

Cafcass' response to the Department for Work and Pensions' (DWP) consultation on Child Maintenance: Improving the collection and transfer of payments

1. Cafcass (the Children and Family Court Advisory and Support Service) is a non-departmental public body sponsored by the Ministry of Justice. Cafcass is the largest employer of child and family social workers as Family Court Advisers and Children's Guardians. Cafcass has a statutory duty to safeguard the welfare of children in family law proceedings in England. We make sure that their wishes and feelings are heard and advise the courts about what is in their best interests. We are independent of the courts, local authority children's services, education, and health authorities.

Introduction

2. Cafcass welcomes the aims of the proposals both to improve the collection and transfer of maintenance payments for better outcomes for children and parents, and to improve signposting to conflict resolution tools to help separated parents make family-based arrangements. Financial disputes between parents, or changes in a commitment to making payments can have a negative impact on children and their welfare. They can also hinder the adults' ability to make lasting and sustainable arrangements that are in the child's best interests.
3. This consultation response is informed by discussions with members of Cafcass' Family Forum¹ who have shared their experiences of using the Child Maintenance Service (CMS) and draws on Cafcass' experience of working with 138,000 children a year through the family courts.

Support for separating families.

4. Cafcass is in favour of the CMS signposting support to parents to resolve conflict where it is safe and appropriate to do so. The quality of support for separating parents can be variable, therefore it is crucial that any endorsed materials and/or co-parenting programmes are accredited, quality assured and carry out robust and safe screening for victims and survivors of domestic abuse.
5. The [Cafcass Parenting Plan](#) should be promoted for use as a free resource available to parents before and during the family court process on the CMS system. The plan covers the practical issues of parenting such as living arrangements and money. In a parenting plan, parents must put the best interests of their child first and set out a shared commitment to the child and their future.
6. Cafcass' quality assured 'Planning Together for Children' programme focuses on child 'living with' and 'spending time with' arrangements during family proceedings. It does not currently include child maintenance issues and is not available for adults to access pre-proceedings. However, the e-learning module from the programme could be further developed and made available as a resource to guide parents to resolve disputes before making an application to the family court. Expectations around access to the resources need to be considered, especially where parents/carers safety might be at risk. It is essential that these risks and suitability for the course are assessed.

¹ The Cafcass Family Forum is comprised of a group of parents, carers and extended family members who have had direct experience of private law or public law proceedings.

Removal of direct pay

7. We would advocate for the removal of all direct payments between parents. A [small scale study](#) carried out by Cafcass and Women's Aid in 2017 found that 62% of our work in private family law 'spend time with' applications was with families where domestic abuse concerns were raised. Domestic abuse includes coercive or financial control, and allowing direct payments gives the abuser an opportunity to continue exerting control, such as by threatening to withhold funds. To prevent this, the CMS should act as the intermediary, ensuring payments go directly to the resident parent. This would protect the resident parent, reducing stress that could impact their ability to care for the child. It would also help ensure payments are complied with, as many parents rely on this support to maintain their child's quality of life. We would also support an expansion of the Collect and Pay system for all users so that payments can be enforced and more can be done to hold parents accountable for the child maintenance payments.

CMS calculation tool

8. We support the proposed online enhanced calculation tool and information about financial circumstances being gathered by CMS from already verified income data held by government, rather than the resident parent having to provide this information, which can often lead to unnecessary conflict. This may also help parents resolve issues without having to go through CMS. However, it is essential that the online platform includes information for where domestic abuse or safety is a factor and how a private arrangement may be dangerous, advising parents to use CMS where this is a factor.
9. We support proposals that ensure that CMS calculations are reflective of all income a paying parent receives so that they are fair and accurate. This process needs to be further improved and cases investigated to ensure a broader understanding of the parent's financial situation which is not just based on income.

Support for victims/ survivors of domestic abuse.

10. The most beneficial support for victims and survivors of domestic abuse would be for CMS to handle the managing and processing of maintenance payments so that survivors or victims of domestic abuse are not having to come into any contact with their abuser. More signposting to support agencies would be helpful, such as the [Surviving Economic Abuse](#) charity. DWP should also consider asking a group of victims and survivors of domestic abuse directly what could be improved for them and draw on their experiences to inform the type of support required.

Barriers for victims/ survivors of domestic abuse.

11. As outlined above, removing direct payments would remove a significant barrier for victims and survivors of domestic abuse. Victims and survivors may also find it difficult to share intimate, personal, and sensitive information with financial agencies, especially when these agencies are not staffed by trained social workers. We support the proposal for a single, named caseworker however, it is important that staff are trained to understand the sensitive nature of domestic abuse. A member of the Family Forum who had experienced domestic abuse, reported being treated inconsistently depending on the call handler they had, which is unacceptable. Training should address issues of unconscious bias to help prevent this and ensure everyone is treated fairly.

12. Requiring victims to disclose the perpetrator's earnings could be particularly daunting for a victim or survivor of domestic abuse where they may not have this information or fear repercussions from revealing it. Since CMS can easily access this data, it is unjust to place the burden of providing it on the victim, CMS should collect this information themselves in all cases to help avoid unnecessary conflict.

Fee structure

13. Cafcass agrees with the proposal to maintain a 20% fee for non-compliant paying parents so that there is a strong deterrent to avoidance of payments. However, we do not believe it is in the best interests of the parents or child, to ask both to pay an administration fee of 2% for accessing the service, when this money could instead be spent on the maintenance of the child. The fee penalises domestic abuse victims and survivors for using a statutory service to protect themselves and their children.

Next steps

14. We would welcome further discussions with DWP, specifically whether the Cafcass 'Planning Together for Children' programme could be made available to more parents and before an application is made to the family court.

For further information, please contact policyteam@cafcass.gov.uk

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