

Withdrawn

This publication is withdrawn.

This publication is no longer current.

Guidance on regulation 4(3) of the Child Support Fees Regulations 2014: How the Secretary of State will determine if an applicant is a victim of domestic violence or abuse

The Child Support Fees Regulations 2014 (“the Fees Regulations”) introduce an application fee of £20 for people who apply to use the Child Maintenance Service. Regulation 4(3) of the Fees Regulations provides an exemption from the £20 fee for an applicant who is a victim of domestic violence or abuse (as more fully explained below).

When will an applicant be exempt from the application fee?

An applicant who satisfies the criteria set out in regulation 4(3) of the Fees Regulations will be exempt from the application fee. Regulation 4(3) requires that the applicant:

- is in the opinion of the Secretary of State a victim of domestic violence or abuse. This guidance sets out the factors that the Secretary of State can be expected to take into account when determining whether or not a person is a victim of domestic violence or abuse;
- must have reported the domestic violence or abuse to an appropriate person (as defined in “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” published by the Secretary of State in December 2013);
- must declare to the Secretary of State that he or she is a victim of domestic violence or abuse; and
- must state to the Secretary of State the appropriate person to whom he or she has reported the domestic violence or abuse.

What is the purpose of this guidance?

This guidance explains the factors that the Secretary of State can be expected to take into account when determining whether or not a person is a victim of domestic violence or abuse.

Why is there a domestic violence/abuse exemption from the application fee?

Parents are able to avoid all fees by making a family-based arrangement. This is when parents work together to sort out child maintenance between themselves, without our involvement. Most people who apply to use the Child Maintenance Service have to pay a one-off application fee of £20. This exemption for victims of domestic violence or abuse removes a potential barrier for vulnerable applicants.

What evidence is required?

The applicant can provide the information to show that he or she meets the requirements under regulation 4 over the phone or in writing. Written evidence is not required.

How will the Secretary of State determine if an applicant is a victim of domestic violence or abuse?

An applicant will, in the opinion of the Secretary of State, be a victim of domestic violence or abuse if he or she falls within the following definition. This definition is based on the Home Office definition of domestic violence.

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse towards the applicant, which is between persons aged 16 or over who are or have been intimate partners or family members, regardless of gender or sexuality.

This can encompass but is not limited to the following types of abuse:

psychological

physical

sexual

financial

emotional

Controlling behaviour is: an act or range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

*Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.”**

This definition will also include 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.

Child abuse is any action by another person that causes significant harm to a child. It can be physical, sexual or emotional or take the form of a lack of love, care and attention.

Guidance on applying the definition of domestic violence

Examples of abuse include:

Psychological: Intimidation, insulting, isolating the person from friends and family, criticising, threatening to harm children.

Physical: Shaking, smacking, punching, kicking, bruising, starving, tying up, stabbing, suffocation, 'honour violence'.

Sexual: Forced sex, forced prostitution, ignoring religious prohibitions about sex, sexual insults, passing on sexually transmitted diseases, preventing breastfeeding.

• **Financial:** Not letting the person work, undermining efforts to find work or study, refusing to give money.

• **Emotional:** Swearing, undermining confidence, making racist, sexist or other derogatory remarks, making the person feel unattractive.

Who can the abuser be?

The abuser can be the applicant's current or former partner(s), a family member of the applicant, or a family member of the applicant's current or former partner. A family member includes a grandparent, grandchild, parent, parent-in-law, step-parent, son, son-in-law, step-son, daughter, daughter-in-law, step-daughter, brother, brother-in-law, step-brother, sister, sister-in-law, step-sister, or, if any of these people are a member of a couple, their partner.