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**Cymorth i Ferched Cymru**  
**Welsh Women's Aid**

Rhoi Merched a Phlant yn Gyntaf  
Putting Women & Children First

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<b>These are the views of:</b>	<i>Welsh Women's Aid (Third Sector) - the national charity in Wales working to end domestic abuse and all forms of violence against women.</i>

### About Welsh Women's Aid

Welsh Women's Aid is the umbrella organisation in Wales that supports and provides national representation for independent third sector violence against women, domestic abuse, and sexual violence (VAWDASV) specialist services in Wales. Our membership comprises of 20 specialist support services. These services deliver lifesaving and life-changing support and preventative work in response to violence against women, including domestic abuse and sexual violence against children and young people, men and boys, trans and non-binary people, as part of a network of UK provision. As an umbrella organisation, our primary purpose is to prevent domestic abuse, sexual violence, and all forms of violence against women and ensure high quality services for survivors that are needs-led, gender responsive and holistic. We collaborate nationally to integrate and improve community responses and practice in Wales. We also award the Wales National Quality Service Standards (NQSS), a national accreditation framework for domestic abuse specialist services in Wales (supported by the Welsh Government) as part of a UK suite of integrated accreditation systems and frameworks. (More information on the NQSS can be found [here](#)).

### **Background**

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Welsh Women's Aid is a registered charity in England and Wales, No. 1140962  
and a company limited by guarantee registered in England and Wales, No. 07483469



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Outside of private, family-based arrangements, the child maintenance service (CMS) can currently collect child maintenance payments through two different mechanisms: under Direct Pay, the CMS calculates the amount of child maintenance due and parents arrange the payments themselves, and under Collect and Pay, the CMS calculates, manages, and collects payments when either the parents cannot arrange the payments themselves or the paying parent does not keep up with payments.

We welcome the acknowledgement that non-payment of child maintenance remains to be an issue. The most recently available Government data<sup>1</sup> show that nearly one third of the amount of child maintenance arranged through the collect and pay service during the period was unpaid maintenance and, since 2012 when the child maintenance service began, over £570 million of child maintenance has been left unpaid. Notably, the DWP does not measure the compliance of paying parents through the Direct Pay service. Given that the majority of those paying child maintenance are on Direct Pay, it is estimated that the DWP cannot assess compliance in nearly seven in ten cases<sup>2</sup>.

It is estimated that at least 60% of those using the child maintenance service are survivors of abuse and we know that non-payment of child maintenance is often a tool of post-separation abuse. Survivors often report that perpetrators do not pay child maintenance or use child maintenance payments as leverage to gain, for example, contact with children. The child maintenance service as it stands is not fit-for-purpose and does not go far enough to enforce payments and prevent this from occurring.

The current economic climate is already having a significant impact on women who are survivors of abuse. Research from Women's Aid<sup>3</sup> shows that almost all survivors surveyed (96%) reported a negative impact on the money available to them as a result of cost-of-living increases, a staggering two thirds (66%) of survivors reported that abusers were using the cost-of-living crisis as a tool for coercive control, and almost three quarters (73%) of survivors with financial links to the abuser said the cost-of-living crisis had either prevented them from leaving or made it harder to leave. This will only be compounded by the lack of enforcement

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<sup>1</sup> <https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-june-2023/child-maintenance-service-statistics-data-to-june-2023>

<sup>2</sup> <https://barrowcadbury.org.uk/wp-content/uploads/2019/04/Gingerbread-Direct-Pay-Report-March-2019.pdf>

<sup>3</sup> <https://www.womensaid.org.uk/the-cost-of-living/>

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and non-payment of child maintenance, which can force women and their children even further into financial precarity and even poverty.

We welcome the passage of the Child Support Collection (Domestic Abuse) Act and the Child Support (Enforcement) Act. We do believe these laws will strengthen the rights for parents by ensuring they can more easily access Collect and Pay and by making CMS enforcement for the non-paying parent easier to enact, however, we believe that wider reform of the CMS is needed to make it truly fit-for-purpose and to adequately protect survivors of violence against women, domestic abuse and sexual violence.

**Question 1. What are your views on the proposals for giving a parent a notice period of at least 7 days (28 days if overseas) before a liability order is made, in which the liability order will not come into force if paid?**

N/A

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

On the surface, we agree with the proposal to discharge a liability order in certain circumstances. We are hopeful that such liability orders will decrease the amount of child maintenance that goes unpaid and will help women, particularly those who are survivors of abuse, have better access to financial resources to support their independence.

Such changes must not come at the expense of a wholesale investigation into the efficacy of the current child maintenance system in general. The move to direct pay has represented a shift to a more 'hands off' approach from statutory services to child maintenance, aiming to 'engender co-operation' between parents and thereby making it an easy tool for perpetrators to use to control and coerce survivors. Further, the lack of enforcement from statutory services for parents who are on direct pay makes it easier for the paying parent to delay or withhold payments and makes it hard for us to understand the efficacy of the system. Additionally, whilst we appreciate the UK Government announcement<sup>4</sup> that the £20

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<sup>4</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1129064/government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1129064/government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf)





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fee to move to Collect & Pay will be waived for survivors of abuse, the standing 4% fee for receiving parents using the Collect & Pay service remains and it must also be waived. Whilst we appreciate the intention of the new proposals to speed up payments, we strongly encourage the DWP to promptly resolve these matters in addition to the proposals set out in this consultation to provide better protection for the receiving parent earlier in the process.

We also have concerns about some of the related conditions to the liability orders, primarily around the appeals process. We know that perpetrators of abuse already use the child maintenance appeals process as a form of post-separation abuse. Indeed, the Home Office's new statutory guidance on coercive and controlling behaviour<sup>5</sup> directly recognizes the use of child maintenance as a continued form of abuse, either through non-payment, using payment as a bartering tool, continued necessitated contact, making false allegations to statutory agencies such as the child maintenance service, or through making vexatious allegations to prolong proceedings. We are concerned that if adequate protections are not put in place for non-paying parents who are also survivors of abuse perpetrated by the paying parent, perpetrators' ability to do this may be facilitated.

**Question 3. Do you have any comments or views on other circumstances in which a liability order may be discharged?**

N/A

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

We believe that there is significant potential for unintended consequences of these proposals for survivors of VAWDASV. As previously stated, the proposals do not seem to consider the mechanisms or dynamics of domestic abuse or sexual violence, which many child maintenance claimants have been subject to, and the proposals may provide a further avenue for perpetrators of abuse to use to delay payments or make false allegations as a

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<sup>5</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1148945/Controlling\\_or\\_Coercive\\_Behaviour\\_Statutory\\_Guidance\\_-\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1148945/Controlling_or_Coercive_Behaviour_Statutory_Guidance_-_final.pdf)





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form of post-separation abuse, which would leave survivors more likely to experience financial hardship.

We are also concerned that given the previously outlined holes in the current child maintenance processes and the strain on resources highlighted by the Government themselves<sup>6</sup>, additional liability orders will be unworkable, and the lack of enforcement may increase the already high levels of non-payment.

We urge the DWP to consider strengthening the child maintenance process in its entirety, to ensure that non-payment is addressed long before administrative liability orders become necessary and, when they do become necessary and are subject to the appeal process, we urge the DWP to develop robust and clear guidance for both DWP staff and Family Courts, ensuring domestic abuse and sexual violence are acknowledged during the appeals process, and to ensure specialist domestic abuse and sexual violence services and the survivors they support are represented in the development of these.

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

We are hopeful that the proposals may speed up the process of getting money to children where parents fail to meet their obligations to pay child maintenance, however, the proposals lack sufficient detail for this to be certain, and we remain concerned that without guaranteed timeframes and adequate resources in both the DWP and the Court system to process both orders and appeals, it may not speed up the process sufficiently, if at all.

Financial abuse is often seen as the main barrier to women leaving abusive relationships and when they do, they often have very little financial and economic resource. Findings from Women's Aid's No Woman Turned Away project<sup>7</sup> show that many women (15.1%) do not have enough money to pay for essentials such as food for themselves and their children, phone bills, and transportation when waiting for a refuge space. Non-payment of child maintenance can be both a mechanism of financial abuse and a contributing factor in

<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1129064/government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1129064/government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf)

<sup>7</sup><https://www.womensaid.org.uk/wp-content/uploads/2021/09/Nowhere-to-Turn-2021.pdf>





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survivors' lack of resources when fleeing an abusive relationship. Any delay in payment may lead to a survivor either staying in or returning to an abusive relationship. As such, we believe that it is imperative the DWP looks at way of mitigating non-payment of child maintenance earlier in the process, as well as implementing these new proposals, to ensure payments are made promptly, as early as possible, and to prevent appeals being used to delay the process.

Further, we support the calls by Gingerbread and Surviving Economic Abuse (SEA) for the Government to provide survivors of abuse with minimum payments where the other parent refuses to pay, which can be recovered from the paying parent through enforcement action. We believe this would further mitigate any potential risks to survivors and their children that may be caused by financial precarity.

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

We recognize the need for the right of appeal, but we believe more must be done to balance the rights of both parents.

As previously detailed, we wish to raise our concerns that without guidance that acknowledges the mechanisms and root causes of domestic abuse and sexual violence, and given the current backlogs in courts in England and Wales, appeals via the courts may be used to lengthen child maintenance proceedings and thereby allow perpetrators to exert further power and control over survivors.

We also question whether the Family Court in Wales (as in England) is the correct place for the appeals process. There is much evidence<sup>8,9</sup> that the Family Courts do not sufficiently understand or acknowledge domestic abuse or sexual violence, and the continued use of unsafe contact orders leaves survivors and children at further risk of physical and mental harm. Further, many organisations have highlighted that these issues in the Family Courts

<sup>8</sup> [https://domesticabusecommissioner.uk/wp-content/uploads/2023/07/DAC\\_Family-Court-Report-2023\\_Digital.pdf](https://domesticabusecommissioner.uk/wp-content/uploads/2023/07/DAC_Family-Court-Report-2023_Digital.pdf)

<sup>9</sup> [https://assets.publishing.service.gov.uk/media/5ef3dcade90e075c4e144bfd/assessing-risk-harm-children-parents-pl-childrens-cases-report\\_.pdf](https://assets.publishing.service.gov.uk/media/5ef3dcade90e075c4e144bfd/assessing-risk-harm-children-parents-pl-childrens-cases-report_.pdf)







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mean they are also often used as a tool of post-separation abuse. Consequently, we urge the DWP to re-consider whether the Family Court is an appropriate or sufficiently resourced mechanism to allow a right of appeal which gives adequate rights to survivors of abuse and their children, who under the Domestic Abuse Act 2021, must be recognised as survivors in their own right<sup>10</sup>.

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

We wish to highlight our concern that the rights of the paying parent are ostensibly being prioritized over the rights of the receiving parent. Again, it is important to note the prevalence of domestic abuse among child maintenance applicants. UK Government data<sup>11</sup> shows that 60% of new applicants to the CMS claim the domestic abuse waiver, which means that they have reported domestic abuse to an appropriate body or person. Given the known barriers to reporting all forms of violence against women and girls, it is likely that the actual levels of domestic abuse and/or sexual violence experienced amongst this population is much higher.

The guidance states there must be 'robust mechanisms' in place so that decisions can be challenged 'where appropriate' but fails to detail what these robust mechanisms are and when appeals would be considered appropriate or inappropriate. This lack of brevity makes it hard to comment on whether sufficient protections are being put in place to provide adequate protections for the receiving parent or the paying parent alike.

We urge the DWP to develop clear guidance to ensure appeals are proportionate and to provide appropriate protections within this for survivors of domestic abuse who are resident parents in parity with the paying parent.

<sup>10</sup> <https://www.legislation.gov.uk/ukpga/2021/17/section/3/enacted>

<sup>11</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1129064/government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1129064/government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf)





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**Question 8. Do you have any comments on how reasonable the proposed appeal processes are?**

N/A

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