

## **Child maintenance charging: evidence summary for the DWP 30-month review**

**September 2016**

### **About Gingerbread**

1. Gingerbread is the national charity working for and with single parent families. We campaign against poverty, disadvantage and stigma to promote fair and equal treatment and opportunity for single parents and their families.
2. Gingerbread is committed to improving the support given to separating parents, and was a founding member of the 'Kids in the Middle' coalition along with Relate, the Fatherhood Institute and Families Need Fathers. It is a longstanding goal of the organisation to help to achieve an effective UK child maintenance system, to mitigate the financial disadvantage faced by children growing up in separated households.

### **Background**

#### **Context**

3. Child maintenance is a vital source of income for separated families. With children in single parent households at almost twice the risk of poverty as those in couple parent households (DWP, 2016f), child maintenance is particularly important for single parent families. Indeed, child maintenance alone lifts a fifth of low income single parent families out of poverty (Bryson et al., 2013).
4. Since 2012, the UK child maintenance system has been undergoing significant reform. The premise has been that 'behavioural change' is needed to encourage separating parents to make arrangements themselves, to a) foster more collaborative relationships between separated parents and b) deliver a more efficient and effective statutory service "to those who really need it" (DWP, 2014; Work and Pensions Committee, 2013).

#### **Caveats**

5. There is still some way to go before the current reform programme is complete. As a result, the 30-month review provides an opportunity for reflection and early learning, but the full impact of charging and Direct Pay is yet to be seen.
6. In particular, a large cohort of parents are yet to be affected by charging as the CSA case closure programme is still some way from completion. While over two-thirds of cases have started the case closure process, less than a fifth of cases have actually been closed (DWP, 2016c). Moreover, cases still to be selected are those most in need of the statutory service – and therefore most likely to be affected by charging. Similarly, the quantitative data relied upon by the Department for Work and Pensions

(DWP) – particularly survey data on Direct Pay arrangements and CSA cases subject to closure, collected as part of its evaluation programme – will provide important evidence when eventually published, but can only inform this review to a limited extent due to delays to data collection and the review’s timing part-way through reforms.

## Our evidence

7. Gingerbread’s evidence for this response draws on our analysis of DWP statistics and qualitative feedback from Gingerbread’s rolling data collection exercises on the new child maintenance system. We recognise that qualitative feedback will be illustrative rather than statistically representative; we have focused on clear emerging themes in parents’ experiences and any nuances not revealed by the DWP’s largely quantitative evaluation data. We will follow up this evidence with further qualitative research to explore the impact of reforms in more depth, for a forthcoming report.
8. Our response is structured according to the questions posed by DWP to stakeholders. A summary version is also available.

## The impact of fees and charges

### £20 application fee

**Key concerns with the CMS application fee are that it is:**

- **Ineffective in encouraging family-based arrangements (FBAs)**
- **A disproportionate barrier to accessing the statutory service – for those on low incomes, and those with a poor experience of the CSA**
- **Unfair, given receiving parents use the statutory service out of necessity**
- **Raising expectations of better service quality without delivering**
- **Waived inconsistently for those who have experienced domestic abuse.**

*Policy effectiveness: Encouraging collaborative relationships and FBAs*

9. One of the main drivers for introducing an application fee was to encourage separating parents to make FBAs for paying child maintenance, to ensure the statutory system is “only used by those who really need it” (Cabinet Office, 2014). One expected indication of this ‘nudge’ effect was an increase in the proportion of effective FBAs made by separated parents. However, the latest DWP statistics show that just 12 per cent of CM Options customers went on to make effective FBAs in 2015/16 – the same as in 2014/15 (DWP, 2016e). In fact, the quarterly breakdown of figures available suggests this overall annual figure masks a gradual fall in the rate of effective FBAs across quarters, while the rate of statutory scheme arrangements following CM Options has increased during the year – opposite to the intended direction of travel (DWP, 2016d).
10. Performance according to another headline indicator – the number of children benefitting from an effective FBA – is also mixed. While telephony calls increased by 13 per cent between 2014/15 and 2015/16, the number of effective FBAs after contact

with CM Options increased only 11 per cent and the overall number of children benefitting by just 5 per cent.

11. On a broader note, it is unclear how the DWP will make a full assessment of how the application fee affects new CMS customers or the longer term effectiveness of FBAs. While the DWP's forthcoming case closure evaluation survey may provide some insight regarding those who had CSA cases, there is little data on how those new to the CMS have been affected by fees. Nearly a quarter of CM Options customers in 2015/16 had no arrangement after contact with the service (DWP, 2016e), but this does not reveal what part the fee plays in this outcome. In addition, while the 'effective FBA' rate tries to account for arrangements which break down over the course of the year, it does not account for failed arrangements beyond this point. The DWP intends to rely on *Understanding Society* data for longer term trends, but this data has a relatively long time lag before publication (on top of the existing wait for the full roll-out of reforms). This data will also tell us relatively little beyond prevalence of FBAs, without sufficient detail on the effectiveness or financial adequacy of these arrangements.

*Policy effectiveness: Value for money*

12. The second policy driver for introducing the application fee (and Collect & Pay charges) was to reduce the statutory service caseload and thereby improve value for money. Our evidence suggests there are doubts as to whether this is being achieved (see paragraphs 16-18, 21-23 and 33-36).

*Inequality of access – affordability and trust*

13. The fee also introduces a barrier to accessing the statutory service which does not affect parents equally. In the first instance, while there was a welcome reduction on original proposals of £100, the fee is still not easily affordable for those on low incomes. For many single parents, £20 is a significant sum which has an impact on household budgets when also caring for children. Some have postponed applying to save for the fee – and therefore forgone maintenance; others have been able to pay only through one-off circumstances (eg through redundancy income). With child poverty a significant risk for single parents and expected to sharply rise in the coming years (Browne and Hood, 2016), this evidence raises concerns over charging already-disadvantaged parents for an important service so many need.

*"I'm taking money from our household budget (which is very tight)."*

*"I had to borrow money off someone so I could pay the £20 application fee."*

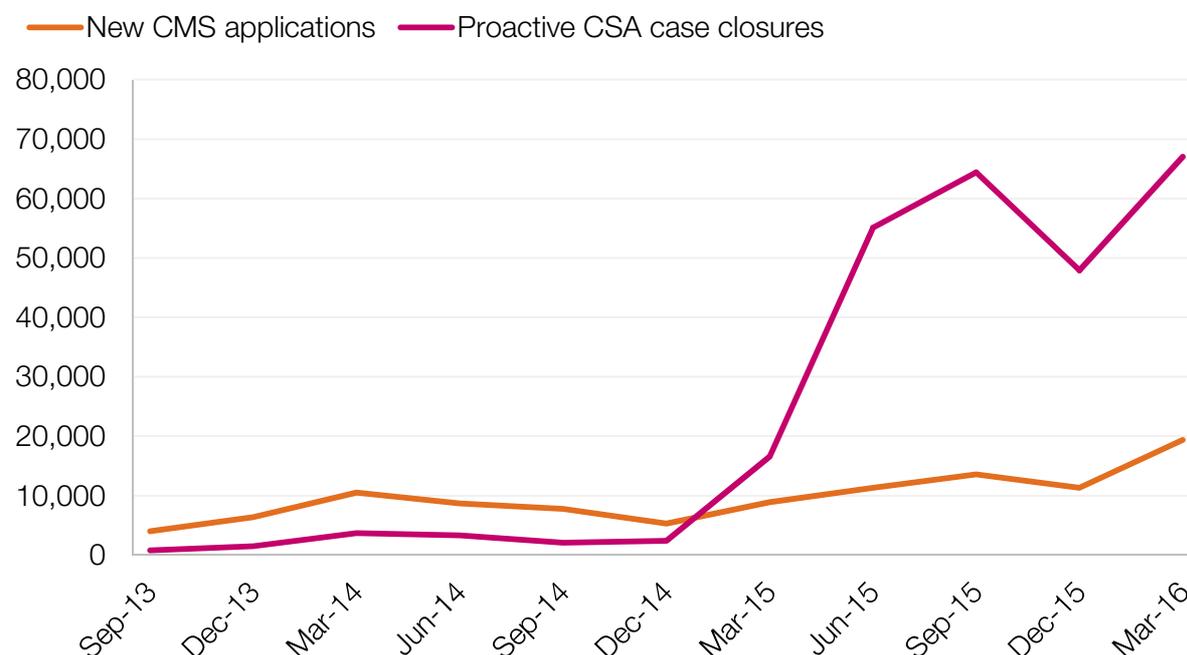
*"£20 doesn't sound like a lot, but sometimes that is my entire weekly budget for food."*

*"I waited to apply until I had the £20; as a single parent with four children, money is often tight with bills."*

CMS feedback survey, Gingerbread (ongoing)

14. The second way in which the fee creates unequal access to the statutory service is the way it affects those who have had a poor experience of the CSA, compared with those who are new to the statutory service. There is a very slow in-flow of former CSA cases to the new system – either in terms of approaching CM Options or actually making a CMS application – relative to the rate of case closure. While 258,000 cases received final letters by December 2015 (HC Deb, 2016), just 51,500 parents have taken even the initial step of phoning CM Options regarding case closure (DWP, 2016d).<sup>1</sup> Similarly, monthly proactive CSA case closures far exceeds monthly intake of new CMS cases since case closure began in earnest (Figure 1).

**Figure 1 Monthly new CMS applications and proactive CSA case closures**



Source: DWP, 2016a; DWP, 2016b.

15. It is still early to explain fully the slow in-flow of former CSA cases into the CMS (and whether this is a common trend for all case closure segments) as case closure is still ongoing. One reason might be a reduced need for the statutory service – either due to parents moving on from trying to collect maintenance, or because they wish to try FBAs. While it is difficult to determine whether parents have moved on from current data (the DWP’s case closure survey should provide further evidence), it is reasonable to assume this plays a part given that the first two case closure segments involved cases with no activity or contact with the CSA (often for years) due to nil assessments or no success in collecting maintenance. The evidence for CSA cases turning to FBAs is less clear. While we have recorded one instance of this, there is no indication that this is happening on a significant scale – certainly not at a level to explain the very low CSA intake to the CMS. Indeed, a breakdown of overall CM Options outcomes shows

<sup>1</sup> 515,700 final letters (to the nearest 100) were sent to both parents involved in each case. There is a few months’ discrepancy between the time periods – CSA cases began to close (rather than just selected for closure) around January 2015; data on CSA calls to CM Options starts from May 2015. However, closed cases would still far outweigh even a proportionally inflated number of CSA calls to CM Options.

former CSA clients are far less likely to make an FBA after contact with the service – just 6 per cent do so, compared with 14 per cent of non-CSA ('business as usual') parents (DWP, 2016d).

16. Our qualitative evidence also raises another explanation: that previous experience of the CSA and resulting low expectations create a further barrier to paying the application fee compared with those new to the statutory service. Previous experience of the CSA's failure to collect maintenance, combined with the impression that the CMS won't be able to do more, leaves people reluctant to pay for new service.

*[Likely action following closure of CSA case:] "Give up, what's the point in paying for something I'll never get...it's just taking food from the kids' plate."*

*Child maintenance feedback survey, Gingerbread (2015)*

17. Feedback suggests DWP has done little to publicise how the CMS will work, and the improvements the new statutory service intends to make compared with the CSA (eg improved IT systems, annual reviews of the calculation, use of HMRC). With an absence of any active effort to promote the new statutory service to the large cohort of parents with an understandable (and foreseeable) lack of trust and expectations in what the CMS may deliver, the fee acts as a disproportionate barrier to CSA clients.
18. Worryingly, wariness about using the new service following experience of the CSA seems to be particularly true for those with complex cases. This is in direct opposition to the policy intention to achieve value for money by running a smaller statutory service that is "able to concentrate on the most difficult cases" (DWP, 2014c). Currently, then, it seems that the application fee may achieve savings by discouraging former CSA clients unaware of how the new system may tackle their case, at the cost of collecting maintenance for those who particularly need the support of a statutory service.

*"My ex doesn't willingly pay anything and Deduction from Earnings Orders are in place and am concerned everything will just stop and it took me five years to get any payments."*

*"I received the letter to tell me that the old style payment system (collected from my ex and sent to me) will stop...and we need to make our own arrangements...He has moved away and ten years ago I needed a court order for maintenance...So can we really do this?"*

*CMS feedback survey, Gingerbread (ongoing)*

#### *Fairness, reciprocity and service quality*

19. It is important to recognise that fee payment should not be taken as an indication of acceptance or satisfaction with payment. Some single parents paying the fee are aggrieved with having to pay, when they only require the service due to another's unwillingness to pay (see paragraph 37) and when the decision to use the service is not taken lightly.
20. The DWP figures above illustrate the limited target group of the £20 application fee (ie those who can try an FBA), with just over one in ten CM Options customers going on

to make an effective FBA. The fairness and necessity of the fee is therefore called into question given that making private arrangements is not an option for the overwhelming majority of CM Options customers, and that parents only go on to apply to the CMS out of necessity.

*"I have my children over 90% of the time and had to apply to them as my children's dad refused payment. Using their service was not a choice"*

*"The £20 fee is just another kick in the teeth for me."*

*"I understand that they want to encourage parents to work it out themselves, but I am sure I am not the only parent trying to deal with an unresponsive ex and therefore feel I am being penalised for his poor attitude."*

*"I would have loved to have just stuck to a family based arrangement, which failed due to the actions of the NRP...I have to take a hit because of his non-compliance."*

CMS feedback survey, Gingerbread (ongoing)

21. For parents who need the statutory service, for whom the 'nudge' effect does not apply, charging also introduces an expectation of reciprocity as with any financial transaction. Our evidence illustrates how parents see fee payment as contingent on receiving good customer service and maintenance paid, which is not always the case.
22. Two particular areas of frustrations have emerged to date regarding the application fee. First, the lack of transfer of basic information for former CSA clients to enable them just to set up the application process. Second, finding out many months later that payment is either not received or irregular (see paragraphs 37 and 45-48). As a result, frustration with the application fee can increase only once cases progress.

*"The application is a joke, every case is treated like a brand new case, asking for information that [the CMS] should already have got when I left [the] CSA."*

*"I would have expected that all the details from the CSA would automatically be sent through to the new system...but as soon as the CMS have taken over, they advise that there is no background information on what happened before and if I want to pursue the arrears I have to basically do all the work...So much hard work and information has been lost between the changeover that I am under no illusion that I will ever get the arrears that I am owed which total in excess of £8,000."*

*"The service does not seem to be working for my case so far, so this leaves me asking where exactly does the investment from fee collecting get spent?"*

*"I was told I would get payment from my ex, that's part of the fee"*

CMS feedback survey, Gingerbread (ongoing)

23. It might be argued that the fee income is solely intended to deliver on the policy to increase the rate of FBAs. However, to view the fee exclusively from this perspective is to ignore the impact of the fee from the parents' perspective. Fees necessarily become related to the intention to deliver value for money – particularly when there is no option

but to pay, in order to use a much-needed service. For those not seeing a good service, the value for money and fairness of the fee is again called into question.

*Exemption from the application fee due to domestic violence*

24. The domestic violence exemption from the fee has had a positive impact on parents that have received the exemption. Parents have expressed gratitude that domestic abuse has been recognised within the system.
25. Nevertheless, the positive impact of this fee policy is obviously dependent on receiving parents' awareness of the exemption, as it is only given if the parent volunteers information about their experience of domestic abuse. As the DWP itself forecasts, only some will voluntarily disclose surviving domestic abuse. Its survey data estimated 50 per cent of receiving parent applicants would have experienced domestic violence perpetrated by the paying parent, but estimated only 32 per cent would declare this (DWP, 2012). This forecast is in line with the 30 per cent of the CMS intake currently given the domestic violence fee exemption (DWP, 2016a). Consequently, the fee system is designed to allow some vulnerable single parents to slip through the gaps – which our evidence shows is happening in some cases.

*"I paid the £20 fee but then was advised that they could have waived the fee due to domestic violence. It may be a good idea for them to mention this at the beginning not after they've taken the payment"*

CMS feedback survey, Gingerbread (ongoing)

26. There is a further concern that the dynamic and complex nature of relationships and domestic abuse is not fully recognised by the current fee exemption policy. For example, domestic abuse, including financial coercion, can emerge after the end of a relationship – particularly when there is ongoing contact between former partners due to the presence of a child. Our evidence suggests these complexities are either not acknowledged by the current policy (despite the cross-government definition of domestic violence covering both those who are and those who *have been* an intimate partner or family member)<sup>2</sup>, or not implemented consistently by case workers (potentially exacerbated by inadequate staff training; see paragraphs 54-57).

*"I had no choice but to pay the [application fee], as [I] have no contact with the 'father' as he became verbally abusive and wanted me to have an abortion. Felt unfair as not classed as domestic abuse as we had [already] split"*

CMS feedback survey, Gingerbread (ongoing)

## Collect and Pay charges

**Key concerns with Collect and Pay charges are that they are:**

- **Of limited purpose as a deterrent to Direct Pay non-compliance when Direct Pay arrangements are inconsistently enforced**

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<sup>2</sup> <https://www.gov.uk/guidance/domestic-violence-and-abuse>.

- **Creating a perverse incentive to persist with non-compliant Direct Pay arrangements**
- **Not ensuring value for money, despite a smaller caseload and added revenue**
- **Unfair, given receiving parents use the collection service out of necessity**
- **Raising expectations of better service quality without delivering.**

*Policy effectiveness: Encouraging Direct Pay compliance*

27. Collect and Pay charges were intended to incentivise parents to stay in the Direct Pay service and avoid the statutory system having to collect maintenance on parents' behalf. Currently, CMS cases are actually more likely to be paid via Direct Pay than originally forecast – around 40 per cent of cases was expected to be on Direct Pay (DWP, 2012), whereas the latest data shows 70 per cent of CMS cases paying via Direct Pay. While this gap is likely to change (the forecast is based on a steady state caseload yet to be achieved due to ongoing CSA case closure), it is still a notable difference which might suggest charges are providing the intended incentive to use Direct Pay arrangements.
28. However, a high rate of Direct Pay use is not a policy success in itself. The intended impact of charges is intrinsically linked with the *compliance*, rather than just the use, of Direct Pay arrangements. The purpose of charges – to avoid parents being moved into the Collect and Pay service – can only be achieved if Direct Pay arrangements are fully compliant. The real test of charges, then, is whether they encourage effective Direct Pay arrangements, where payments are made in full and on time.
29. The DWP's current quarterly CMS statistics are insufficient to assess properly the extent to which charges encourage effective Direct Pay arrangements, as these assume Direct Pay payments are always in full. The rationale for this is that parents have the option of coming into the Collect and Pay service if payments are not made. However, we know from similar Maintenance Direct arrangements in the CSA that, in reality, they are likely to be less than fully compliant despite receiving parents having the option of coming into the collection service (*Understanding Society* data shows only 61 per cent of Maintenance Direct cases were paid in full (Bryson et al., 2015)). Furthermore, there were £63.5 million outstanding CMS arrears at May 2016, associated with around half of CMS case groups (ie paying parents; DWP, 2016a), indicating some non-compliance emerging despite the charges incurred if brought into the Collect and Pay service.
30. While non-compliance raises concerns regarding broader issues of enforcement powers and maintenance recovery (see Allbeson (2016)), qualitative evidence raises a more immediate concern around the lack of adequate enforcement of Direct Pay arrangements (see paragraphs 34-35 and 45-47). A failure to enforce Direct Pay arrangements in a timely and consistent manner renders Collect and Pay charges redundant as a deterrent to non-compliance.

31. Furthermore, our evidence suggests that the high penalty of Collect and Pay charges – particularly for the paying parent – actually creates a perverse incentive to remain within the Direct Pay service to avoid incurring the significant additional costs, despite non-compliance (see paragraphs 42 and 46 below).
32. The emerging evidence therefore suggests the policy lever of Collect and Pay charges is not enough in itself to ensure effective arrangements within the ‘light touch’ Direct Pay system. Worse, the lack of Direct Pay enforcement and high level of paying parent charges are in some cases prolonging non-compliant arrangements.

*Policy effectiveness: Value for money*

33. The charging system is part of child maintenance reforms intended to reduce the statutory caseload. Currently, there is indeed a relatively small CMS caseload due to incomplete CSA case closure. Yet, despite a small caseload and new revenue stream from charging, it is not clear that the efficient service promised is being delivered.
34. The reduced caseload was intended to help with “freeing up resources which [the DWP] will use to ensure arrears do not continue to grow” (DWP, 2013). However, CMS arrears have continued to climb as the caseload has increased (see paragraph 28); 22,000 case groups – a quarter of those with arrears – were not contributing anything to their current liability.
35. While further quantitative evidence is scant on whether the additional CMS capacity has led to more effective collection, qualitative information provides some insight. Receiving parents are reporting the same issues witnessed in the CSA regarding enforcement and maintenance avoidance (eg relying on old income data, the difficulty faced by receiving parents wanting to challenge calculations and income assessments; for more, see Gingerbread’s response to the House of Commons Work and Pensions Select Committee CMS inquiry (forthcoming)). As noted above, this does not bode well for a service intended to be streamlined in order to focus on difficult cases.

*“My ex-partner chose to not pay a month payment as [he] went on holiday, paid other amounts on different days leaving me short. He was not penalised for this as I was told it's the CMS discretion whether or not to do that.”*

*“They have informed me they are using my ex-partner’s wages from 2012...they state that [HMRC] provided 2012 income details so that's what they must use for their calculations.”*

*“It seems that if you have an ex-partner who is self-employed and has no assets you are told to more or less give up any hope on getting the maintenance owed to your children”*

*CMS feedback survey, Gingerbread (ongoing)*

36. We are also hearing a common theme of frustration with customer service once in the CMS, particularly when in the Collect and Pay service (see paragraph 38). These ongoing issues suggest that, given the small caseload and increased revenue from charges, the statutory system is still not providing value for money for parents.

*Fairness, reciprocity and service quality*

37. As noted above (paragraphs 19-20), the charging system leaves receiving parents feeling penalised for paying parents' non-compliance with maintenance arrangements. Our evidence suggests this is particularly acute with Collect and Pay charges, when receiving parents must pay an ongoing penalty for paying parents' missed maintenance payments, through no fault of their own. Moreover, this is often after a length of time having given the paying parent further chances to pay before paying (see paragraphs 42 and 45-48). And once in the Collect and Pay system, receiving parents can continue to incur charges due to constraints placed on enforcement action.

*A caller to Gingerbread's helpline using the Collect and Pay service was frustrated because, despite the non-resident parent failing to pay, the CMS had told her they would not take enforcement action until the arrears reached £500. In her case, because her ex-partner's income was modest, she faced many months of non-payment before the CMS would take action – despite the importance of the money for her household budget.*

Allbeson (2016)

38. As noted above (paragraphs 21-23), charges raise expectations around service quality – particularly for receiving parents, who have no choice but to use the collection service in the event of non-payment. Feedback to date suggests there are problems with customer service – particularly within the Collect and Pay service, when more parents expect pressing action to ensure payment. Some of the most common themes were a lack of urgency on cases needing proactive management and receiving parents chasing up actions with caseworkers to ensure these were implemented.

*"In 18 months I have received one maintenance payment, with no idea of when to expect another one."*

*"They fail to action things that they say they are going to action, and then you're left thinking 'oh, they must be just dealing with it', only to find out later (when you eventually chase them) that they've done nothing at all with it."*

*"The level of service...was rather inconsistent – at the time I was least savvy, and hence most vulnerable, I was told lots of different things by advisers. It is really frustrating to be told one thing, to act on it, and then when you call back you are told that what you were told before was wrong; and this happened repeatedly."*

CMS feedback survey, Gingerbread (ongoing)

39. Given receiving parents end up in Collect and Pay due to circumstances out of their control and too often receive poor service quality, there is questionable legitimacy for the 4 per cent charge for receiving parents.

*"The charges are unfair on the parent with care...when he builds up arrears, the CMS first use his money to settle their own charges... It is disgusting that charges come before children!"*

CMS feedback survey, Gingerbread (ongoing)

## How well Direct Pay is working

### Impact of Direct Pay on the receiving parent

- **There is little evidence that Direct Pay encourages cooperation in itself**
- **Sharing bank details directly can increase tension between parents and can be intrusive for receiving parents**
- **Direct Pay arrangements can mask financial coercion – receiving parents can feel forced to persist with non-compliant arrangements**
- **The emphasis on a ‘fresh start’ can lead to wasted resources in the face of recent enforcement action – particularly for former CSA cases**
- **The push to promote Direct Pay, compounded by unclear enforcement rules, incentivises parents to persist with non-compliant arrangements.**

#### *Policy effectiveness: Encouraging collaborative relationships*

40. There is little evidence that Direct Pay in itself can “engender co-operation” as intended (DWP, 2014b). In the first instance, receiving parents – particularly those who have had to take enforcement action in the past – can feel forced onto Direct Pay after being encouraged to make a ‘fresh start’ (see paragraphs 43-44). This can mean that the rules of the statutory service heighten conflict, rather than lay the foundations for more positive relationships between separated parents.
41. In addition, the logistics of sharing bank details to set up Direct Pay arrangements can increase concerns around security and personal intrusion for receiving parents. Being forced to share financial information can in fact increase tension, rather than foster increased collaboration, between parents (see paragraph 49-50).
42. Worryingly, Direct Pay arrangements can also mask financially coercive relationships. Some receiving parents want to avoid inflaming relations with the paying parent by pushing for the Collect and Pay service to become involved (and therefore incurring the 20 per cent charge). Rather than encouraging genuine cooperation, Direct Pay – backed up by Collect and Pay charges – can create conditions where receiving parents feel their hand is forced in persisting with unreliable and non-compliant arrangements (see paragraphs 45-48). The evidence therefore shows that Direct Pay arrangements often do not represent genuine collaboration in interests of the child.

*“My ex doesn't want them to collect and I am trying very hard to stick to that as he'd be charged an extra 20 per cent...but he has messed me around a lot.”*

*CMS feedback survey, Gingerbread (ongoing)*

#### *Threshold for entering Direct Pay and encouraging a ‘fresh start’*

43. Some receiving parents feel paying parents are given an unreasonable degree of latitude by the new system in deciding whether paying parents are likely to pay or not. The policy objectives driving an emphasis on making a ‘fresh start’ and using Direct Pay can mean parents are pressured to accept arrangements which they know are

unlikely to be reliable in future. This is particularly the case for parents who have had a CSA case and are forced to give paying parents a 'compliance opportunity' to provide a pathway onto Direct Pay, even despite recent enforcement action. Feedback from parents suggests there is no collaborative working between the CSA and CMS to ensure information and enforcement activity is shared and properly considered for a realistic assessment of non-compliance. In these cases, the 'fresh start' advocated for former CSA cases has meant that previous efforts and successes in enforcing maintenance arrangements are wasted, as the 'compliance opportunity' and new calculations take automatic precedence.

44. There is no public information on how this 'compliance opportunity' is working for receiving parents, or whether there is a case for transferring enforcement action (eg court orders) into the new system. However, this early evidence suggests it is unrealistic to assume (and/or strongly convey) a 'fresh start' is always possible. Given the time and resources previously spent on enforcement by the statutory service (and receiving parent), the current 'one size fits all' approach seems neither fair nor value for money.

*"My CSA case has been going for a number of years and during that time they have obviously been able to gather a lot of information on me and my ex-partner. None of this, however, is taken into account during the application process and the emphasis is put on the residential parent to 'justify' using the 'Collect and Pay' method...they said they had to give the non-residential parent 'a chance to pay'...The CMS are delusional if they think a different letterhead is going to change my son's father's mind!"*

*"The CMS informed me that if I opened a case with them they will reassess the payments and the assessment they make will override the court order [under the CSA system]...It seems to me that it is far too easy to avoid paying maintenance and a court order for payment is not worth the paper it is written on if the CMS can write it off so easily. Due to the above I have still not made the application and have no idea what to do for the best."*

*"I already had a court order allowing all my ex-husband's financial disclosure to be submitted to the CMS as he had manipulated his circumstances to such a degree to avoid any investigation...I was told that the "only" information they needed was his name and address...The CMS did not appear interested in this at all. I abandoned the application as I felt that I did not have any confidence in the service."*

CMS feedback survey, Gingerbread (ongoing)

### *Enforcing Direct Pay arrangements*

45. Our evidence shows enforcement rules for Direct Pay are inconsistently applied, in part driven by reforms themselves. The new 'behavioural change' framework, encouraging a withdrawal of the statutory system from managing child maintenance arrangements, also shapes staff communication with separating parents. As a result, staff convey a

clear message to receiving parents that a Direct Pay arrangement is inherently ‘better’ for the parent and their children – even despite non-compliance.

*“[The CMS staff] suggested I tried to make a reduced settlement with him which is appalling, and had previously explained this hadn't worked...he has faced no ‘discipline’ procedures”*

*“Absent dad has missed a few payments...they do chase it up...but they are reluctant to change the payments to Collect and Pay”*

CMS feedback survey, Gingerbread (ongoing)

46. The incentive to encourage persistence with Direct Pay despite non-compliance is also explicit in Collect and Pay charges. Beyond the indirect impact on receiving parents concerned about upsetting their relationship with the paying parent (see paragraph 42), our discussions with DWP staff revealed that caseworkers can be reluctant to move cases off Direct Pay and onto Collect and Pay, knowing the very high penalty for the paying parent. Instead, they prefer to offer the paying parent further chances to pay – at the cost of receiving parents missing maintenance payments. In total, this delay can be significant as there is still a further period when warning letters are sent before the Collect and Pay service can start.

*“He asked them if he could change from collection to Direct Pay in order to avoid the charges (despite having not paid anything so far). I was reluctant to agree to this but I was persuaded by the CMS to give him a chance...My suspicions were confirmed and he still did not pay anything...After a couple of months and several requests from myself, the CMS finally agreed to return to collection (although this was delayed because their protocol stated that they had to send him collection warnings first)”*

CMS feedback survey, Gingerbread (ongoing)

47. From discussions with DWP staff, the leeway given to paying parents on Direct Pay is in part due to the lack of clarity around how and when Direct Pay should be enforced. For example, staff noted that they would attempt to call the paying parent to check whether there were ‘reasonable’ reasons for non-payment – but there seemed to be no protocol around this, leaving a significant grey area as to how each caseworker defines what is reasonable. The lack of clarity around Direct Pay enforcement for staff opens up the system for inconsistency and non-compliance. Indeed, feedback suggests the lack of clarity is underpinned by a lack of urgency and understanding regarding enforcement and the importance of timely collection for receiving parents’ household budgets.

*“I am dissatisfied with how payments are made...and the hoops we had to get through in order to get back onto Collect and Pay...despite repeated non-compliance and arrears of the PWC, it got moved against my express wishes onto the Direct Pay system. I had to wait until several occasions had gone by with the PWC being non-compliant again before we could get it moved back on.”*

*“After I queried the 'Direct Pay' method I was assured that after five working days of my ex-partner missing a payment, they would take action. Again this was not true, in fact they have to try to contact him, by phone and letter, and after 14 days (if he hasn't responded) they will then consider further action.”*

*“Any change takes weeks and weeks with no collection of money...I have even been quoted “You went two years without money. What's another few weeks?”*

CMS feedback survey, Gingerbread (ongoing)

48. The evidence above suggests the danger in having a clear policy driver to reduce the involvement of the statutory service is that an unreasonable focus is applied to encouraging Direct Pay. The emerging evidence suggests that, as a result, staff place more weight on giving the paying parent a chance to pay, rather than implementing timely and appropriate enforcement. Charges and accompanying messaging (to promote Direct Pay) incentivise limited enforcement, which is in turn compounded by a lack of clear enforcement rules, consistently applied. As a result, Direct Pay arrangements can be promoted and/or prolonged at the risk of children missing out on maintenance.

### **Direct Pay, security and domestic abuse**

#### **Direct Pay arrangements:**

- **Can be intrusive and raise security fears for receiving parents**
- **Risk exposing receiving parents to domestic abuse and/or exiting the CMS**
- **Involve a lack of clear processes and protocol to deal with domestic abuse**
- **Are not supported with staff training to recognise the risk of domestic abuse.**

#### *Inherent risks of Direct Pay arrangements*

49. The logistics of Direct Pay arrangements – receiving parents must provide paying parents with bank details in order for a standing order to be set up – may seem straightforward and indicate some level of collaboration. In reality, some receiving parents find this intrusive. Sharing financial information can be particularly sensitive for those who have made efforts to separate their personal affairs from former partners. Rather than fostering collaboration, Direct Pay can result in more tension and anxiety.

*“I would rather [payments were] collected by [the] CMS and paid by them to me so I do not have to see my ex's name every week on my bank statement and have him know my new bank details when I changed banks for this reason.”*

CMS feedback survey, Gingerbread (ongoing)

50. Direct Pay also raises concerns about personal security and interference with contact arrangements. For example, some receiving parents have raised fears about paying parents finding their location as a result of sharing bank details. Given conflict or mistrust is often higher when parents need the statutory service to assist with collecting maintenance, concerns about financial and personal intrusion are likely to be far from rare.

*"[My] ex-husband had contacted them and wants to pay by standing order... which I didn't want to do as he isn't allowed any contact with myself or his children"*

CMS feedback survey, Gingerbread (ongoing)

51. Our evidence also raises concerns regarding how Direct Pay arrangements work in cases where domestic abuse has been, or is, present. Direct Pay promotes direct contact between separated parents. This can expose receiving parents to financial abuse, manipulation or coercion. Furthermore, the onus is on the receiving parent to report non-payment each time and instigate CMS enforcement. Where paying parents have exhibited (or are exhibiting) abusive behaviour, Direct Pay enforcement is therefore made much less likely. Indeed, some parents have reported concerns about CMS enforcement and the reaction of the paying parent.

*[Parent who received domestic violence application fee exemption] I think they [CMS] have to have an absolute 'pay up' ethos, or they couldn't function...but it has heightened the ill-feeling"*

CMS feedback survey, Gingerbread (ongoing)

52. There is some evidence that, as a result of the above concerns, some receiving parents are prepared to abandon a CMS application or case rather than having to participate in a Direct Pay arrangement. In these instances, Direct Pay is clearly counter-productive to effective child maintenance arrangements, suggesting further thought is needed about how statutory arrangements work for those who have experienced domestic abuse and where abusive behaviour emerges during Direct Pay arrangements.

*A single parent was told she had to have a Direct Pay arrangement and was given the option of a 'non-geographic' bank account or using a pre-paid card due to experiencing domestic abuse (the last incident involved hospitalisation). However, both these options would reveal her new name; she feels at risk and is now considering dropping the child maintenance case as a result.*

Gingerbread helpline case

53. The evidence above illustrates that alternative ways of setting up Direct Pay arrangements still offer receiving parents at risk of domestic abuse little sense of comfort or security. Furthermore, the new rigidity of the statutory service's 'one size fits all' system means that there is limited discretion when staff deal with complex cases. For example, cases with ongoing safety concerns due to domestic abuse are still automatically moved into Direct Pay; there are no grounds for moving automatically into the Collect and Pay system in the event of domestic abuse. The combined effect is that the most vulnerable families, in most need of the statutory system, are at risk of forgoing maintenance altogether.

*Lack of staff training on domestic abuse*

54. The evidence to date suggests that DWP staff are not equipped to deal with the complexity of domestic abuse, particularly in the context of Direct Pay and resulting opportunities for financial abuse.
55. DWP staff do not proactively check whether any protection is needed in setting up or managing Direct Pay arrangements, or whether these arrangements would present any difficulties for receiving parents. As with the application fee exemption for domestic violence, our evidence suggests that the onus is on receiving parents to voluntarily raise domestic abuse concerns. As noted above (paragraph 25), there will be a significant share of receiving parents who will not self-declare domestic abuse, or who will find it difficult to discuss the details of problems that may manifest.
56. There is a lack of knowledge and protocol around the few Direct Pay adjustments that are available in cases of domestic abuse. For example, the option of setting up ‘non-geographic’ bank accounts presented problems for a number of receiving parents. Early evidence suggests staff members did not provide detailed information or assistance regarding these accounts; moreover, banks themselves often did not know what facility parents were requesting. While this has been flagged by Gingerbread (and some DWP staff) and a letter produced by the DWP for parents to provide when trying to open a ‘non-geographic’ account, the letter has not been shared externally (eg to enable signposting from other advice services) and DWP staff were unsure whether this was provided routinely or only on request/after a failed attempt.
57. From initial discussions with DWP staff members, there seems to be limited understanding or awareness of the scope for financial abuse (particularly around irregular/incomplete maintenance payment) and coercion inherent in paying parents and staff pressurising receiving parents to stay with Direct Pay. This seems to be exacerbated by a lack of staff training to recognise and deal appropriately with domestic abuse. According to CMS staff we have spoken to, caseworkers receive no specific training on domestic abuse.

*“I am in danger from my ex-husband, my kids are in danger...My ex-husband has consistently tried to control me in any way he can...There is never going to be an option for me to arrange payments directly with him...[where] I rely on him making payments by himself...The new system will mean I either have to open myself up to abuse and stalking...or have my son pay [part of] his maintenance money just to get the money at all [through charges]. This is deeply unfair and I am terrified.”*

*Gingerbread et al (2014) Joint briefing: Child maintenance, coercion and domestic violence – The implications of the government’s charging proposals*

## **Conclusion**

58. It is still early to assess fully whether charges have created the intended behavioural change among separating parents and value for money within the statutory system. Nevertheless, the evidence to date suggests that charges are insufficient in themselves

to encourage the behavioural change expected: very few parents are making FBAs and charges are not in themselves encouraging Direct Pay compliance.

59. Similarly, despite the new revenue from the application fee and charges and a small caseload, the new CMS does not seem to represent value for money. Receiving parents are still dealing with patchy customer service, and complex cases are still struggling with system issues and a lack of information transferred over from the CSA, despite the intention of the smaller statutory service being better able to deal with difficult cases. Having introduced a transactional arrangement through charging, this leaves questions unanswered about what benefits parents receive for the fee and charges they pay.
60. Moreover, we have significant concerns about the seemingly unintended consequences of charging and Direct Pay specifically, particularly the:
- Disproportionate impact of the application fee for parents with complex cases and/or poor experience of the CSA, deterring those who need the statutory service to get regular child maintenance – even before they get to CM Options
  - Impact of charging and the related messaging for parents on the benefits of Direct Pay – made worse by unclear rules – discouraging enforcement and pressurising parents to stay on Direct Pay, thus prolonging non-compliant arrangements
  - Increased tension and fears around personal safety as a result of Direct Pay forcing receiving parents to deal directly and share bank details with former partners, with limited processes or training to manage or alleviate receiving parents' concerns
  - Inflexibility in former CSA cases moving to the CMS – some parents have found the CMS emphasis on a 'fresh start' and Direct Pay has meant information and enforcement action under the CSA is now lost.

## Recommendations

61. Child maintenance reforms present an opportunity to deliver a genuine fresh start, by designing a statutory system that is accessible and effective for those who need it. In light of the emerging evidence, we urge the DWP to look more closely at their implementation. We call for:
- A **fairer charging system** that ensures receiving parents have equal access to the statutory system and are not unfairly penalised for non-compliance; the DWP should:
    - Explore further exemptions to the application fee, such as a means test to ensure low income parents are exempt (for example those eligible for universal credit, or the equivalent threshold under the original benefits system)
    - Scrap the 4 per cent charge for receiving parents using Collect and Pay to ensure receiving parents are not penalised for non-compliance, particularly given the evidence that charges are not enough to incentivise payment in full and on time

- Review the Collect and Pay charge for paying parents, to ensure the level does not dissuade enforcement of non-compliant Direct Pay arrangements
  - A **more sensitive system** for domestic abuse survivors; the DWP should:
    - Revise CM Options and CMS conversation scripts and training to enable staff to raise the question of domestic abuse, rather than relying on parents to self-declare
    - Review whether the domestic violence application fee exemption is being applied to all instances of domestic abuse, as per the cross-departmental definition accepted
    - Offer survivors an option to ‘fast-track’ to the Collect and Pay service (alongside the exemption from the 4 per cent collection charge; see above), to ensure those at risk do not drop out of the system
    - Implement mandatory domestic abuse training and robust processes to ensure staff understand domestic abuse and how it can manifest (including post-separation), how to recognise domestic abuse and how to work with survivors
    - Work with survivors and domestic abuse experts to review processes and systems in more detail to develop best practice for survivors
  - A **more responsive Direct Pay system** that recognises the need for timely and consistent enforcement, particularly for non-compliant CSA cases being transferred; the DWP should:
    - Ensure there is a full transfer of information and enforcement action between CSA and CMS systems to properly assess likely compliance under new cases
    - Review whether there are circumstances where the ‘compliance opportunity’ given to paying parents before entering Direct Pay is inappropriate (ie where enforcement action should be transferred to the CMS)
    - Clarify guidelines for staff and parents as to when enforcement action will be taken for Direct Pay cases, and introduce performance monitoring to ensure consistent implementation
  - A **more transparent and accountable system**, with more robust monitoring data beyond time-limited evaluation surveys; the DWP should:
    - Publish data on Direct Pay enforcement, including on completeness of payments, regularity, late payments and warnings raised<sup>3</sup>
    - Data should be provided by cases, not (just) case groups, to ensure performance from the perspective of receiving parents and children can be understood.
62. As the last CSA cases – those most reliant on the statutory service – are closed, the concerns listed above will only get more acute. Further, at a time when welfare support

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<sup>3</sup> The DWP’s commissioned survey on Direct Pay should provide more information once published, but this covers a finite time period rather than being an ongoing performance measure.

is also being withdrawn and child poverty predicted to dramatically increase, it is more vital than ever that we ensure children do not miss out on essential financial support. We hope the government looks beyond crude national data and listens to the real-life experience of parents attempting to make child maintenance arrangements, to fully understand the effects of reforms. Without this, it risks fostering a statutory system that is inaccessible to those parents who need it and discourages effective statutory arrangements, rather than the system “fit for the 21<sup>st</sup> century” promised (DWP, 2014d).

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