complying with their financial liabilities, then only the customer can really determine where the line is between taking risk and taking the necessary steps to receive money.

179 When it comes to identifying risks of abuse associated with the digital transfer of money between customers, there is likely to be much for the CMS to learn from a cross-sector commission, chaired by Refuge and The Co-operative Bank,¹¹⁸ and which was established after the publication of research on economic abuse in 2020.¹¹⁹

180 This cross-sector review – including banks, other financial service institutions, and specialist domestic abuse organisations – is assessing the impact of online and digital banking practices on survivors of economic abuse with the intention of producing recommendations during 2022 for tools and services that better protect and empower survivors.

6.1.3 Gaining the trust of survivors: the need for a trauma-informed approach

181 Several stakeholders raised the issue that, unless they have had experiences with a government agency such as the CMS before, many survivors may struggle to make their experiences intelligible to organisations or to express themselves in a way that would fit organisational typologies.

182 Several raised the importance of caseworkers and decision-makers being ‘trauma-informed’ and managing systems that are ‘survivor-centred.’ Signals from contacts with parents who have experienced domestic abuse such as a lack of knowledge about household income and/or involvement with other support services are often indications of vulnerability and trauma. Many survivors of domestic abuse have never had any control or capacity to understand income in the home or even had a bank account or ownership of a mobile phone etc. Many are also facing crippling debts at the very time they are trying to rebuild their lives.

183 In addition, the fact that someone is explicitly seeking Collect & Pay should, some stakeholders felt, be an indicator of vulnerability and potential domestic threat. (Although others pointed out that this could be due to a desire to punish the paying parent by requiring them to pay collection charges.)

184 Several also considered it to be possible and desirable for CMS decision-makers to establish which aspects of the domestic abuse definition are relevant to their application and confirm which agencies (if any) have been involved in providing any support and advice thus far. It should also, they believed, be

¹¹⁸ Refuge & Co-Op Bank Press Release. (December 7th 2021)

¹¹⁹ Butt E. (2020.)

possible at this stage for decision-makers to be proactive and signpost survivors to support from relevant agencies if appropriate.

185 Stakeholders also emphasised the importance of customers not having to continually retell their story and circumstances to different caseworkers and of ensuring that systems are safe with personal details, and that these are not shared with perpetrators. The point was made that many parents who have been subject to domestic abuse do not trust government agencies.

6.1.4 A reticence to disclose domestic abuse

186 In addition, beyond the application stage, views were expressed that the CMS should be better equipped to identify and support survivors who do not make a declaration of domestic abuse for the fee waiver. Several support agencies argued the lack of fee waiver should not mean the opportunity is lost for a receiving parent to identify to the CMS as a domestic abuse survivor later in their customer journey.

187 Thus, from this perspective, guidance for applicants should make clear that their credibility about allegations of coercive control is not impacted at any later stage in their application simply because they chose not to self-identify or failed in obtaining the fee waiver at the application stage.

188 *(This was one of the areas where there seemed to be some misunderstanding of CMS's internal domestic abuse procedures, as it is already the case that a receiving parent can identify as someone who has suffered domestic abuse at any point in the customer journey.)*

6.1.5 Effective coordination & early intervention

189 Views were expressed about the need for effective coordination of services for survivors and for active early interventions at the post-separation stage. An early intervention model of interest included reference to Family Relationship Centres in Australia (which support couples before, during and after separation) and the Family Hub 'proof of concept' model in a Ministry of Justice (MoJ) Pathfinder in Dorset, which is also informing an MoJ Pathfinder in Wales. This aims to include debt, substance misuse and housing issues in addition to a wide range of issues and circumstances facing separated parents.

190 Some emphasised the benefits of exploring CMS integration with models such as these as they have the capacity to help 'take the sting' out of early and adversarial emotional separation issues, including by providing a context where both parents can learn about the harms to children of post-separation conflict. This could help cultivate a set of circumstances conducive to stable maintenance arrangements.

191 A further theme to emerge in discussions was a recognition that contact with the other party – or even with children – is often not possible or desirable. In particular, it was mentioned that a paying parent making maintenance payments should not be in any way encouraged to think they are 'buying contact.'

6.1.6 Benefits of Collect & Pay

192 Feedback was received that CMS mechanisms such as Collect & Pay, and non-geographic sort codes were helpful for many parents who had been subject to domestic abuse. The Collect & Pay service channel was seen as valuable by some – despite the 4% charge – as a mechanism that removes a source of worry for many survivors in not having to continually chase a perpetrator for maintenance, particularly where there are many difficult post-separation issues to resolve.

6.1.7 Differentiating between conflict and abuse

193 Some stakeholders emphasised the importance of recognising that much of the negative emotion being expressed by many parents should not be characterised as domestic abuse but rather as dysfunctional conflict. In particular, some expressed the view that it is too easy to conflate situational conflict between parents, particularly when associated with family separation, with abuse and emphasised the need to identify differences between conflict and abuse.

194 For frontline staff to have a greater understanding of the complexity of domestic abuse issues, a number of stakeholders highlighted the need to develop an approach that recognises abuse can be bi-directional or mutual, and that both parties are often very damaged by domestic abuse as '*...the CMS becomes entangled in the power struggle at [the] point of separation...polarised narratives [about paying and receiving parents] are very unhelpful.*'

195 A particular theme of interest for the Review is how agencies/practitioners can tease apart the differences between 'conflict' and 'abuse' and thus separate out abusive couple relationships likely to require specialist support, from those where there is scope for an intervention to address situational conflict and/or prevent it from escalating into abuse.

196 There would likely be much benefit in trialling practitioner tools which do precisely this. The 'Parental Relationships Spectrum Tool', referenced during stakeholder discussions (and included in Annex B), and used in some local pathways and pilot services, merits consideration for use by CMS.¹²⁰

197 The Spectrum Tool (the use of which is underpinned by substantial training) aids practitioners working with families in conflict: it contains specialist questions that can help determine where clients are on the conflict-abuse spectrum, help practitioners understand their circumstances and identify suitable channels for referral.

198 The intention for practitioners using the Tool is to ascertain particularly how 'safe' people feel. If a customer feels unsafe, they are more likely to be situated at the abuse part of the spectrum, whereas if they feel relatively safe, they are more likely to be located at the conflict part of the spectrum. Those at the abuse

¹²⁰ The Spectrum Tool is being piloted in a Family Hub initiative in Hertfordshire.

part of the spectrum will be directed to specialist support, whereas those in conflict might be directed towards information and/or support such as the Reducing Parental Conflict programme. (Where the conflict has been violent, the tool specifies consultation with a domestic abuse service.)

199 As this tool is already deployed by the DWP's Reducing Parental Conflict programme, the CMS should consider working with its designers to adapt the 'Parental Relationships Spectrum Tool' to suit the frontline issues faced by CMS caseworkers.

200 It could, with training, enable caseworkers to gain a better picture as to whether the circumstances of CMS customers could be characterised as 'situational conflict' (and potentially conducive to a referral to the Reducing Parental Conflict programme to enable a constructive, stable maintenance arrangement) or 'abusive' (requiring specialist intervention or support.)

6.1.8 Recognising that men are also victims of abuse

201 Though virtually all stakeholders recognised the importance of specialist training in domestic abuse, some cautioned against such training being *exclusively* led by the domestic abuse sector. Although this sector includes some specialist services for male victims, much of it is understandably perceived to be 'woman-centred'. Some stakeholders emphasised the need for caseworker practices to be informed by the perspectives of parents, including fathers, who are in contested litigation over children. To indicate the likely high prevalence of this category, the President of the Family Division of the High Court has stated that 38% of separating and divorcing couples use the courts to resolve disagreements.¹²¹

202 The development of training and expertise also needs to be based on a recognition that men have often been subjected to domestic abuse, whether they have the main care of children or not. Indeed, national statistics show that approximately one-third of domestic abuse is against men.¹²² In the context of family separations, the most frequent complaints heard from many fathers is that of controlling and coercive behaviour by mothers, particularly in regard to access to children, who are often used as 'weapons' in the separation process.

6.1.9 Recognising economic/financial abuse

203 Whichever parent is subject to it, CMS caseworkers need to be well trained in identifying and responding to economic/financial abuse. Several support agencies regard economic/financial abuse as being highly dangerous because it is often a stepping-stone to the further escalation of abuse towards physical or sexual forms. The perpetrator becomes emboldened by the economic abuse and can take the abuse further towards life-threatening levels. Specific training on economic abuse is regarded by many stakeholders as particularly important for front-line staff given the CMS's role in ensuring money flows between parents.

¹²¹ McFarlane, A. (2019.)

¹²² ONS, Domestic abuse: Findings from the Crime Survey for England & Wales, March 2018, Appendix Table 1. Also, see: <https://fullfact.org/crime/are-third-domestic-abuse-victims-men>.

6.2 Do CMS processes either provoke or exacerbate domestic abuse? If so, how?

204 Many stakeholders expressed the view that CMS processes often inadvertently exacerbate abuse. Although it was also recognised that many parents who are using it are in a highly charged emotional state and that this could be contributing to this view.

'The CMS suffers from negative projections, from parents who cannot get justice for the end of their relationships.'

6.2.1 The weaponization of CMS systems

205 The main ways in which CMS systems were seen as exacerbating abuse related to the fact that maintenance arrangements can often be viewed by perpetrators as the survivor taking back control. This can be a trigger for a certain type of abuser to ramp up abuse and aggression, and where well-intentioned attempts to enforce a liability for the well-being of children can have unforeseen negative consequences.

206 The issue of abusers being able to weaponize CMS systems ('systems abuse') was a recurring theme in stakeholder testimony, whether in the form of withholding payments or denying access to children including through non-compliance with court orders etc.

207 The method used to calculate how much the paying parent needs to pay was often seen as too rigid and narrow. Stakeholders elaborated on how callers to their helplines would often relay stories of paying parents being able to manipulate their finances to under-declare their income and pay less than they should.

6.2.2 Direct Pay & domestic abuse

208 Furthermore, stakeholders expressed some reservations about Direct Pay and what some see as the default service stream for the CMS. In particular, some have the perception that the CMS is often 'pushing' customers towards Direct Pay, and that attempting to drive separated parents towards collaboration in maintenance arrangements where there is coercive control may perpetuate abuse or be dangerous.

209 Indeed, some stakeholders talked of cases where the receiving parent is scared to talk to the paying parent but is obliged to by the CMS. Some domestic support agencies gave anecdotal accounts of CMS staff asking survivors of domestic abuse to try to find out details of the perpetrator's earnings and workplace themselves, which carries a risk as it involves the victim having to contact the perpetrator.

210 In this view, CMS guidance and policies should stipulate that no victim or survivor of domestic abuse should be told to contact an ex-partner, and that all

efforts should be made to access information about the paying parent without requiring a victim or survivor to contact the perpetrator.

211 Whilst the CMS advises receiving parents that they can open a non-geographic bank account to manage their safety when using Direct Pay, it has been reported that perpetrators can continue to exercise coercion and control through various means. These include abusive payment reference fields on bank statements ('for prostitution services' was one example given), non-payment or erratic payments, and deliberate payment on irregular days to interfere with means-tested benefit entitlements.

212 In addition, one advocacy group reported that a survivor had given feedback that non-geographic accounts are difficult to access and that her bank did not know what a non-geographic account was when she asked for one.

213 Financial pressures were often regarded by some stakeholders as exacerbating the risk of economic abuse, particularly if a perpetrator feels under significant financial pressure including from their child maintenance liabilities. This can act as an incentive to maintain coercive control by withholding these payments.

214 In summary, the use of Direct Pay in cases of abuse, where abusers and victim/survivors are forced to negotiate a private arrangement, is considered to be unsafe by many stakeholders and undermines the recognition of economic abuse in the Domestic Abuse Act 2021. It is also inconsistent with other areas of public policy, such as family courts for example, which acknowledge that mediation between an abuser and the victim/survivor is not safe and unlikely to succeed.

6.2.3 Collect & Pay and domestic abuse

215 In cases where parents agree that they cannot arrange payments between themselves, or if the paying parent does not keep up with the payments, the receiving parent can ask the CMS to switch the case to the Collect & Pay service whereby the CMS collects maintenance from the paying parent and pays it to the receiving parent.

216 Some stakeholders expressed a view that the 20% charge for paying parents for use of the Collect & Pay service could facilitate an escalation of abuse, with perpetrators blaming survivors for the extra costs, even though they would have little option to use it as a service channel if the paying parent has withheld payment.¹²³

217 It was also commented that CMS call handlers and caseworkers may also need further specialist training and support to deal with perpetrators of domestic abuse who object to the child maintenance arrangement under Collect & Pay. Some stakeholders have reported that it is common for perpetrators of domestic abuse to be abusive to CMS staff, demanding that staff send harassing messages to the receiving parent or demanding that the arrangement be cancelled.

¹²³ See: <https://inews.co.uk/inews-lifestyle/money/lack-reforms-child-maintenance-service-leaving-women-fearing-lives-1155657>

218 Some support groups provided mixed feedback on Collect & Pay, with many survivors claiming that they were 'not allowed' to access it and others describing that they were 'forced' to use the service after disclosing domestic abuse, despite not wanting to incur the fees.

219 Several expressed the view that Collect & Pay must be an available option to all victim/survivors, but that the choice as to which service type is most appropriate and safest for them should ultimately lie with the parent experiencing abuse.

220 Additionally, many survivors report to their support organisations that it is all too easy for abusive paying parents to request a return to Direct Pay arrangements against the receiving parents' wishes and despite evidence of long-standing non-compliance and economic abuse. Some stakeholders recommended that CMS policies are amended and/or clarified to ensure that Collect & Pay is offered to customers who disclose domestic (including economic) abuse in the first instance and to ensure that precautions exist to prohibit abusers from requesting a return to Direct Pay to exert economic control.

6.2.4 'Unaffordable' assessments as a driver of conflict and abuse

221 Some stakeholders emphasised what they regard as 'unaffordable assessments', delivered through a 'blunt formula' that does not take into account problems of debt as well as the host of financial pressures that often come with parental separation.

222 They call for a different approach that is more 'holistic' and 'less punitive' and which recognises that the average paying parent income on Collect & Pay is considerably less than the national average.

223 Attention was drawn to threshold levels of gross weekly income which have not been updated since 1998 and to the difficulties of changing these due to their detailed inclusion in acts of Parliament.¹²⁴ As one senior member of CMS confirmed:

'The CMS is steeped in primary legislation.'

224 Those operating the system also recognised that, the sense of whether a liability was affordable also depended to some extent on the nature of the post-separation relationship and was intrinsically linked to the emotions engaged:

'In practice the notion of affordability is greatly influenced by conflict between the parents.'

¹²⁴ The thresholds for the Basic, Reduced, Flat and Nil rates are in the Child Support Act 1991 (Schedule 1.) Basic Plus was put into legislation in Child Maintenance and Other Payments Act 2008 at which point Basic rate percentages were changed from 15%, 20%, 25% (for one, two and three+ children) to 12%, 16%, 19% and the flat rate increased to £7.

225 To illustrate how the child maintenance formula works, the following example shows child maintenance paid by an example paying parent at different levels of gross weekly income.¹²⁵

Rate	Gross weekly income	Percentage of gross weekly income paid		
		1 child	2 children	3+ children
Basic plus	£800-£3000	Basic rate and then 9% on income above £800	Basic rate and then 12% on income above £800	Basic rate and then 15% on income above £800
Basic	£200-£800	12%	16%	19%
Reduced	£100.01-£199.99	Reduced rate at £7.00 for the first £100.01 of income then 17% for the remainder	Reduced rate at £7.00 for the first £100.01 of income then 25% for the remainder	Reduced rate at £7.00 for the first £100.01 of income then 31% for the remainder
Flat	£7-£100*	£7	£7	£7
Nil	Less than £7	£0	£0	£0

226 It is undoubtedly the case that parental disputes are often driven by anxieties about finance. Furthermore, co-parenting is financially that much more difficult as the 'non-resident' parent on benefit is treated by DWP as a 'single adult' with only entitlement for housing support for a room in a shared house. Many paying parents are predominantly in the low-income category and have few other sources of support in relation to their children after separation. Research has highlighted that those in the bottom 20% of income deprivation are twice as likely to be in family courts as those in the top 20%.¹²⁶ In 2019/20, 30 per cent of applicants lived in the most deprived quintile. Just 13 per cent lived in areas in the least deprived quintile.¹²⁷

6.2.5 Does the system incentivise allegations of domestic abuse?

227 For some stakeholders, the fact that CMS now proactively ask about domestic abuse often becomes an incentive to report it, and such reporting may include situational arguments and conflicts that form part of most parental separations.

228 A particular concern for stakeholders who represent the interests of paying parents is that the CMS is usually one of the first organisations contacted after parental separation and this often has the effect of escalating conflict. They argue that once a parent alleges domestic abuse to anyone, including CMS, it becomes much more difficult to step back from it, even where it becomes objectively clear that the claim is inappropriate. The idea can then, they say, be cemented in all aspects of post-separation arrangements. For instance, allegations of domestic abuse can often get repeated in family courts and this can exacerbate conflict over contact and custody arrangements and get weaponised in a 'winner takes all' situation.

¹²⁵ See: 'Separated parents and the social security system'. (October 2019.) A study by the Social Security Advisory Committee, Occasional Paper 22, page 24, for the assumptions made in the table.

¹²⁶ Nuffield Family Justice Observatory, (2020 and 2021)

¹²⁷ See: *Separated parents using family courts in England more likely to live in deprived areas*; Population Data Science; University of Swansea, February 2021.

229 Many stakeholders that represent the interests of paying parents saw no reason for any receiving parent who alleges abuse to have any direct dealings with the ex-partner at all. Features such as Direct Pay can be made anonymous and non-geographic bank accounts all enable maintenance to be secured in circumstances of domestic abuse. Thus, some advocacy groups believe that there are already enough protective features in place within the system to reduce the risk to domestic abuse victims.

230 Similarly, among such stakeholders there is a view that child maintenance legislation is inflexible, often tilted towards the interests of the receiving parent, and that the CMS model has been designed for a different era – i.e., one that is based on an ‘outdated traditional family idea’ where there is a provider and a primary carer.

6.2.6 Moving beyond stereotypes of paying and receiving parents

231 Views were expressed by some commentators that the ‘child maintenance landscape’ can often exacerbate conflict because there is still a policy presumption about ‘deadbeat dads’, which causes resentment. Several referred to the ramifications that could ensue:

‘There is a high level of suicide among paying parents although the CMS is quite well structured in terms of acting on behalf of the receiving parent and their protection is a priority.’

232 Commentators also referred to:

‘...men having to provide a much higher degree of evidence to support their position, whereas women were seen as being automatically believed.’

233 This has the effect of placing the CMS in a difficult position of not knowing who to believe and often just appearing to default to the position of whichever parent is more likely to be the ‘primary carer.’

234 Some stakeholders emphasised the need to incorporate more non-financial outcomes and address issues of general wellbeing and relationship stability rather than just ‘moving money around’. It was expressed as a source of regret that CMS have nothing in their performance data about outcomes for children and is instead purely focussed on money transfers. From this perspective, given that children need more than just financial resources, greater attention should be given to wider outcomes for separated families.

235 Some see the need for a greater understanding, across much of the public sector, of the different positions that separated parents are often placed within, and saying that the CMS has not kept up with the changing nature of family life and the complexity of parental relationships. In particular, it was commented that ‘family-based arrangements’ can be incredibly hard to set up without support and that initiatives in the area of ‘Family Hubs’ and ‘Reducing Parental Conflict’ –

which are attuned to the differences between abuse and conflict – were regarded as good policy models to develop and integrate with CMS.¹²⁸

'There needs to be a triage service to determine who needs the highest level of protection ... perhaps a traffic light system to determine this ... [as well as] who could and couldn't go through "education", say in a Family Hub, where parents could receive information about how much it takes to feed and clothe children. Increasing knowledge about what the money is for could help with enforcement.'

236 Stakeholders also suggested a potential role for the social security system in providing financial support during the early stages of separation as parents transition into more stable arrangements. More broadly, reference was made by some to a key recommendation in a Social Security Advisory Committee Report (2019), which proposed the need for a cross-government strategy for separated parents within the social security system.¹²⁹

Chapter 7: Engagement with CMS Operational Processes and Staff

237 The Review incorporated sessions with CMS Operations staff to gain an overview of the operational framework that encompasses domestic abuse processes. These included sessions on:

- Appeals & Mandatory Reconsiderations
- Applications
- Arrears & Enforcement
- Complaint handling
- Digital channels
- Domestic Abuse Plans and Toolkits
- Financial Investigation Unit
- Training & Education

238 As well as these 'teach-in' sessions with CMS that outlined the various stages of the CMS customer journey, two focus groups were also conducted with the caseworkers that operated processes and procedures.

239 I asked them very similar questions to those posed to parents who had been subject to domestic abuse and stakeholders (see Chapter 5), and some of their most insightful responses are included below.

240 First, there was strong awareness that the CMS currently has limited room for manoeuvre as it tries to improve and reform:

'The CMS is caught in the middle of so many other systems and things it can't influence.'

¹²⁸ Coordination of the public support system is recommended by Reingarde (2012)

¹²⁹ Social Security Advisory Committee. (October 2019.)

241 There was also recognition that the CMS caseload was likely to contain a high level of conflict and abuse and that the involvement of the CMS could exacerbate that:

'If parents come to the CMS it's because there's a problem.'

'Waiving the fee – if they're experiencing coercive threatening behaviour it can make reporting hard.'

'When letters arrive with the paying parent, they can become more controlling mentally [of the receiving parent]. It's making a bold decision to make a claim.'

242 As well as operational constraints, staff were particularly reflective about service types but also aware that there are limitations on the extent to which they could fully respond to indications and/or disclosures of abuse.

'DA can be flagged early in the case but there's no one-to-one case management, so they have to keep telling different caseworkers about it.'

'Our push as an agency is to get people to work together but a lot of people in abusive relationships are not wanting to do that. Getting them to agree to move onto Collect & Pay is an option that doesn't really exist.'

'Unwittingly we are opening up confrontation and building up problems for the receiving parent because they are held 'responsible' for enforcing the CM claim in Direct Pay. Receiving parents want us to be the 'bad guy' and so do I – I would be much more comfortable in my job if the paying parent could be angry with me. I want to be able to say, "this case is with us, you should pay for your children".'

'When we chase payment, they say "I am getting nowhere by talking with you [CMS] but I can get somewhere by talking to my ex". They know they can tell the receiving parent 'you can make this go away' by closing the case but it could be highly inappropriate to close it.'

'If the paying parent has to pay directly to the CMS, we will be the focus of the anger. When a paying parent insists on going back to Direct Pay there's a sense that control has been given back to them. Many then default or wait 5 days before paying.'

'The system still allows an element of control.'

243 Training and culture were beginning to make a difference in how that recognition translated into interactions with customers who disclosed abuse, and the importance of being an empathetic listener and recognising the trauma of domestic abuse. However, operationally there was still room for improvement.

'There's more talk now about the importance of putting the human side – we aren't trained counsellors, but they do want you to listen and we've got tools to point us in the right direction.'

'Although we are not counsellors a lot of what a counsellor is, is to sit and listen.'

'Things changed drastically with Covid and there has been a lot of positive change – when we have calls with higher managers, they seem to be delivering something with passion. Managers really seem to care – it makes me want to do better.'

'We are encouraged to be empathic, to put ourselves in a client's position. We are encouraged and expected to treat everyone with respect, even though there's too much to do.'

'We need to be respectful and fair now. There was a huge difference in 2012 – in 1993 the feeling was we were totally anti the paying parent.'

244 CMS staff mentioned greater organisational and societal awareness of domestic abuse and how they were also affected by it, even if they did not have personal experience (although some who did were involved in training others and advising the CMS on good practice):

'We all carry with us those suicide threat calls and domestic abuse calls.'

'I have worked in Child Maintenance for 21 years, since the days of the CSA. It has changed a lot. We are all so much more exposed to domestic abuse and people feeling suicidal now. It feels like a totally different role, it's so much more involved. Did we just not hear about it? We do care about the client. We try really hard to do what's best.'

Part 3 – Conclusions and Recommendations

Chapter 8: Assessing how effectively CMS training and processes address and help prevent domestic abuse

8.1 CMS service types and the complexity of domestic abuse

245 I was in little doubt that the CMS has taken substantial steps – i.e., through the introduction of direct questions at the application stage, caseworker training, and the introduction of tools such as the Domestic Abuse Plan within the Complex Needs Toolkit – to improve its domestic abuse processes and provide a framework that will enable CMS customers to set up a maintenance arrangement safely.

246 However, it is still the case that the CMS continues to receive a lot of complaints and much of the testimony from parents who had been subject to domestic abuse gathered for the Review – although far too small to be representative – indicates perceptions that perpetrators are often able to weaponize CMS systems to maintain levels of coercion and control.

247 Over a third of all complaints received by the Independent Case Examiner are from CSA/CMS customers, almost half (44%) of those accepted were from CSA/CMS customers, and almost a third of all ICE reports issued are about CSA/CMS.¹³⁰ That over three quarters of these complaints are fully or partially upheld indicates they had merit. However, the ICE also flagged concern about complaints she could *not* fully uphold because processes *were* properly followed and, after examining some of these cases, I could see that they highlighted how Direct Pay can facilitate abuse.

248 It is also important to recognize that domestic abuse through coercion and control can be perpetrated by either or both customers in the case. Clearly, receiving parents who may be unjustifiably denying their ex-partner access to their children can be just as destructive as the paying parent who exercises control by deliberately withholding maintenance.

249 As discussed in section **4.3 Issues of Legislation** it is concerning that there is no express legislative provision to prevent an abuser accessing Direct Pay. The next chapter recommends the introduction of more legislative safeguards to prevent this service stream being deliberately abused by perpetrators. This should be undertaken in a way that doesn't facilitate false allegations of abuse or incentivize coercive abuse on the part of receiving parents by, for example, denying a paying parent's legitimate access to their children. These issues also need to be addressed.

¹³⁰ Private correspondence with the Independent Case Examiner

8.2 Further refining domestic abuse training and operational responses

- 250 CMS have taken considerable strides in developing training programmes for their frontline workers. Such training and education should continue to be improved so they reflect the complexity of domestic abuse, the points at which a customer will potentially be most vulnerable and the fact that paying parents are often subject to forms of abuse and coercion. As a priority they should enable caseworkers to adopt a trauma-informed approach. The design of training that includes perspectives from both female and male survivors would be highly beneficial.
- 251 As was clear from the last chapter, staff have sound ideas about how to improve training, sometimes as a result of having experienced domestic abuse themselves and it was heartening to hear that such survivors have been drawn into the design and delivery of training. For example, they pointed to the importance of hearing testimony from actual CMS customers who had been subject to abuse, as their voices ‘stayed’ with staff long after the training.
- 252 Refreshing the training with new voices and ensuring it was undertaken frequently enough would help prevent it becoming a tick box exercise. Staff also talked about the effect on themselves of talking to customers who had been subject to domestic abuse. They recognised the value of good listening skills whilst interacting with them but there was an appetite to be able to do more.
- 253 Indeed, responding to the complexity of domestic abuse potentially indicates the importance of multi-agency approaches and there may be scope for increased future CMS representation at Multi Agency Risk Assessment Conference’s (MARAC) where information is shared on domestic abuse cases deemed to be high risk. Alternatively, CMS staff could make warm referrals to local agencies where they ‘pave the way’ for customers by contacting local practitioners in advance and explaining as much of the case as the customer is happy to allow. They could then close the loop with the customer, and, effectively, hand them over to a named person in their area.
- 254 Furthermore, there is scope to assess whether there could be greater levels of connection between CMS and the work of the DWP’s Advance Customer Support Leads (ACSL’s.) ACSL’s undertake an essential role in looking for ways to give greater help and support to some of the Department’s most vulnerable customers, covering a range of complex needs such as homelessness, drug and alcohol misuse, prison leaver issues as well as domestic abuse.
- 255 Though the DWP has no statutory safeguarding duty or legal duty of care, the ACSL’s undertake collaborative work with organisations that **do** have safeguarding responsibilities and provide support with regard to signposting, advice and support. They help vulnerable customers, and their support workers navigate the architecture of the Department’s benefit delivery systems.
- 256 Domestic abuse often overlaps with issues such as homelessness, housing, drug and alcohol misuse. Where appropriate, a stronger system of referral should

be developed between the CMS and the Department's ACSL's for domestic abuse survivors with multiple complex needs. This would be aided by a single caseworker approach within a dedicated domestic abuse CMS team as I describe in the next chapter.

257 Finally, the CMS cannot achieve the required uplift in its response to domestic abuse on its own, and the need for early intervention during the emotionally difficult post-separation stage was expressed frequently during the Review. As well as continuing to develop connections and a system of referrals between the CMS and the Reducing Parental Conflict Programme, there is likely to be considerable potential in linking the CMS to sites such as Family Hubs as I outline in the next chapter.

258 Such community-based intervention points have the potential to help stabilise parental relationships and make them more conducive to collaborative maintenance arrangements. The Private Family Law Pathfinder in Bournemouth is a particularly apposite Family Hub in which to pilot this approach.

Chapter 9: Recommendations

9.1 Introduction

259 Significant steps have already been taken to ensure customers of the CMS who have been subject to domestic abuse are taken seriously and the gravity of allegations is treated with an appropriate response, through training and awareness-raising. **Ways in which these could be further improved are outlined in section 8.2.** However, in several respects it became clear during this Review that other more substantive steps are required, some of which will require changes to legislation.

260 This fits with the conclusion that SSAC¹³¹ came to in their study of the operation of the CMS in the context of low income (which could exacerbate or provoke abuse or cause conflict to escalate) and the Independent Case Examiner's inability to uphold a complaint. Whilst the ultimate decision about whether there should be changes to legislation lies with Ministers, I am heartened that the CMS is a reform-minded agency of government, although this is clearly not the prevailing public perception, as the recent NAO report pointed out:

*'...it still has significant problems with its customer service, both real and perceived, that undermine trust in the service.'*¹³²

9.2 Recommendations for legislative and policy reform

1. Prevent use of Direct Pay as a form of coercion and control by perpetrators

261 In terms of CMS service types, Direct Pay is legislatively authorised even when allegations of domestic abuse have been made, provided the paying parent has passed the 'unlikely to pay' test. This needs to be reformed. Given the wider definition of domestic abuse now in cross-government policy, the CMS cannot ignore the opportunities which Direct Pay offers to a coercive and controlling paying parent. The NAO found around half of new Direct Pay arrangements are either not sustained or are ineffective. Parents often fail to report non-payment to CMS to avoid causing an issue with the paying parent.¹³³

262 At present, there is no express legislative provision to deny a Direct Pay arrangement to a perpetrator of domestic abuse – whether at the application stage or when moving a case from Collect & Pay. The principal factor that CMS take into consideration is whether a paying parent is assessed as 'unlikely to pay' at application or has a record of non-compliance under Collect & Pay and would thus be assessed as 'unlikely to pay' in a Direct Pay arrangement.

263 I believe there is now a pressing need – reinforced by concerns raised by stakeholders and the Independent Case Examiner – to introduce an express

¹³¹ Social Security Advisory Committee. (October 2019) (Updated July 2020), Chapter 4..

¹³² National Audit Office (2022, page 74)

¹³³ National Audit Office. (2022, page 12.)

legislative lever that will give the CMS the option to deny a Direct Pay arrangement, when requested to do so by the receiving parent, and where there is verifiable evidence of domestic abuse, not simply an allegation.

264 This 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.

265 Defining what constitutes ‘evidence of abuse’ is not always straightforward, but my recommendation is that CMS accept the same standards of evidence as outlined in *Regulation 33 of the Civil Legal Aid (Procedure) Regulations 2012*¹³⁴ that sets out the evidence needed to claim legal aid due to domestic abuse or violence, across the UK. The range of evidence accepted can be summarised as follows:¹³⁵

- a) *Evidence that the ‘other party/alleged abuser’ has been arrested for a relevant domestic violence offence*
- b) *A relevant police caution for a domestic violence offence*
- c) *Evidence of relevant criminal proceedings for a domestic violence offence which have not concluded*
- d) *A relevant conviction for a domestic violence offence*
- e) *A domestic violence protection notice issued under section 24 of the Crime and Security 2010 against the ‘other party/alleged abuser’*
- f) *Police bail for a domestic violence offence*
- g) *A relevant protective injunction*
- h) *A copy of a finding of fact, made in proceedings in the United Kingdom, that there has been domestic violence by the ‘other party/alleged abuser’*
- i) *An expert report produced as evidence in proceedings in the United Kingdom for the benefit of a court or tribunal confirming that a person with whom the ‘other party/alleged abuser’ is or was in a family relationship, was assessed as being, or at risk of being, a victim of domestic violence by the ‘other party/alleged abuser’*
- j) *Letter or report from an Appropriate Health Professional*
- k) *A letter confirming abuse from any member of a Multi-Agency Risk Assessment Conference*
- l) *Letter confirming abuse from one of the following: an independent domestic violence advisor; independent sexual violence advisor; a local authority or housing association; an organisation providing domestic violence support services*
- m) *Financial Abuse: Though Legal Aid regulations do not prescribe a specific type of evidence that an individual must provide to demonstrate that they are a victim of financial abuse, the statutory guidance framework, ‘Controlling or Coercive Behaviour in an Intimate or Family Relationship (December 2015)’ published by the Home Office sets out examples of evidence which could potentially demonstrate that a person has been a victim of financial abuse including bank statements and text messages. Statutory guidance following commencement of the Domestic Abuse Act 2021, and published in 2022, should supplement this.*

266 I recognise, of course, that amending primary legislation to create an extra barrier to Direct Pay (in addition to ‘unlikely to pay’) where there is evidence of abuse, may be contentious for some, as it will enable cases to be moved into the

¹³⁴ As amended by *The Civil Legal Aid (Procedure) (Amendment) Regulations 2016*. (See: *The Civil Legal Aid (Procedure) (Amendment) Regulations 2016* (legislation.gov.uk.)

¹³⁵ Legal aid if you have been a victim of domestic abuse or violence (childlawadvice.org.uk)

Collect & Pay service at one parent's request, where both parties will then face charges. There will be some justification in the likely charge that 'parents who have been subject to domestic abuse could face charges as a result.'

267 However, in my view the requirement to pay fees within Collect & Pay is defensible as customers will be receiving a full collection service. Some may ask to make the move after they have struggled to receive any or all the sums owed to their children under Direct Pay. It will also reflect the operational and logistical reality that introducing extra legislative protection for those who have been subject to abuse in Direct Pay will come with a cost to the taxpayer.

268 I have considered other alternatives to charging including:

- allowing such cases to remain on Direct Pay but where the CMS administer and monitor the arrangements to ensure they are not being used as a form of coercion or control by either party; or
- moving these cases to Collect & Pay but waiving charges for one or both customers.

269 However, both are likely to involve significant operational and systemic changes – which it has not been within the scope of this short time-bound review to assess fully – that will take time to deliver and may involve substantial investment costs. In addition, these alternative options may trigger significant objections from other customers in the Collect & Pay service who may also consider themselves to be deserving of a collection fee waiver.

270 So, on balance, my assessment is that a legislative change is now required to prevent Direct Pay being used to perpetuate abuse by the paying parent (as well as measures to address abuse by the receiving parent.) Incurred charges would therefore carry benefits to receiving parents which help explain why they must be paid.

271 In addition to this legislative reform the CMS need to take steps to ensure, as far as possible, that it does not facilitate abuse on the part of the receiving parent. During this Review I frequently heard about perpetration of financial abuse, from parents and CMS staff, by making deliberately false and repeated allegations of non-payment to the CMS and emotional/psychological abuse by restricting access to children to maximise liabilities (which could mean ignoring court orders.)

2. Ensure the CMS has adequate legal powers to address financial coercion

272 The Domestic Abuse Act 2021 extends the controlling or coercive behaviour offence to cover post-separation abuse and that behaviour may be directed at another person including the child of a receiving parent. Therefore I also recommend that CMS should explore how best to use the new powers within the legislation, and whether any additional legislation is necessary, to support the prosecution of cases of financial coercion and control (abuse) committed in the context of a child maintenance arrangement.

273 This would not replace existing CMS remedies (including appeals and tribunals) but come after all CMS processes have been exhausted if an evidenced pattern of financial abuse and vindictive withholding of liabilities is still being perpetrated by paying parents.

274 I also recognise that financial abuse can be bi-directional and paying parents can suffer emotional/psychological abuse as a result of: (i) false allegations of non-payment; or (ii) a receiving parent deliberately restricting access to gain more in maintenance payments.

275 False allegations of non-payment can of course be tackled through existing criminal law if necessary. However, I am particularly concerned about ways in which receiving parents can subject a paying parent to abuse by restricting access to children as this is often damaging to the welfare of a child.

276 Therefore, the Government should look closely at the extent to which domestic abuse legislation provides adequate legal protection for paying parents against a receiving parent unilaterally imposing non-contact/limiting contact with children as a lever to get maintenance increased. Non-legislative means are also needed, as I outline in Recommendation 6.

3. Remove the reporting requirement to qualify for the domestic abuse waiver and give the legal warning against providing false information earlier

277 The use of the waiver for the £20 fee to access the CMS is underpinned by secondary legislation, but it does not operate according to the accompanying statutory guidance in practice as the requirement to report is not always enforced. No checks are made of the veracity of claims to have reported abuse and the reporting requirement does not act as a barrier to spurious allegations but it may put some victim/survivors off claiming eligibility for the waiver.

278 Fewer than one-fifth of those who have experienced domestic abuse do report it due to safety or other concerns (and there is no evidence that the requirement to report acts as a spur to people accessing services.)¹³⁶

279 Finally, the value of the waiver to the Government has reduced significantly since it was first introduced. However, waiving the fee is still likely to send a significant signal to those who need access to the statutory system due to domestic abuse, that barriers will be lowered to facilitate this. For these reasons I am recommending removal of the requirement to have reported domestic abuse to qualify for the application fee waiver.

280 To mitigate removing the need to report to be eligible for the waiver, there should be a more superficial change, whereby the legal 'warning' statement in the application stage call script is moved so it comes *before* customers are asked about domestic abuse. CMS staff are required to read out the following:

¹³⁶ ONS, Crime Survey for England and Wales. (November 2018.)

'...It is a criminal offence to fail to provide information or knowingly provide false information.'

281 If this came prior to the direct questions on domestic abuse, it would provide a 'nudge' which could strip out some false allegations that may be made simply to avoid paying the £20 application fee. Both this statement and the questions need to be delivered sensitively and with safety in mind so disclosures are not inadvertently discouraged.

4. Pilot the use of single named caseworkers within a dedicated team for complex domestic abuse cases

282 I frequently heard that the requirement to keep recounting their history of domestic abuse to different call handlers can re-traumatise parents who have been subject to it, not least because they may still be living with a sense of very real threat to safety. Whilst it would be operationally very challenging for each CMS customer to have a single named caseworker, the CMS should pilot an approach where complex domestic abuse cases are served by a named caseworker within a dedicated team.

283 If these caseworkers had access to a broad range of frontline services, including those with experience in working with ethnic minority, male and LGBT+ victims/survivors, this would build considerable expertise within the organisation. It also has the potential to create a significant uplift in the quality of service customers can expect in these circumstances, further justifying collection fees.

284 The effectiveness of this approach should be assessed in terms of whether it increases actual and perceived safety, reduces anxiety, and increases payments to the receiving parent and therefore the children.

5. Address issues of affordability of liabilities for low-income paying parents

285 Further legislative reform is also required to address issues raised by the SSAC and others about the affordability of child maintenance liabilities in low-income cases which could leave paying parents without the means adequately to support themselves or their children whilst in their care. A system perceived to be unfair could exacerbate abuse or escalate levels of conflict to increasingly harmful levels.

286 These concerns relate partly to thresholds determined at the end of the 20th century which have been underpinned in statute, and to the interaction of liabilities with Universal Credit at certain points on the earnings curve that impact work incentives. The detail of rates and thresholds needs to be lifted out of primary legislation, so they can be more easily adjusted in response to wider social changes.

287 However, more broadly, affordability of liabilities is not simply determined by such exogenous factors but also by circumstances endogenous to individuals, such as their ability to budget and their attitudes towards prioritising financial

support for their child(ren), regardless of the quality of their relationship with the other parent.

288 Some paying parents assume the state paid the other parent if they did not fulfil their responsibilities and are unaware that arrears are owed to their children, not to the Government.

6. Cross-government coordination of early intervention to support the flow of child maintenance

289 Several stakeholders pointed to the need for an early intervention system outside the CMS, but integrated with it, where parents are helped to avoid or resolve entrenched conflict at an early stage. A likely site for such support would be in the network of Family Hubs that several Government departments are committed to building. These would also help address the many issues faced by separated families in this country, in which a third of all children live, which include debt, substance misuse and mental health. If more effective forms of referral and inter-connection were developed between CMS and Family Hubs, this would ensure separated parents have access to support to prevent conflict escalating and help facilitate circumstances that are conducive to stable maintenance arrangements.

290 Such an early intervention approach to child maintenance, in community-based settings would set the UK apart as world leaders – even in Australian Family Relationship Centres the amicable flow of child maintenance was not a primary goal. The private family law Family Hub Pathfinder in Bournemouth could ensure this area was prioritised and evaluated from the outset.

291 The CMS should also be able to refer parents who are struggling to make stable, mutually acceptable child maintenance arrangements work, to Separated Parents Information Programmes (SPIPs).¹³⁷ Where there are no safeguarding concerns (including about domestic abuse) relating to children or parents, these help parents understand how to put their children first while they are separating. Parents attend separate sessions and learn how to manage conflict, overcome communication difficulties and acquire skills to make progress, including by developing agreements which do not require court involvement. The ability to make such referrals would better integrate the CMS with out-of-court family law remedies.

292 The CMS plays a crucial role in making parents aware of their ongoing responsibilities to support children, but they cannot do this on their own: more help is required from other agencies (and, of course, civil society) to shift the prevailing culture so that failing to support children becomes socially unacceptable.

¹³⁷ Separated Parents Information Programme - Cafcass - Children and Family Court Advisory and Support Service

7. Removal of nil rate for child maintenance for prisoners

293 As part of the cultural shift, I am also recommending removal of the nil rate for prisoners, given the Ministry of Justice's acceptance of the two Farmer Reviews in 2017 and 2019 (on male prisoners and women in the criminal justice system respectively.)¹³⁸ These both reflect research showing that strengthening ties between prisoners and their families can help prevent re-offending and reduce intergenerational crime. They also emphasise the need to avoid effectively stripping away parental responsibility when men and women are held in custody, regardless of whether the relationship with the other parent of their child(ren) is ongoing.

294 A receiving parent with an ex-partner who spent time in prison told me they were baffled as to why incarceration should strip prisoners of maintenance liabilities, particularly when many prisoners are in some form of albeit low-paid employment and/or have money sent to them from outside. In 2010, the average working prisoner earned approximately £10 per week¹³⁹ and the Prison Service Order on Prisoner Pay reissued in January 2020 suggests this figure will not have risen significantly as the minimum employed rate is still £4.¹⁴⁰

295 In 2016 the Prison Inspectorate recommended that there be a review of prisoner pay and 'money in possession' rates, as these have not changed since 1992 and 2008 respectively.¹⁴¹ Whilst an official review has not yet been published in response to this HMIP report, prisoner pay is an area the Ministry of Justice is looking into.

296 If such low sums are typically involved this may mean even the £7 flat rate is unfeasible but it is instructive that convicted prisoners are limited to a maximum spend of £30 per week (£60 if on remand)¹⁴² and can hold £900 on their custodial banking accounts.¹⁴³ Some jobs in prison attract payment of well over £20 a week. Receiving parents explained that even small amounts per week would add up to make a difference to their children. Moreover, the need to equip prisoners to function within a modern economy requires financial responsibilities inside prison to be as similar as possible to life outside.¹⁴⁴ Consistent with the wider CMS, there would not be an automatic liability, but a level of maintenance should be set which parents caring for children can choose to enforce against prisoner earnings (and income.)

297 This principle already applies in legislation and in the Prison Service Order referenced above. The Prisoners' Earnings Act 1996 authorises deductions from 'enhanced' earnings¹⁴⁵ to be made when required by a child maintenance

¹³⁸ Farmer, Lord. (August 2017 and June 2019.)

¹³⁹ Life in prison: earning and spending money (russellwebster.com)

¹⁴⁰ HM Prison & Probation Service and Ministry of Justice. (January 2020.)

¹⁴¹ HM Inspectorate of Prisons. (January 2016.)

¹⁴² HM Prison & Probation Service and Ministry of Justice. (July 8th 2020.)

¹⁴³ HM Prison & Probation Service. (November 20th 2020.)

¹⁴⁴ Ministry of Justice, (December 2021)

¹⁴⁵ From work carried out under release on temporary licence (ROTL) when a prisoner is nearing the end of his or her sentence.

assessment.¹⁴⁶ PSO 4660 states that ‘If prisoners’ earnings are high enough, they may be liable for contributions to the maintenance of their dependants.’ As part of the wider review of prisoner pay, the CMS should work with the Ministry of Justice to develop a workable system for enabling parents with care of prisoners’ children to claim child maintenance, should they choose to.

8. Update child maintenance calculations to include receiving parents’ income

298 Fundamental reform is also required to acknowledge the very different world the CMS is now operating in, ten years after the 2012 reforms, where both parents often have primary caring responsibilities towards the child(ren) as well as employment outside the home. This reality makes it hard to justify the current situation where only the non-resident parent’s income is included in child maintenance liability calculations.

299 This would require a far more complicated formula which takes account of the incomes of both parents and other outgoings including debt repayments and run counter to the 2012 system’s drive for greater simplicity. However, the inclusion of only one income in the calculation is becoming increasingly untenable and, again, the greater the perceived unfairness of a system, the more it is likely to drive conflict and abuse.

9. Include a broader range of agencies in CMS training.

300 Whilst it is undeniably the case that women are disproportionately more likely to be subject to and severely harmed by domestic abuse, its complexity was particularly apparent when reviewing the CMS. As well as the broader statutory definition bringing more behaviours into scope, it became clear that abuse can be mutual or bi-directional. Some stakeholders (including those required to investigate allegations and counter-allegations of abuse where children are involved) confirmed the presence of mutual abuse, despite that reality being rarely mentioned in policy.

301 Others highlighted how men’s needs and experiences were often discounted. I was therefore concerned that only specialist women’s organisations appear to have been involved in the design of domestic abuse training. In recognition that men (and paying parents) can also be subject to domestic abuse, I recommend that a broader range of agencies, including those which specialise in men’s perspectives, are included in CMS training.

10. Design of Implementation Plan with a specifically tasked civil service team

302 Finally, given the importance of the issue of domestic abuse societally and specifically within CMS, and the tragic case which led to this Review, the DWP should produce an Implementation Plan and a specifically tasked civil service team to take forward these recommendations. The team should meet regularly (at least six-monthly) with the Reviewer to ensure progress. The Implementation Plan should be aligned with the Domestic Abuse Plan – published by the Home

¹⁴⁶ Prisoners’ Earnings Act 1996 (legislation.gov.uk)

Office in March 2022¹⁴⁷ – and statutory guidance¹⁴⁸ (July 2022) which outlines ways in which key provisions in the Domestic Abuse Act 2021 should be interpreted by local agencies.

303 This Plan should include research (designed with the input of key stakeholders) to measure the success of the reforms proposed by this Report. This would require systematic recording of disclosures of domestic abuse and how the CMS responded.

¹⁴⁷ Tackling Domestic Abuse. (March 2022.) Home Office

¹⁴⁸ Home Office, (July 2022)

References & Sources

A Vision for the 1,001 Critical Days; The Early Years Healthy Development Review Report. (March 2021.) Presented to Parliament by the Secretary of State for Health and Social Care, HM Government.

All Party Parliamentary Group for Strengthening Couple Relationships and Reducing Parental Conflict (CYP0113) to the Health and Social Care Committee's enquiry into Children's Mental Health. (March 2021)
(<https://committees.parliament.uk/writtenevidence/23562/html>.)

Bate, M. (2020.) *'My ex is using the child maintenance system to continue to abuse me'* (inews.co.uk.) The i paper, March 27th 2020

Bates, Elizabeth A. (2019.) *'I Am Still Afraid of Her': Men's Experiences of Post-Separation Abuse*; *Partner Abuse* 10. Springer.

Berger, J., Douglas, E. and Hines A. (2016.) *The mental health of male victims and their children affected by legal and administrative partner aggression.* *Aggressive Behaviour.* (Volume 42.) (Issue 4.) Wiley Periodicals.

Birchall, J. and McCarthy, L. (2021) *Mental health and domestic abuse: A review of the literature.* Bristol. Women's Aid.

Bryson, C. and Ellman, I. (2015.) *Public Views on Child Support.* Nuffield Foundation.

Buchanan, F. and Humphreys, C. (2021) *'Coercive Control During Pregnancy, Birthing and Postpartum: Women's Experiences and Perspectives on Health Practitioners' Responses.'* *Journal of Family Violence.* Research Gate.

Butt E. (2020.) *Know Economic Abuse,* Refuge.

Child Maintenance – Department for Work & Pensions, Report by the Comptroller & Auditor General, Session 2021/22. (March 2022.) HC1139, National Audit Office.

Child Maintenance Service statistics: GOV.UK (www.gov.uk)

Child Maintenance Service: Government Response to the Committee's Fourteenth Report of Session 2016–17 - Work and Pensions Committee. (September 2017.) House of Commons Library.

Counting the emotional cost of family break up. (June 2015.) Research, University of York.

CSA Case Closure Outcomes Survey. (2019.) DWP.

Dawsey-Hewitt, S. et al. (2021.) *The Shadow Pandemic: Shining a light on domestic abuse during Covid,* Women's Aid.

Dinisman, T. and Moroz, A. (2019.) *Trapped: How barriers to escaping an abusive relationship should be addressed by policy and practice.* Victim Support.

Dixon, J. and Robb, M. (2016.) 'Working with Women with a Learning Disability Experiencing Domestic Abuse: How Social Workers Can Negotiate Competing Definitions of Risk.' *British Journal of Social Work* (Volume 46) (Issue 3.)

Domestic abuse - Ethnicity facts and figures (February 2021.) GOV.UK.

Domestic Abuse Act 2021 (legislation.gov.uk).

Domestic abuse in England and Wales overview. (November 2021.) Office of National Statistics.

Domestic abuse: findings from the Crime Survey for England and Wales. (2018.) (2020.) (2021.) Office for National Statistics.

Domestic abuse victim services, England and Wales (November 2021.) Office of National Statistics.

Domestic Homicide Review. (May 2017.) Safer Lambeth Partnership.

Douglas, H. and Fell, E. (2020.) *Malicious Reports of Child Maltreatment as Coercive Control: Mothers and Domestic and Family Violence;* *Journal of Family Violence* (Volume 35) (Issue 8.)

Duty of Care | Safeguarding in Health and Social Care (highspeedtraining.co.uk)

DWP. Child maintenance reforms: 30 month review of charging. (2017.) GOV.UK.

Emma Day: Prevention of future deaths report. (3 August 2021.) Courts and Tribunals Judiciary.

Farmer, Lord. (August 2017.) *The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime.* Ministry of Justice.

Farmer, Lord. (June 2019.) *The Importance of Strengthening Female Offenders' Family and other Relationships to Prevent Reoffending and Reduce Intergenerational Crime.* Ministry of Justice

Femi-Ajao, O., Kendal, S. and Lovell, K. (2020.) 'A Qualitative Systematic Review of Published Work on Disclosure and Help-Seeking for Domestic Violence and Abuse among Women from Ethnic Minority Populations in the UK.' *Ethnicity & Health.* (Volume 25) (Issue 5.) University of Manchester.

Foster, D. et al. *Domestic abuse: Support for victims and survivors.* (July 2021.) House of Commons Library.

Gingerbread. Policy & campaigns. (2021.) See:
<https://www.gingerbread.org.uk/policy-campaigns/child-maintenance>

Hines, D. et al. (2015.) A self-report measure of legal and administrative aggression within intimate relationships. *Aggressive Behaviour*. (Volume 41.) (Issue 4.) Wiley.

Holt, Stephanie. (2020.) '*Domestic Abuse and Post-separation Contact: Promoting Evidence-informed Practice*'; *Child Abuse Review*. (Volume 29) (Issue 4.) Wiley.

HM Government. (2014.) *The Child Support Fees Regulations 2014* (legislation.gov.uk)

HM Government (1996.) *Prisoners Earnings Act*.

HM Prison & Probation Service. (Reissued November 20th 2020.) *Manage Prisoner Finance (Operational Instruction)*.

HM Prison & Probation Service and Ministry of Justice. (Reissued on July 8th 2020.) *Incentives Policy Framework*.

HM Prison & Probation Service and Ministry of Justice. (January 2020.) *Paying prisoners for work and other activities: PSO 446*

Holte, A. (2012.) '*The Family's House: Organization and Professional Perspectives*,' Regional Centre for Child and Youth Mental Health and Child Welfare. University of Tromsø. Research Gate.

Home Office. (March 2022.) *Tackling Domestic Abuse Plan*. HM Government.

Home Office. (July 2019.) *Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill*, Session 2017-19. GOV.UK.

House of Commons Work and Pensions Select Committee. (2017.) *Child Maintenance Service*; Fourteenth Report of Session 2016-17, HC 587. House of Commons Library.

Howard, M. and Skipp, A. (2015.) *Unequal trapped and controlled: Women's experiences of financial abuse and the potential implications for Universal Credit*. Women's Aid.

James-Hanman, D. and Holt, S. (2021.) '*Post-Separation Contact and Domestic Violence: Our 7-Point Plan for Safe[r] Contact for Children*'; *Journal of Family Violence* (Volume 36) (Issue 8.) Semantic Scholar.

Kiernan, K. (2006.) *Non-residential Fatherhood and Child Involvement: Evidence from the Millennium Cohort Study*. *Journal of Social Policy*. Cambridge University Press.

Macdonald, M. (2021.) *Support for domestic abuse victims: housing, health, education, social services and social security*; House of Commons Library.

Machado, A., Hines, D and Douglas, E. (2020.) *'Male Victims of Female-Perpetrated Partner Violence: A Qualitative Analysis of Men's Experiences, the Impact of Violence, and Perceptions of Their Worth'*; Psychology of Men & Masculinities. (Volume 21) (Issue 4.) APA PsychNet.

Magić, J. and Kelley P. (2021.) *LGBT+ People's Experiences of Domestic Abuse: a report on Galop's domestic abuse advocacy service*. Galop.

McFarlane, A. (2019.) *Living in interesting times: Keynote address to Resolution Conference 2019*. Courts and Tribunals Judiciary.

Ministry of Justice, (December 2021.) Prisons Strategy White Paper.

Moloney L et al. (2013.) *'Evaluating the work of Australia's Family Relationship Centres: Evidence from the first 5 years.'* Family Court Review. (Volume 51) (Issue 2.) Wiley.

Moreton, E. (2019.) *'Shifting the narrative: including same-sex survivors in services'*; Safe: The Domestic Abuse Quarterly, No 67 2019. Diversity Trust.

National Rural Crime Network. (2019.) *'Captive and controlled: Domestic abuse in rural areas'*; <https://www.ruralabuse.co.uk>.

Nuffield Family Justice Observatory. (2021.) *Uncovering private family law: Adult characteristics and vulnerabilities (Wales)*

Nuffield Family Justice Observatory: *Uncovering private family law; Who's coming to court in England?* (2021) and *Uncovering private family law: Who's coming to court in Wales* (2020.)

Podaná, Zuzana. (2021.) *'Patterns of Intimate Partner Violence against Women in Europe: Prevalence and Associated Risk Factors'*, Journal of Epidemiology & Community Health. (Volume 75.) (Issue 8.) National Library of Medicine.

Population Data Science. (2021.) *Separated parents using family courts in England more likely to live in deprived areas*. University of Swansea.

Refuge and The Co-operative Bank. Press Release (December 7th 2021.) Refuge.

Reingarde J. (2012.) *Violence against Women – Victim Support: Report*. European Institute for Gender Equality.

Robbins, R. and Cook, K. (2018.) *“Don't Even Get Us Started on Social Workers”: Domestic Violence, Social Work and Trust—An Anecdote from Research.* British Journal of Social Work. (Volume 48) (Issue 6.) University of Central Lancaster.

Separated Parents Information Programme - Cafcass - Children and Family Court Advisory and Support Service

Social Security Advisory Committee. (2019.) *Separated parents and the social security system*. GOV.UK.

Surviving Economic Abuse. (2021.) *The Cost of Covid-19: Economic abuse throughout the pandemic*. SEA Publications.

Walker, A et al. (2020.) '*Male Victims of Female-Perpetrated Intimate Partner Violence, Help-Seeking, and Reporting Behaviours: A Qualitative Study.*' *Psychology of Men & Masculinities*. (Volume 21.) (Issue 2.) Research Gate.

Work & Pensions Select Committee. (July 22nd 2020.) *Evidence Session that examined the DWP's response to the coronavirus outbreak*.

World Health Organisation (WHO.) (2013.) *Global and Regional Estimates of Violence against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence*, Geneva, WHO Press.

Annex A: Application Call Script (Receiving Parent)

<p>Options handover</p>	<p>Action - Confirm client's name, phone number, NI number and their CMS reference ID.</p> <p>Action - Confirm that client has discussed a family-based arrangement, direct pay and collect and pay.</p> <p>Action - Have Options indicated the client may be exempt from paying the application fee?</p>
<p>Introduce yourself</p>	<p>Script - Good morning / afternoon / evening. I am XXXXX, how can I help you today?</p> <p>Script - Can you continue in English?</p> <p>Action - If caller cannot continue in English, follow Big Word translation service instructions.</p> <p>Script - Is it OK to call you by your first name during the call?</p> <p>Script - Before I continue, is there anything that affects how you communicate or receive information or any other disabilities we need to be aware of? E.g. sight/hearing or mental health/learning difficulties – discuss with the customer what best meets their communication needs. E.g. Self Service/Braille/Large print/ Text phone.</p> <p>Action - Click here to link through to the information on what to do if communication needs are identified.</p> <p>Script - The call can take up to 40 minutes. If no communication needs are identified to change this requirement - Please make sure you have a pen and paper to write down some important information.</p>
<p>Essential questions</p>	<p>Script - To make sure we are providing you with the most appropriate information, can I ask if you or your child/children have experienced any domestic abuse? This could include things like a pattern of controlling, coercive or threatening behaviour; psychological, physical, sexual, financial or emotional abuse. Do you think this applies to your situation?</p> <p>ONLY if the RP declares DA applies to them ask Have you ever reported any of this domestic abuse to a recognised authority?</p> <p>IF customer answers NO go to 1.</p> <p>IF customer answers YES go to 2.</p>

	<p>1. Script - There is an application fee of £20 for the Child Maintenance Service, are you able to pay that today? –The fee is for using the service. It is important to tell you it is non-refundable and it does not guarantee we can set up child maintenance payments. I need to confirm some details with you to make sure we can complete your application today.</p> <p>2. Applicants do not pay the £20 application fee if they or their child /children have experienced domestic abuse.</p> <p>As part of your application, we will contact the other parent. Do you have any concerns about the reaction of the other parent when we contact them?</p> <p>IF YES – follow the CMG Domestic Abuse plan click here</p> <p>IF NO – continue</p> <p>I need to confirm some details with you to make sure we can complete your application today.</p> <p>Script - Do you and the other parent both live permanently in the UK?</p> <p>Script - Do you have any court orders in place?</p> <p>Script - We need to know the full name(s) of the other parent(s) and the full name(s) and DOB(s) of the child/children you are making an application for.</p> <p>Script - Is Child Benefit in payment for the child/children you are making an application for? If not, is the child/children between 16 and 20-years old and in full-time, non-advanced education</p>
<p>Service Type</p>	<p>Subject: Family-based Arrangement (only if there is no indication of domestic abuse)</p> <p>Script - A family-based arrangement is where parents agree between themselves how to support a child when they separate. It is the most flexible solution—both parents agree how and when child maintenance is paid. The CM Options service can provide you with guidance and support, such as an online calculator that will give you an idea of how much child maintenance should be paid.</p> <p>Action - If a FBA would work, provide CM Options & online calculator details.</p>

	<p>Subject: Direct Pay</p> <p>Script - This is where we work out what should be paid and both parents agree how and when to pay. Other than the application fee, this option is FREE. You will need to provide your bank details to the paying parent and work together to keep things on track.</p> <p>Action - The receiving parent can speak to their bank and request a non-geographic area sort code if they are concerned that passing over their sort code to the paying parent may identify the area where they live. Relevant in DA cases.)</p> <p>Script - It is important to keep a record of payments, so using online banking or standing order is ideal. If a payment is late, try and contact the other parent. But if the payment is more than 5 working days late, you can contact us to help. It is a good idea to also make sure you get receipts for cash and goods received by the other parent.</p> <p>Subject: Collect and Pay</p> <p>Script - You can choose Collect and Pay, or if Direct Pay does not work where the other parent does not pay on time and in full, we can then move your case to Collect and Pay.</p> <p>Script - Collect and Pay is where we work out the child maintenance that is due. We request this child maintenance from the other parent then pass it on to you. They would have to pay 20% on top of their expected payment, and we will deduct 4% from the amount we pass on to you. For example, if they owe £100 in child maintenance, they will need to pay £120 and we will pass £96 on to you.</p> <p>Script - The other parent has been given a choice too. If they selected Direct Pay and we have no reason to believe they would not pay, the service type will be Direct Pay.</p> <p>Action - Record the service type in the more info tab and Service Type Decision applet which can be found at case level.</p>
<p>Legal statement</p>	<p>Script - As we are asking for information under Child Support law, I have an obligation to advise you it is a criminal offence to fail to provide information when requested to do so, or to knowingly provide false information.</p>

	<p>Script - Further information on this legal statement and how we use personal information will be in your welcome pack. More details are available on GOV.UK. Are you happy to continue?</p>
<p>Applicant details</p>	<p>Action - Data required for applicant:</p> <ul style="list-style-type: none"> • title • full name • DOB • NINO (Verify NINO on CIS to confirm applicant is eligible) • postcode • first line of address • email address • contact number(s) <ul style="list-style-type: none"> ○ mobile number (Record mobile number if provided) (Select SMS opt-in) <p>Script - We may use this to contact you or to send updates about your case.</p> <ul style="list-style-type: none"> ○ other number(s) (Record additional number(s) if provided) <p>Script - Please tell us if these numbers change. This will help us transfer you to the right team more quickly in future.</p> <ul style="list-style-type: none"> • preferred contact time • application fee or enter <i>DA</i> declaration <p>Action - Data required for qualifying child:</p> <ul style="list-style-type: none"> • title • full name • DOB <p>Action - Data required for other parent:</p> <ul style="list-style-type: none"> • title • full name • DOB • NINO • Postcode • first line of address • contact number(s) • employment details • paying parent named on the birth certificate (Y/N) • shared care • number of nights per week [qualifying child/children] stay overnight with the paying parent <p>If the receiving parent has provided the address for the other parent ask:</p>

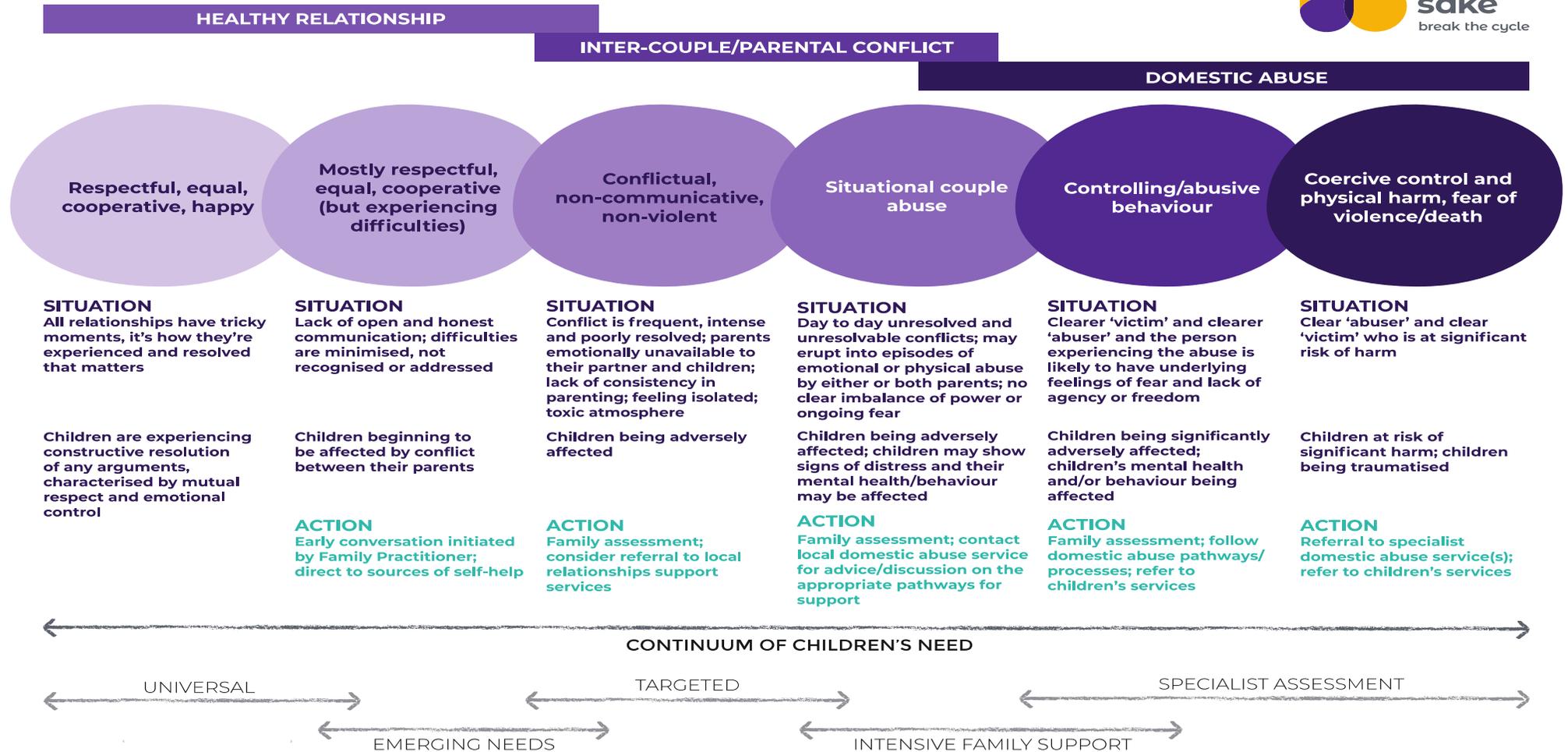
	<ul style="list-style-type: none"> • Is this the address where you previously lived with the other parent? Or • Is this the address where you pick up or drop off your child/children when the other parent sees them? • How do you know this address? <p><u>Warning– DO NOT confirm the address back to the customer after checking CIS</u></p> <p><i>Script - Depending on how often they stay, that can reduce the amount of child maintenance that should be paid.</i></p>
Security	<p><i>Script - We need to set up some security on your case to make sure your details are safe and secure. These security details are personal to you. You will need a seven-number PIN and a password. You will need this when you use the self-service website, I will explain later in the call how to register for this.</i></p> <p><i>Script - When you call us you will be asked a minimum of 3 security questions, these will be based upon your personal information and details of your case. If you have not correctly answered the security questions, we may not be able to speak with you.</i></p> <p><i>Script - Can you please give me seven digits for your PIN? What would you like as your password?</i></p> <p>Action - repeat back to the client</p>
Diversity and accessibility	<p><i>Script - We are coming to the end of the call now; this part will take 2 to 3 minutes.</i></p> <p><i>Script - I need to ask you some equality and diversity questions, to make sure we never discriminate against anyone because of their race, religion, sexual orientation or disability. Your answers are confidential and you can also choose not to answer. Would you like to continue?</i></p> <p>Action - Ask customer to confirm ethnic group, religion, sexual orientation and any disability they have not already discussed.</p>
Final steps	<p><i>Script - We will now send you a Welcome Pack and you should receive it within the next week.</i></p> <p><i>Script - We will then contact the other parent confirming how much should be paid and then send you both the details. It may take up to 6 weeks for your application to be progressed and your child maintenance to be calculated. If we need any further information we will contact you.</i></p> <p>Subject: SMS and self-service information</p> <p><i>Script - Your customer reference number is XXXX XXXX XXXX.</i></p>

	<p>Script – (If opted in for SMS) You will receive your customer reference number in a text message. Remember to keep it safe and secure. You could save it as a contact on your phone so it is always handy as you will need it whenever you contact us.</p> <p>Script - The next step is registering online. The text message you will receive with your customer reference number has a link to our self-service website where you can manage your case from your PC, tablet or mobile. Once registered it is easy and simple to use. You can track your application, update your circumstances, upload any documents we may need, view payments, read letters and send and receive messages. It is all available 24/7 and you do not need to call us.</p> <p>Script - You can also find our self-service website by searching for 'Child Maintenance online'.</p> <p>Action - Ask the client if they have any further questions.</p> <p><i>Script - If you do need to call, our number is 0800 171 2345. Our opening hours are Mon-Fri 8-7.30pm and Sat 9-4.30pm.</i></p> <p>Action - Thank the client for their time.</p>
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Annex B: PARENTAL RELATIONSHIPS SPECTRUM TOOL



Parental Relationships Spectrum*



*Adapted by The For Baby's Sake Trust from the model developed by Dr Mark Farrall, Ignition Creative Learning Limited
www.Forbabysake.org.uk

Parental Relationships Spectrum*



Where you are in contact with parents whose relationship is not healthy, use motivational interviewing and active listening techniques to explore whether they may be experiencing relationship conflict or domestic violence and abuse.

Consider asking some or all of the following questions to explore where on the spectrum diagram the relationship may sit.

What aspects of your relationship trouble you?	
What would you change if you had the opportunity?	
How understanding is your partner?	
How safe do you feel at home and in your relationship?	Where the relationship is not healthy, this is a really important question to ask. If the parent clearly feels safe, this would tend to suggest they are experiencing parental conflict and may appreciate further discussion, information about sources of self-help and/or referral into local relationships support services. If the parent says they are scared or sometimes feel unsafe at home, this would tend to indicate that the parents are on the domestic abuse side of the spectrum (including on the domestic abuse side of 'situational couple abuse') so a referral into local domestic abuse pathways and processes might be appropriate
How confident do you feel about making decisions? How comfortable do you feel about expressing your own views and opinions? How much choice do you have about your own life and family life?	These questions might indicate the presence of coercive or controlling behaviour with the relationship.
Where is the joy in your life?	Those in an abusive relationship may feel the lack of joy in their life and start to see the reality of the situation.
What would your children say about life at home? What changes, if any, have you noticed in your children's behaviour?	These questions could lead to a discussion about the impact on the children who may be experiencing conflict or abuse between their parents.
What prevents you from asking for support?	This question may lead to a discussion about how the parent and/or family could be enabled to access the support they need.

More information and guidance on distinguishing between domestic abuse and harmful conflict can be found at <https://www.cafcass.gov.uk/grown-ups/professionals/ciaf/resources-for-assessing-harmful-conflict/>