

## Child maintenance service inquiry: Gingerbread written submission to the Work and Pensions Select Committee

November 2016

### About Gingerbread

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.

It is Gingerbread's longstanding goal to help to achieve an effective UK child maintenance system, to mitigate the financial disadvantage faced by children growing up in separated households. The organisation is committed to improving the broader support given to separating and post-separated parents, and worked closely with the government when developing the 'Help and Support for Separated Families' initiative.

Child maintenance features in around one in five calls to our national helpline. We also receive single parents' views and experiences of child maintenance through our membership, local groups and social media channels. We are therefore well-placed to provide real-time evidence on the Child Maintenance Service (CMS) and the impact of wider reforms which underpin its operations. We use this feedback, together with targeted research, to inform our dialogue with policymakers and ensure that the practical effect of policies on single parents' lives is fully understood.

Due to the wide-ranging nature of this inquiry, our response is longer than usual. We have included summaries at the start of each section to assist committee members.

### Executive summary

Gingerbread welcomes the attempt via current reforms to learn lessons from the CSA and previous reforms. However, there are significant concerns with the new system.

- **Performance:** It is still too early to tell whether the new CMS has led to more children benefitting from maintenance; in terms of the other reform objectives:
  - Reforms are insufficient to encourage the behavioural change expected – what evidence there is suggests very few are making family-based arrangements (FBAs) nor is it clear that charges are improving Direct Pay compliance
  - Despite new revenue from charging and a small caseload, the CMS does not seem to deliver value for money in terms of customer service or maintenance collection
- **Charging:** The fairness of charging is called into question as receiving parents feel penalised for another's non-compliance; further:

- The application fee creates a barrier to access for those on low incomes or with poor experience of the CSA
- The threat of Collect and Pay charges and accompanying messaging can create a perverse incentive to stick with non-compliant Direct Pay arrangements, exacerbated by unclear and inconsistent thresholds for moving cases to Collect and Pay
- **Domestic abuse:** The new statutory system does not do enough to recognise and accommodate the needs of survivors of domestic abuse; in particular:
  - The application fee exemption is not always consistently applied, or implemented in accordance with the cross-departmental definition of domestic abuse
  - CMS processes are undermined by a lack of specialist domestic abuse training to understand how and when abuse can manifest – particularly financial coercion
- **Enforcement and debt collection:** It is unclear whether there has been any reverse of the falling enforcement action seen in the CSA; early evidence suggests:
  - There is limited appetite to take action on non-payment – charges are used as a ‘threat’ without following through and there is limited use of available legal powers
  - Details are scant on the transfer of CSA arrears to the CMS and climbing CMS arrears; there are doubts over the policy and operational attention given to collection
  - Problems with child maintenance avoidance persist, with limited evidence of a concerted effort or partnership work with HMRC to tackle the scale of the problem
  - The use of HMRC data for CMS calculations has led to some improvement, but there needs to be greater data sharing between HMRC and DWP
- **Quality of service:** The CMS service quality, particularly in the context of charging structure and intended policy emphasis on tackling complex cases, can be problematic:
  - Lessons have not been learnt regarding the importance of continuity in case management
  - Limitations of IT systems have compounded problems in case management
  - Cases are not managed proactively, with the burden often lying with receiving parents to chase up and request actions to be undertaken.
- **Need for action:** When welfare support is also being withdrawn and child poverty predicted to dramatically increase (Browne and Hood, 2016), it is more vital than ever that we ensure children do not miss out on essential financial support. We hope the government looks beyond broad national data and listens carefully 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 21st century” promised (DWP, 2014e).
- **Key recommendations:** A long-list of recommendations is provided at the end of this submission, but Gingerbread calls as a priority for:

- An exemption from the application fee for low income receiving parents
- Scrapping the 4 per cent collection charge for receiving parents
- Mandatory domestic abuse training for CM Options and CMS staff
- Greater resource and expertise devoted to debt collection and enforcement linked to a new DWP performance target for arrears collection
- A cross-departmental review (including DWP and HMRC) to identify ways, and develop a strategy, to close loopholes which enable maintenance avoidance.

## Recommendations

### Charges

- The DWP should explore a means test to exempt low income parents (eg those on universal credit or an equivalent threshold under the current benefit system)
- The DWP should end the 4 per cent Collect and Pay charge for receiving parents
- The DWP should review whether the paying parents' Collect and Pay charge is set at a level that dissuades enforcement of non-compliant Direct Pay arrangements.

### Domestic abuse

- The DWP (and outsourced providers) should revise CM Options and CMS scripts and training to enable staff to raise the question of domestic abuse proactively
- The DWP should review whether the domestic violence application fee exemption is being applied according to the cross-departmental definition
- The DWP should offer those who have experienced domestic abuse an option to 'fast-track' to the Collect and Pay service
- The DWP and G4S should implement mandatory domestic abuse training
- The DWP should work with survivors and domestic abuse experts to review processes and systems to ensure they are fit for purpose.

### Enforcement and debt collection

- The DWP should review staff training and guidelines to ensure more consistent, swift action to tackle non-payment in Direct Pay
- The DWP should redistribute CMS charging income to provide extra resource for child maintenance debt collection
- The DWP should publish its new arrears strategy at the earliest opportunity, to include an intensive push on enforcement action over the next three years, including:
  - Performance data against an agreed public target to ensure CSA and CMS arrears for children are pursued with equal vigour in the CMS

- An expert child maintenance debt enforcement team within the DWP, focused on reducing arrears and testing more effective collection approaches
- Greater use of enforcement powers, including more active use of regular deduction orders (extended to cover joint accounts) in self-employment cases
- The DWP should provide parents with an annual arrears statement, covering:
  - Steps taken in the year by the CSA or CMS to collect arrears owed
  - Future plans and timetable to recoup remaining arrears
  - A statement of the reasons why any arrears are considered not currently collectable or debt recovery is not pursued (where applicable)
  - Details of a clear process for the receiving parent to make further representations, in the event that the parent feels that further action can be taken
- The DWP should review its strategy for tackling 'arrears only', including:
  - Providing all parents whose arrears are designated 'lower priority' for collection with a realistic assessment of the future collectability of their arrears
  - Provide parents with 'lower priority' arrears with a clear pathway for further action – eg access to the DWP compensation scheme (where the CSA has contributed to arrears no longer being collectable), an opportunity to provide evidence on why arrears are still collectable and guidance on potential legal action.

## Maintenance avoidance and calculation

The DWP should work more closely with HMRC, including:

- Improved data sharing with HMRC, eg providing DWP with access to self-assessment data on non-earnings income and automatic alerts for when 'missing' paying parents are found on HMRC systems
- Equipping parents with the information to challenge calculations, including income evidence behind calculations and the grounds/process for applying for a variation
- Extending grounds for variations, including: a variation to take account of assets capable of producing an income (eg by assuming notional income) and restoring the variation to take account of a lifestyle inconsistent with declared income
- Establish a cross-departmental unit (including HMRC) with adequate resources and expertise to review ways to close loopholes enabling maintenance avoidance.

## Customer service

- The DWP should review the IT case management system to ensure information held is responsive to new actions and information is up-to-date
- The DWP should review processes and performance monitoring to ensure consistent and proactive case management, including clearer and/or stricter standards on the communication and completion of agreed actions

- The DWP should consider trialling alternative models of case management to ensure consistent and proactive case management (eg have a named contact for cases).

## Transparency

- The DWP, working with the UK Statistics Authority (UKSA), should prioritise the development and publication of CMS performance data, particularly on Direct Pay compliance, enforcement and arrears
- The DWP, working with the UKSA, should publish data on CSA arrears transfers to the CMS (including the timetable, revived cases, written off cases and arrear amounts, as well as outcomes for transferred arrears)
- The DWP should clarify CMS monitoring data on complaints, to avoid false comparisons with CSA data, and make its complaints process more accessible.

## Broader action

- The DWP should review the new CMS calculation once in the CMS is in steady state
- The DWP should commission an independent review of the availability of unbiased public child maintenance information, and the role that government departments or wider partners can play in ensuring a wider understanding of child maintenance.

## Background

### The importance of child maintenance for single parents

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 important for single parent families in particular. Even modest amounts can make a real difference. Indeed, research shows child maintenance lifts a fifth of low income single parent families out of poverty (Bryson et al., 2013).

### The broader context to the CMS

While the Committee's focus is the CMS, which administers the statutory maintenance system, the broader policy context in which it operates must be recognised – that of significant reform of the wider UK child maintenance system since 2012, to bring about 'behavioural change'. The premise for reform is that separating parents need to be encouraged 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, 2014b; Work and Pensions Committee, 2013). The new emphasis on collaboration means the system now explicitly encourages private arrangements (or 'family-based arrangements', FBAs) outside the statutory system or, at the very least, direct payment of statutory sums between parents (Direct Pay) instead of using the statutory collection service (Collect and Pay).

To this end, the key reforms to the system include:

- A "mandatory gateway conversation" with Child Maintenance (CM) Options before an application can be made to the new CMS, to ensure FBAs are considered
- A £20 application fee to use the CMS, to encourage FBAs rather than a statutory arrangement
- 'Collect and Pay' charges of 4 per cent for receiving parents and 20 per cent for paying parents to encourage both parents to stick with a Direct Pay arrangement and, in the case of the paying parent, to incentivise compliance – ie payments in full and on time – to avoid being moved onto Collect and Pay due to non-payment
- The phased closure of all CSA cases by the end of 2017, with existing parents having to decide whether to use the new statutory system, or agree their own arrangements (or not) for the future.
- A more efficient system underpinned by the development of new, more reliable, IT systems and a new simpler statutory calculation, based on annual 'historic' income data obtained from HMRC.

### Weaknesses in rationale behind CMS and reforms

While Gingerbread welcomes the replacement of the failed CSA and the investment in improvements. But we have a fundamental concern about the government's 'one size fits all' approach, which actively seeks to disincentivise use of the statutory system by parents

in need of child maintenance. The government argues it is better for children if parents can agree their own arrangements. But the reality is that it can be difficult, if not impossible, for many parents to achieve this. A DWP survey found that, among applicants to the statutory system, around half had experienced violence or abuse from the other parent. A third had approached the CSA because a FBA had already failed; almost 60 per cent described their current relationship with the other parent as either not at all friendly, or there was no contact at all (DWP, 2012a).

For many parents with CSA cases, the 'fresh start' recommended in case closure letters and encouraged through charges will be improbable. The feasibility of FBAs does not always improve with time. A DWP survey of existing CSA receiving parents (unlikely to be recently separated) showed over half were not at all friendly or had no contact with the paying parent; just 8 per cent considered a FBA an option if their case was closed (DWP, 2012a). This has been borne out by case closure to date. CM Options data shows 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 clients (DWP, 2016e).

Moreover, it is over-simplistic to assume that FBAs are always beneficial for children. This overlooks issues of power and inequality, which can mean that the paying parent (most of whom are fathers) is in a more powerful position to determine the financial arrangement for children than the recipient (most of whom are mothers). This can lead to children receiving inadequate or unreliable maintenance.

The risk is that those most in need of the statutory system are put off from using it and end up with no child maintenance arrangements at all. Gingerbread argues that the system should be designed to support parents to seek child maintenance by whatever method works for them and their children, whether private or statutory. Of particular concern under the current structure of the statutory system is:

- The fairness of charging: The charging system leaves receiving parents feeling penalised for paying parents' non-compliance; single parents express frustration with having to pay, when the decision to use the CMS is not taken lightly
- The lack of information and advice on child maintenance: The deliberate move to disincentivise the use of the statutory system should be seen against a widespread lack of awareness and understanding around eligibility for child maintenance among parents with care; a recent report found that over half of single parents surveyed said they did not know whether they were eligible for child maintenance (PayPlan, 2016). With drastic cuts in family legal aid and disappointing use of the 'Sorting out Separation' information hub (DWP, 2014g), there are now very few services providing in-depth advice and information on child maintenance for parents, leaving many unsupported.

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

*"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."*

Gingerbread, 2016

## 1. How well is the CMS performing for children and parents? How could it be improved?

### Summary:

- **As yet, it is unclear whether more children are benefiting from maintenance as a result of the CMS and broader reforms**
- **The CM Options gateway and CMS application fee seem to be ineffective in encouraging effective FBAs – the annual rate remains unchanged**
- **Most paying parents have Direct Pay arrangements – but these are not necessarily compliant or collaborative**
- **The reduced caseload hasn't necessarily led to more efficiency; enforcement is mixed and CMS arrears are climbing steadily in line with the caseload**
- **Customer service is mixed:**
  - **CM Options staff can be polite, but can place undue pressure to consider FBAs**
  - **CMS complaints rates are low but skewed by a new process.**

### Assessing CMS performance against objectives

1. CMS performance should first and foremost be judged against the overall purpose of the child maintenance system – to maximise the number of children with separated parents who benefit from effective maintenance arrangements (which Gingerbread defines as regular financial support, in line with the parent's ability to pay). This was the objective, laid down in statute in the Child Maintenance and Other Payments Act 2008, for the Child Maintenance and Enforcement Commission (CMEC; responsible for the statutory system and CM Options). In 2011, Ministers assured parliament that, after the abolition of CMEC (in July 2012), the central purpose of the child maintenance system remained to maximise the number of effective maintenance arrangements (Welfare Reform Bill Deb, 2011).
2. However, it is currently difficult to get a complete assessment of performance against this primary objective. The system is still in transition, with case closure still incomplete. There is also a lack of public data covering the new system, rather than the CSA. DWP quarterly CMS statistics are still classed as 'experimental' (nearly three years after the CMS opened) and are extremely limited. The DWP's evaluation programme for recent reforms – particularly survey data on Direct Pay arrangements and CSA case closure – will provide important evidence, but results are not due until 2017 and will not cover the full period of transition from the CSA to the fully implemented new system.

### Have FBAs increased?

3. The reformed system is intended to 'nudge' separating parents away from the statutory system, towards FBAs. However, there is limited data on the overall prevalence of FBAs over time, and the part that reforms play in bringing about changes to FBA rates. By definition, FBAs are largely beyond the scope of statutory system monitoring data. The DWP's forthcoming case closure survey may provide



insight, but is still limited to former CSA cases. The DWP intends to rely on *Understanding Society* data for longer term trends, but this is published in alternate years with a long lag from collection. This data will also tell us little beyond prevalence, with insufficient detail on the effectiveness or financial adequacy of FBAs, or the impact of reforms on their trends.

4. The limited evidence that is available (DWP statistics on arrangements made after contact with CM Options) is disappointing. The FBA rate is unchanged – 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). A quarterly breakdown suggests the effective FBA rate is in fact declining over time, while the rate of statutory arrangements following CM Options contact has increased – opposite to the intended direction of travel (DWP, 2016d).
5. Performance against 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 increased only 11 per cent and the number of children benefitting by just 5 per cent after CM Options contact.

### **Is Direct Pay compliance the new norm?**

6. Collect and Pay charges were intended to incentivise parents to stay on Direct Pay and avoid the statutory collection service. This does seem to be happening; in fact, 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, 2012b), 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.
7. A high rate of Direct Pay use is not a policy success in itself. The intended impact of charges is intrinsically linked with *compliance* in Direct Pay (paragraph 22). The real test of charges, then, is whether they encourage effective Direct Pay arrangements, with payments in full and on time. The emerging evidence 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 (see ‘Compliance’ in Q1 below). Worse, CMS slowness to intervene and staff concerns about the high level of paying parent charges may in fact be prolonging non-compliant arrangements (see Q2).

### **Does Direct Pay encourage collaboration?**

8. As Gingerbread’s recent evidence to the DWP’s 30-month review of charging (Gingerbread, 2016a) shows, there is little evidence that Direct Pay in itself can “engender co-operation” as intended (DWP, 2014c). Receiving parents often object to Direct Pay but must accept this arrangement if a paying parent requests it, to allow the paying parent an opportunity to pay. The logistics of sharing bank details to set up Direct Pay arrangements can also increase concerns around security and personal

intrusion for receiving parents. And, most worryingly, Direct Pay arrangements can mask financially coercive relationships – some receiving parents want to avoid inflaming relations with the paying parent by pushing to move to Collect and Pay (and therefore incurring the 20 per cent charge; Gingerbread, 2016a).

9. Rather than encouraging genuine collaboration in the interests of the child, Direct Pay – backed by Collect and Pay charges – can heighten conflict and create conditions where receiving parents feel forced to persist with unreliable and non-compliant arrangements.

*“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

## Is the smaller statutory service more efficient and effective?

10. Another policy driver for statutory service reforms – notably the application fee and Collect & Pay charges – was to reduce the statutory collection service and thereby improve value for money. Currently, there is indeed a small CMS caseload using the Collect and Pay service, although it must be noted that CSA case closure is not yet complete. Yet, despite a small collection caseload and a new revenue stream through fees and charges, it is not clear that the efficient service promised is being delivered. CMS arrears have continued to climb as the caseload has increased and there remain similar concerns as under the CSA around effective enforcement, maintenance avoidance and case management (see Q2; Gingerbread, 2016a).

*“My ex-partner chose to not pay [one] month...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.”*

*“[[I]f 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.”*

*“In 18 months I have received one maintenance payment.”*

*“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.”*

CMS feedback survey

## Compliance

11. The only available data on CMS compliance for current liabilities is in CMS quarterly statistics: 88 per cent of ‘case groups’ (ie paying parents) are contributing to current child maintenance arrangements. However, there are a number of caveats to this indicator.
12. Despite evidence to the contrary (eg DWP forecasts, see DWP, 2012b) and data on comparable Maintenance Direct arrangements under the CSA (Bryson et al., 2015), Direct Pay arrangements are assumed to be always paid in full. This overstates Direct

Pay compliance, which will only become clearer once the DWP Direct Pay survey is published (final report due in spring 2017). The indicator also takes a very broad view of compliance – paying anything in a quarter, rather than all payments on time and in full.

13. The ‘case group’ figure is also problematic, in that it does not give compliance from the perspective of receiving parents – ie how many *cases* have received contributions to their current liability (forecasts expected a 68 per cent compliance rate by 2017/18 (DWP, 2012b)). Case group data can mask non-compliance – eg a paying parent with more than one case may contribute to one case but not to another, and would be counted as ‘compliant’.
14. There is also emerging evidence of unrecorded non-compliance, where parents are encouraged to stick with Direct Pay despite non-payment (see Q2; Gingerbread, 2016a). Furthermore, while the CMS is only aware of Direct Pay non-payment if reported by the receiving parent, even these reports are tracked in performance indicators and therefore go unmonitored.

#### *Enforcement*

15. In 2014/15 (the latest annual account data available), the CMS collected just 53 per cent of maintenance charged via Collect and Pay (DWP, 2015b).
16. CMS arrears are gradually climbing over time, from £25.9 million in March 2015 (when data is first available) to £63.5 million in May 2016 (DWP, 2016a). While the increase in CMS arrears is broadly proportionate to the increase in caseload over time, we are not seeing the expected improvement in tackling arrears (see Q5). CMS arrears are also not seen in just a small minority of cases – around half of CMS case groups (ie paying parents) are associated with arrears (DWP, 2016a).
17. There are concerns with Direct Pay enforcement (see Q4); there is also a lack of clarity over the efficiency and outcomes of CSA arrears enforcement within the CMS (see Q5).

#### **Customer service**

##### *CM Options*

18. CM Options – though not strictly speaking part of the CMS, but introduced as part of the reforms and compulsory gateway to the new statutory service – has been received positively in some ways. Staff are largely seen as polite and the different information formats (telephone, online and printed) generally meet parents’ different preferences.
19. The quality of CM Options service in terms of outcomes for parents is still unclear. 2015/16 data shows that over half (55 per cent) were dissatisfied with their visit to the CM Options website.<sup>1</sup> Only two-fifths felt they got most of what they wanted from their visit; only a third (34 per cent) felt it was easy to find information.<sup>2</sup>

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<sup>1</sup> ‘Dissatisfied’ defined as those rating satisfaction as either dissatisfied or very dissatisfied.

<sup>2</sup> ‘Easy to find’ defined as those rating the ease of finding information either good or very good.

CMS

20. The low complaints rate (DWP, 2016a) suggests that relatively high customer satisfaction. However, the CMS has introduced a new complaints procedure. Rather than direct parents to a formal process, the CMS now operates a ‘two-tier’ process – if parents wish to raise a complaint, a ‘dissatisfaction’ is first raised and the DWP team will attempt to address concerns. A formal complaint is only raised if an issue remains unresolved and the parent persists with pursuing a complaint. Headline data only records formal complaints, therefore the complete picture of parents’ concerns or dissatisfaction is not captured by public performance data.
21. From the parents’ perspective, the new process also makes complaints more difficult.

*“I have asked for official complaint paperwork twice and have still never received it”*

*“[A]fter a complaint letter and many phone calls... I wrote to them to start the complaints process off...I am still trying to get past the first hurdle [of the process]”*

CMS feedback survey, Gingerbread (ongoing)

**How could the CMS be improved?**

22. There are a wide range of improvements to the new statutory child maintenance system which would be welcome, as detailed in our executive summary and recommendations.

## 2. What problems do parents face – both for the parent with care and the non-resident parent?

### Summary:

- **CM Options places undue pressure to attempt an FBA and avoid the CMS**
- **There is a lack of recognition and appropriate support for how domestic abuse can manifest – particularly in Direct Pay arrangements, through financial coercion**
- **The application fee creates a barrier to accessing the CMS – particularly for those on low incomes or with a poor experience of the CSA**
- **Direct Pay arrangements can be poorly enforced, leading to persistence with non-compliance arrangements for some and a limited use for Collect and Pay charges**
- **Receiving parents with CSA cases face strong pressure to make a ‘fresh start’, leaving long case histories and enforcement action wasted if a CMS case is opened**
- **Introducing charging raises expectations without delivering in terms of customer service – despite the additional revenue and reduced caseload in the CMS.**

### Pressure to avoid using the CMS

23. The pressure placed on receiving parents to consider FBAs can be inappropriate. This is clear from the first ‘gateway conversation’ with CM Options, where some parents report undue pressure towards FBAs. This may in part be due to the ‘script’ that CM Options telephony staff are instructed to use. In other cases, staff have provided poor advice. This runs counter to DWP statements that reforms would ensure parents used the “most appropriate service for [parents]” (DWP, 2013c). It is clear that the policy push and/or resulting training does not result in the neutral, independent information espoused by the service.

A single parent contacted CM Options several times due to the father not paying child maintenance agreed under a FBA. CM Options told her she needs to persuade the father to pay and should get a letter from a solicitor instructing him to pay; however, this would not have ensured payment and she should have been advised of her right to apply to the CMS.

Gingerbread helpline case

*“[M]y interaction with CM Options was the start of a very frustrating repetitive dialogue I had to have with them in terms of them trying to encourage me to make a FBA – it was difficult to get past that repeated ‘encouragement’...and I kept having to explain, over and over again, that the non-resident parent had abruptly stopped making payments under our FBA, and that he was non-communicative. This message took a long time to sink in.”*

CMS feedback survey, Gingerbread (ongoing)

**Lack of recognition and appropriate support for domestic abuse survivors**

24. The positive impact of the domestic violence application fee exemption is dependent upon receiving parents' awareness of the policy, as it is only given if the parent volunteers information about surviving domestic abuse. As the DWP itself forecasts, only some will voluntarily disclose this information (Gingerbread, 2016), allowing some vulnerable single parents to slip through the gaps.

*"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)

25. Our evidence (Gingerbread, 2016) suggests the complexities around how and when domestic abuse can arise are not fully recognised or understood, meaning they can be ignored by current fee exemption policy (even if this contravenes the cross-government definition of domestic violence).

*"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 [this was] not classed as domestic abuse as we had [already] split."*

Gingerbread, 2016a

26. Direct Pay also presents issues for survivors of domestic abuse, including personal intrusion, fears about personal security and interference with contact arrangements and exposure to further domestic abuse (eg financial abuse or coercion; (Gingerbread, 2016a). The CMS 'one size fits all' approach of promoting Direct Pay, means that there is limited discretion to handle complex cases appropriately – eg there are no grounds for moving automatically into Collect and Pay in response to a risk of domestic abuse.

*"[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"*

Gingerbread, 2016a

27. These issues are exacerbated by a poor understanding among some DWP staff regarding the complexity of domestic abuse, particularly financial abuse. Indeed, according to CMS staff, caseworkers receive no specific training on domestic abuse (Gingerbread, 2016a).
28. The ability to set up safe maintenance arrangements is also undermined by weak processes without proactive checks regarding domestic abuse (Gingerbread, 2016a). This leaves receiving parents with the burden of explaining their situation voluntarily – which some may be unwilling to do.
29. Finally, there is a lack of knowledge and protocol around the few adjustments that are available in cases of domestic abuse. For example, the option of setting up 'non-geographic' bank accounts has presented problems for a number of receiving parents

(Gingerbread, 2016). The combined effect is that many receiving parents at risk of domestic abuse have little sense of security in the CMS. Worse, some are prepared to abandon a CMS application or case altogether.

*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, adopted to make her harder to trace. She felt at risk and was now considering dropping the child maintenance case as a result.*

Gingerbread helpline case

## Charges creating a barrier to accessing the CMS

30. The application fee introduces a barrier to accessing the statutory service which does not affect parents equally (Gingerbread, 2016a). For many single parents, £20 is still hard to afford. Some have postponed applying to save for the fee – and therefore forgone maintenance. With child poverty in single parent families expected to sharply rise in the coming years (Browne and Hood, 2016), this raises concerns over charging already-disadvantaged parents for an important service so many need.

*"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."*

Gingerbread, 2016a

The fee is also a disproportionate barrier to those who have had a poor experience of the CSA – putting off those who most need statutory support (Gingerbread, 2016a). Feedback suggests there has been little active effort from the DWP to publicise how the CMS will work, and the improvements the new statutory service intends to make compared with the CSA. There is consequently a large group of parents who have previous experience of the CSA's failure to collect maintenance, and an impression that the CMS won't be able to do more, leaving them reluctant to pay for a 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."*

Gingerbread, 2016a

## Charges of limited use to ensure Direct Pay enforcement

31. Our evidence shows the CMS can be slow to intervene when non-payment in Direct Pay is reported (Gingerbread, 2016a). Reforms play a part – the new 'behavioural change' framework means parents are sent a clear message that a Direct Pay arrangement is '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"*

Gingerbread, 2016a

32. From discussions, staff reluctance to move cases onto Collect and Pay is also due to the high penalty for the paying parent. This may be due to the lack of clarity around how and when Direct Pay should be enforced. Regardless, there are clear indications of a lack of urgency and understanding regarding timely collection and enforcement.

*"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)"*

*"I am dissatisfied with...the hoops we had to get through in order to get back onto Collect and Pay...I had to wait until several occasions had gone by with the [other parent] being non-compliant again before we could get it moved back on."*

Gingerbread, 2016a

33. Charges (and accompanying messaging to promote Direct Pay) have in fact incentivised limited enforcement, which is 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.

### **Former CSA cases and enforcing a 'fresh start'**

34. In the push for a 'fresh start', the DWP does not transfer case history when a case moves from the CSA to the CMS. This loss of accumulated knowledge means that single parents who have battled for years to get the CSA to take proper account of a non-resident parent's income can find that they are left having to start all over again in getting the CMS to do the same. Furthermore, with the exception of former CSA cases where there was actual enforcement action in progress, receiving parents are instead required to accept a Direct Pay arrangement (as long as one parent wishes it), even if past experience indicates it is unlikely to be reliable in future. Again, the 'one size fits all' approach seems unfair and inappropriate – it not only wastes previously spent resources, but can lead to families experiencing reduced payments for months.

*"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...So much hard work and information has been lost between the changeover."*

*"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!"*

CMS feedback survey, Gingerbread (ongoing)

*"[T]he CMS have tried to dissuade me from using the collect and pay service at every turn. They have even mentioned to me repeatedly that "other families have managed to reach an agreement between them", as if to say why couldn't I?...[E]ven though I paid my £20 application fee and opted for collect and pay (in the full knowledge I will be charged)...I was, like everyone else, first put on direct pay to give the other parent a 'chance'. Given my son's father's history of non-payment I find him getting yet another chance to pay particularly galling. Only now after he has not replied to numerous letters, missed payments and I have made a fuss is my case being reviewed."*

['Our children deserve better'](#) Gingerbread (2016)

### Customer service and poor case management

35. Evidence to date also suggests lessons have not been learnt from the CSA regarding case management. Familiar issues have been raised around CMS staff's reactive, rather than proactive, case management.

*"All they have done despite my many letters and phone calls about receiving no money, is to keep issuing letters. I have told them no less than 12 times that my ex-partner has moved and I do not know where he lives."*

*"Not kept updated, letters infrequent/slow to arrive. Had to chase up every month. Get fobbed off by telephone staff. No clear answers given. Told there wasn't much in it for them so they wouldn't do a lot about it!"*

*"Since December last year, the things they said they would do have not happened...They don't do what they say they are going to do, once the phone gets out down, I feel they are onto the next case and we get forgotten...Why do I have to chase all the time?"*

*"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."*

CMS feedback survey, Gingerbread (ongoing)

36. Similarly, receiving parents have raised the disjointed and inconsistent support from CMS staff leading to parents having to repeat case history and being told contradictory information about their case by different advisers.

*"I had a different case worker every 3-4 weeks for the first year. No consistency and had different conflicting information each time."*

*“The level of service on the phone...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; this happened repeatedly.”*

CMS feedback survey, Gingerbread (ongoing)

37. These issues are problematic in themselves, but there is an additional concern that the DWP has made it harder to raise a formal complaint (paragraph 46-47). As a result, parents with care can feel that their customer service complaints are not being address or being taken seriously.
38. Certainly the above performance compares poorly with the DWP’s professed ‘customer charter’, which commits to ensuring the ‘right treatment’, ‘getting it right’, ‘keeping you informed’ and ‘easy access’.<sup>3</sup> As noted above, it leaves receiving parents feeling short-changed after paying for a service which does not deliver.

*“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)

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<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/292673/customer-charter-dwp.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/292673/customer-charter-dwp.pdf)

### 3. Are levels of child maintenance set correctly?

#### Summary:

- **The new statutory formula should be reviewed when the CMS is in ‘steady state’**
- **Using HMRC data does not guarantee accurate income assessments**
- **Calculations ignore unearned income, unless specifically requested by the receiving parent**
- **HMRC data can be out-of-date or incomplete with limited opportunity to challenge**
- **DWP has prioritised the ease of administration over engaging with child maintenance avoidance, where paying parents’ full income is hidden or minimised**
- **Current rules and HMRC non-cooperation mean little recourse for receiving parents to challenge calculations.**

#### The new formula

39. The CMS uses a new statutory formula to calculate child maintenance. Key features are the use of ‘historic’ gross income data held by HMRC (with only limited use of ‘current’ gross income data), the removal of the variation where a paying parent’s assets and lifestyle are inconsistent with declared income, the disregard of tax credit, universal credit and state retirement pension income received by a paying parent and changes to shared care rules (including account to be taken of other FBAs).
40. Beyond issues arising from the use of HMRC data (see below), a more fundamental question is whether maintenance levels set under the new formula are fair and realistic – for children and parents. Bryson et al. (2015) show clear evidence that the public feels that liabilities calculated by the statutory system are, overall, too low.
41. There is also a case for reviewing how shared care arrangements are treated in the calculation. Bryson et al. (2015) indicate that, overall, the public does not agree with the one-seventh reduction in liability when a child stays with the paying parent for one night per week, consistent with the idea that receiving parents have fixed expenses (eg housing costs) which are not reduced by an overnight stay with the other parent.
42. The public also think the receiving parent’s income should be taken into account, particularly if higher than the paying parent’s (Bryson et al., 2015). Though theoretically possible, in practice this raises real issues regarding the administrative complexity created by doubling the income information required. Given the scale of difficulties when assessing just one parent’s income and its fluctuations, the government is rightly cautious about such a change until income assessment systems are fit for purpose.
43. The impact of the new formula on the living standards of paying parents on very low incomes also merits review, given ‘low income thresholds’ (below which a parent pays a flat or reduced rate) remain unchanged since at least 2003. The impact of new rules which only permit an ‘in-year’ adjustment of liability if income drops by 25 per cent should also be considered.

44. Gingerbread believes there is a strong case for a comprehensive review of how the new formula is working in practice, and the fairness and adequacy of maintenance levels being set for children and parents, once the CMS has reached 'steady state'.

## Inadequate HMRC data

45. The CMS calculation is now based initially on taxable earnings, ignoring unearned income – even if HMRC has information on the latter. Calculations can therefore be relatively straightforward where the paying parent earns solely PAYE income. However, they become problematic where the paying parent has income in other forms (eg rental income, dividend income or income from capital). In theory, a 'variation' is permitted in these circumstances and the CMS can request unearned income data from HMRC on a case if prompted by a receiving parent. However, few single parents know to ask for this and it is little publicised (Allbeson, 2016).
46. The CMS calculation is now based initially on most recent HMRC records (PAYE end of year tax returns or annual self-assessment returns). This is easy for the CMS to administer, but problematic when dealing with complexities. For example, when a paying parent has not declared their full income to HMRC or when a self-employed paying parent has not sent their self-assessment return in for several years, the resulting CMS calculation will be inaccurate – and often under-estimated.

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

CMS feedback survey, Gingerbread (ongoing)

A CMS case was opened and a calculation made based on the end-of-year HMRC information from several years ago, when the paying parent was a student. The paying parent has since been working as an independent contractor in a highly paid role – but this higher income cannot be taken into account due to the outdated information with HMRC.

Single parent feedback to Gingerbread

47. Parents' concern at the inadequacy of HMRC data also exposes the difficulties they have in challenging HMRC information (see Q7).

## The rules that can lead to liabilities far below a parent's ability to pay

48. Under current rules, it is far too easy for determined parents to avoid paying fair levels of maintenance by manipulating their income and assets. There is clearly a balance to be struck between a formula which is cost-effective to administer and one that ensures maintenance is commensurate with paying parents' actual wealth. At present though, the ease of administration takes too high a precedence over the welfare of children when setting calculation rules. Children are being failed as a result.
49. For example, the CMS calculation is now completely dependent on HMRC-provided income data, with no opportunity for the CMS or child maintenance appeal tribunal to

further investigate. In doing so, the government scrapped one remedy open to receiving parents (eg when a paying parent fails to declare all their income to HMRC) – the ability to request a ‘variation’ on the grounds of a lifestyle inconsistent with declared income.

50. The government’s rationale for this change was that the variation was “difficult to administer, complex for caseworkers and clients to understand and that actual income information available from HMRC will be more meaningful” (CMEC, 2012). The CMS now simply tells receiving parents to report the matter to HMRC. Yet Gingerbread has received numerous complaints from single parents who have done as instructed, to no effect (see Q7).

*“My husband works cash-in-hand and on a self-employed basis and, given the lifestyle he leads and the presents he buys the children, is earning a decent living. However he declares zero income on his tax return...and it is very frustrating to me that the CMS has no power to investigate.”*

*“[T]hat's another wild goose chase that the CMS will get you on - they will ask what response you've had from HMRC! I finally sent them a letter from HMRC, which stated...that they can't actually make substantive responses.”*

CMS feedback survey, Gingerbread (ongoing)

51. In a similar vein, unlike previously, current rules only allow actual income from assets to be taken into account; a paying parent may therefore minimise their liability by not taking full advantage of their asset. By retaining the full capital value of assets (and any future appreciation), a paying parent can minimise ongoing financial support. Similarly, current rules mean that a wealthy paying parent may have significant future income from ISAs or other non-taxable savings. Unlike under the CSA, there is no ground for a variation which would allow such savings to be counted for child maintenance purposes.
52. Paying parents can also exclude sums paid into an approved occupational or personal pension scheme from their liability calculation. In theory, receiving parents can seek a variation if it is believed those contributions are excessive. In practice, the odds are stacked against the receiving parent being able to prove this. Arguably, rather than disregarding actual pension contributions, the formula should use standard disregards.
53. These difficulties highlight the need for better information sharing and strategic working between HMRC and DWP to tackle the scale of maintenance avoidance (see Q7). They also underline the different purposes of the two departments. It should remain the central purpose of the CMS to ensure that a children’s right to receive proper financial support from a parent is upheld. More scope for variations is needed, so that receiving parents can challenge awards which do not take proper account of a paying parent’s finances, with greater power given to the CMS and to appeal tribunals to investigate.

#### 4. What powers does the CMS have and how effectively are they used? How effective is enforcement action?

##### Summary:

- **Collect and Pay is a limited enforcement tool, with delays to cases being brought into the service and in action taken once transferred to Collect and Pay**
- **Based on CSA trends, legal powers are not widely used rather than ineffective**
- **There is a lack of appetite for rigorous enforcement, partly driven by:**
- **Cost concerns, despite income from charges for legal orders under the CMS**
- **The policy priority to minimise statutory system involvement.**

54. In 2015/16, £6.8m was raised in collection and enforcement fees. Yet there is still no published information on CMS enforcement, despite the new scheme being open to all new applicants for nearly three years and over two years after fees were introduced. But with maintenance arrears of £63.5m in May 2016, it is clear that the system is not sufficient for some parents to get the message that child maintenance must be paid.

##### Lack of action under Collect and Pay

55. Collect and Pay, with its charges, was introduced as one form of ‘enforcement’. In reality, this has had mixed impact in ensuring compliance with concerns raised over the appetite and threshold for tackling non-payment by moving cases into Collect and Pay – in part driven by the policy drive to minimise statutory involvement (Q2). And even where cases are in Collect and Pay, single parents report continuing difficulties in getting the CMS to take action when non-payment occurs (Gingerbread, 2016a).

*“I have...been told that [the] debt owed was being taken to enforcement over a year ago and have had no feedback on payments since.”*

CMS feedback survey, Gingerbread (ongoing)

##### Lack of appetite to use legal enforcement powers

56. Gingerbread’s recent ‘Missing Maintenance’ report drew attention to the prioritisation of current maintenance collection over action to recover maintenance arrears in the DWP’s current arrears strategy (Gingerbread, 2016b; CMEC, 2012). The report showed enforcement action has been steadily falling under the CSA. Although the most recent figures will be affected by CSA cases closing, the marked decline in the use of standard legal powers pre-dates case closure. For example, deduction from earnings orders (DEOs) issued fell from a recent peak of 78,770 in 2012/13 to just 24,400 in 2015/16; liability orders granted fell from 15,660 to just 3,660 over the same time period (DWP, 2016c).

57. While there is still no monitoring data to assess whether these trends persist in the CMS, single parent feedback suggests there is some reluctance to use similar powers.

*“It took seven months before they got an order from his work.”*

*“Just as they are about to apply for a DEO, my ex pays a sum of money and they stop proceedings...I won't get any more money from him for another six months.”*

CMS feedback survey, Gingerbread (ongoing)

58. Similarly, there still appears to be a lack of will to use the broader legal powers available (and potentially available) to enforce child maintenance liabilities. For example, it took until March 2015 for the power to report parents owing child maintenance to credit reference agencies (on the statute books since 2008) to be finally implemented. And, up to the end of June 2016, no cases had been yet referred to credit reference agencies, with the DWP admitting it was still “working to develop a secure process to ensure safe and accurate data sharing” (HC Deb, 2016a). This makes the Minister’s assurances when announcing implementation of this new power somewhat hollow:

*“For too long, a minority of absent parents have got away with failing to pay maintenance, leaving families without that financial support. This government is determined to take action to tackle this kind of irresponsible behaviour and support families.”*

Steve Webb MP (DWP, 2014f)

59. Specific powers to tackle the most determined non-payers – those for whom a standard DEO will not work – are also only used to a limited extent. These non-payers can include those who are self-employed, work ‘cash in hand’ or have an income but no employment. There are also those who switch jobs when traced by the CSA/CMS and owners of companies paying themselves a low wage, while taking the bulk of their income in other forms. Their liabilities can be enforced using lump sum or regular deductions directly from a bank account. Yet only 565 ‘lump sum’ and 1,030 ‘regular’ deduction orders were authorised on CSA cases in 2015/16 (DWP, 2016c).
60. One problem is that, at present, such orders can only be used against bank accounts in the paying parent’s sole name – even though the power to make rules allowing deductions from joint accounts has existed since 2008. It took until 2014 for the DWP to concede that extending deduction orders to joint accounts “might be a worthwhile pursuit” (DWP, 2014a) and a further 18 months for a consultation document to be issued, with implementation not planned until June 2017. This is a very slow pace to tackle one of the big challenges facing the statutory maintenance authorities: how to deal with determined non-payers who are not in regular PAYE employment.
61. The resources devoted to child maintenance enforcement appear inadequate. Although a Financial Investigations Unit has been set up, it is not clear it has the necessary resource and powers to deal effectively with a national caseload and a remit also covering the CSA, CMS and non-enforcement issues. It is vitally important that there are sufficient dedicated, high calibre child maintenance staff who have the requisite financial expertise to conduct investigations, as well as to take effective and persistent steps to enforce liabilities.

62. Finally, it is clear that cost considerations have played a major part in limiting the resources invested in debt collection and enforcement (DWP, 2013c). It would be concerning, however, if the reformed CMS – which exists precisely for those who need help with getting maintenance – baulks at taking the necessary action to retrieve maintenance for children. This is particularly true given the CMS now has an income stream from charging, including charges for paying parents when bringing enforcement action.



## 5. What will happen to CSA arrears or unresolved cases when parents move to the new CMS?

### Summary:

- CSA ‘legacy’ arrears are a low priority within the CMS, despite their continued importance for receiving parents:
- CSA ‘arrears cleansing’ has taken notably longer than anticipated
- The DWP places undue pressure on receiving parents to write off CSA arrears
- There is minimal public information on CSA arrears transferred to the CMS, not least for ‘yesterday’s children’ – including the outcomes of CSA arrears cleansing, write-off and CMS collection
- Parents report limited action on collecting ‘legacy’ arrears within the CMS, often worth thousands of pounds.

### Arrears cleansing and delays

63. An estimated 70 per cent of closed CSA cases with a current liability are expected to still have arrears (DWP, 2013b). Little information has emerged about the ‘arrears validation’ or ‘arrears cleansing’ process, which takes place once liability has ended, designed to correct inaccuracies and discrepancies which may have arisen in longstanding cases. There is no public data on the CSA arrears held in arrears cleansing (likely to run into the hundreds of millions of pounds) nor on the process itself.

64. Some single parents have expressed concern at the time being taken to get their existing CSA maintenance arrears transferred over to the CMS. It is not clear whether this problem of delays is being addressed.

*“Six months passed and I was continually asking when my arrears of over £4,000 from the CSA would come over to the new CMS. I was told “this hold-up is the cleansing period”. New arrears built up over six months and [I] had to involve outside bodies to get my arrears transferred over from CSA. Nearly seven months on and my arrears of thousands are only just showing with the CMS.”*

CMS feedback survey, Gingerbread (ongoing)

### Encouraging CSA write-off of arrears

65. After the arrears cleansing process, the DWP notifies receiving parents of their final CSA arrears balance, offering them the option to write off their arrears or have them transferred to the CMS for collection. DWP implicit encouragement to write off arrears is concerning. The standard letter reads: “Some clients in a similar position to you tell us that they do not want their child maintenance to be managed by the new organisation and wish to make a fresh start by writing off their arrears.” No similar letter is sent to paying parents, for example, to urge a fresh start by paying off the CSA arrears owed or, at the very least, making a reasonable offer in full and final settlement.

### Lack of transparency over arrears transfer and collection

66. There is a worrying lack of public information regarding the amounts of CSA arrears being transferred to the CMS, and whether these are being collected. A parliamentary question revealed that £153.3m in validated CSA arrears had been transferred to the CMS by March 2016 (HC Deb, 2016d). There is no more recent data. Data on CSA arrears which are transferring to the CMS has disappeared, reported in neither CSA nor CMS quarterly statistics. The only data eventually available will be in the audited DWP 'Client Funds Account' for the CSA schemes. This is only published annually and with a significant time lag – financial year data is published the following December, so (for example) September 2016 data will not be available until December 2017. This means there is no ongoing monitoring of CSA arrears (and their collection) in the CMS system.
67. Under the current DWP arrears strategy, 'legacy' arrears in the CMS are a lower priority than ongoing CMS maintenance. Ministers have confirmed that the CMS will "actively pursue" CSA arrears in the CMS only in three circumstances: 1) where a new CMS case has been opened relating to the same CSA case, 2) where CSA arrears were being paid in the last three months prior to the case moving to the CMS and 3) where a parent "actively requests" that their CSA arrears are collected (HC Deb, 2016f).
68. It seems likely that relatively few parents will fit with the above criteria. Only 15 per cent of CSA parents have opened a new CMS case, while just 16 per cent of paying parents still using the CSA are currently contributing to their arrears (DWP, 2016c). It will be important to scrutinise how actively the CMS pursues CSA arrears owed to parents who requested the collection of their arrears but did not make a fresh CMS application.
69. In fact, some former CSA parents who now have a new CMS case have already expressed their frustration over the lack of action over their CSA arrears (exacerbated by the lack of CSA information transferred to the CMS; see Q2).
- "The CSA was actively trying to recover the outstanding arrears on my case...but as soon as the CMS have taken over...if I want to pursue the arrears I have to basically do all the work...I am under no illusion that I will ever get the arrears that I am owed which total in excess of £8,000."*
- "[The CMS] are not chasing £4,000 [in] arrears"*
- CMS feedback survey, Gingerbread (ongoing)
70. Beyond the main CSA case closure process (dealing with cases with a current liability) is the question of what will happen to CSA arrears owed to what the DWP calls 'yesterday's children' (DWP, 2013c). These are over 400,000 'arrears only' CSA cases (DWP, 2016b) where there is no longer a current liability for a child but arrears remain (usually when liability has ended due to a child growing up). Under the arrears strategy, these have been deemed the lowest priority for collection, although "they remain owed and it is our ambition to collect them" (DWP 2013c).

71. In November 2013, the government said: “After all the existing CSA cases with ongoing maintenance liabilities have been closed, we will then move all remaining arrears-only cases...off the 1993 and 2003 computer systems so these systems can be turned off. These arrears will remain outstanding and the CMS will continue to work these cases as resource allows” (DWP, 2013a).
72. Yet in 2016, the government indicated for the first time to time pressures for closing all CSA cases – the DWP was working to meet an “end deadline” to close CSA IT systems to avoid significant extra cost of extending their usable life (HL Deb, 2016). This had already led to adjustments to the closure timetable for current CSA cases, to complete by the end of 2017. When pressed on what this meant for the validation and transfer of CSA arrears-only cases, intended to occur after 2017, the Minister could only say that this was “currently under consideration” (HC Deb, 2016e).

## 6. How might the CMS deal with any weaknesses or loopholes in the old CSA system?

### Summary:

- **The DWP has attempted to make improvements on the CSA system – but this is work in progress**
- **Using HMRC data still leaves calculations based on inaccurate or insufficient data, with limited recourse for receiving parents to challenge decisions – particularly in more complex cases of maintenance avoidance**
- **Administrative errors produced by automated systems still persist**
- **Delays to the data warehouse development have led to significant gaps CMS performance data and accountability**
- **The effectiveness of enforcement and debt collection are ongoing concerns**
- **The reforms appear to attempt to address a concern that is more perception than reality in discouraging use of the statutory system ‘by default’.**

73. The CMS has introduced a number of changes to the statutory system intended to resolve some of the weaknesses of the old CSA system. These have included using HMRC data to make calculations; an annual review of a paying parent’s income and the development of an online portal to enable parents to check payments and correspondence. However, as this submission shows, these innovations are very much work in progress. Moreover, there are still some weaknesses witnessed in the CSA which have not been addressed by reforms.

### Assessing income to calculate maintenance liability

74. Use of HMRC data has helped in straightforward cases, where the paying parent is in regular ‘employed earner’ employment. It has led to quicker assessments which are updated annually. However, as discussed under Q3, there are significant concerns when it comes to more complex cases. Receiving parents are left at a significant disadvantage in challenging income data, with neither the CMS nor HMRC willing to provide or take concerted action to ensure fair assessments.

### Improved IT systems but administrative errors and lack of management information

75. The government has drawn lessons from the fiasco of the CS2 IT systems, using ‘off the shelf’ well-tested IT rather than a bespoke system and rolling out the system using a ‘pathfinder’ approach. To date, there do not appear to be similar major IT difficulties affecting performance as with previous system reforms. There has also been some positive feedback on the ability to use an online portal.

*“The online system also seems to work well”*

*CMS feedback survey, Gingerbread (ongoing)*

76. Nevertheless, there are still administrative concerns with the new IT systems. Case management can be impaired at times by the poor responsiveness of the new system.

For example, we know that CMS staff have been unable to save ‘free text’ in files, meaning discussions with customers were unrecorded and promised actions lost when cases were picked up by different caseworkers. This was only rectified recently. Similarly, staff have been unable to update computer-generated letters, leaving the DWP to knowingly send out incorrect information. These may appear to be minor concerns, but it suggests that the customer is still not at the centre of DWP processes and systems, resulting in disappointing standards given the wider DWP push towards digital service provision.

*“[The p]roblem is not the people on the end of the phone, it's the IT sending out factually incorrect letters. I am a paying parent and am always sent letters saying there are arrears (which is not the case); I phone up and the CMS apologise and say that they know the letters are incorrect but have to send them out anyway. They say they cannot change their software to correct the errors in the letters. This is unsatisfactory and very distressing to receive incorrect letters saying I owe more.*”

CMS feedback survey, Gingerbread (ongoing)

77. Furthermore, there have been major delays with the management information reporting capability of the DWP child maintenance data warehouse. As a result, there has been a marked lack of public information on the new CMS – fundamental to public scrutiny.

## Persistent concerns with enforcement and debt collection

78. Collection charges for both paying and receiving parents are intended to keep cases out of Collect and Pay. This is driven by the focus on keeping payments flowing now rather than debt collection, partly in an attempt to avoid repeating the escalation of arrears seen under the CSA (as well as minimise the statutory system involvement). However, as discussed in Q1, Q2 and Q4, the jury is still out as to whether this is any more effective than the CSA in ensuring that more children are receiving regular child maintenance at the levels set by the statutory system.

## Unnecessary use of the statutory system – perceived rather than actual

79. As discussed under Q1, a major thrust of the child maintenance reforms has been to discourage parents from involving the CMS in making maintenance arrangements and in collecting amounts due. This is based on a government perception that, under the CSA, there were many parents using the statutory system ‘by default’ rather than attempting private arrangements. Single parents have complained to Gingerbread of the pressure they feel under as a result.

*“They are only really looking to see how you can fit into their system – not how they can help you. They just aren't empowered, and now freely admit to me that their hands have been tied.”*

CMS feedback survey, Gingerbread (ongoing)

80. As yet, it is far from clear that those dissuaded from statutory service involvement have been rewarded with effective financial arrangements (ie payment in full and on time) – either for those trying FBAs (see Q1) or those within the statutory service (see Q2).

81. Most importantly, in Gingerbread's experience, few single parents use the statutory service light-heartedly. As discussed under Q1, we question whether the perceived weakness of the CSA in allowing too easy access to the statutory system was ever a widespread issue.

## 7. Are there any opportunities for government departments to work together to ensure regular payment?

### Summary:

- **DWP and HMRC systems should be better co-ordinated to ensure fairer and efficient assessments and reduce the burden on paying parents**
- **There is often little receiving parents can do to challenge income data directly with HMRC – despite being directed to do so by the DWP**
- **The DWP cannot automatically access self-assessment data on non-earnings income from HMRC, which would ensure a fair and efficient calculation**
- **There is no data linkage between HMRC and DWP to flag when missing paying parents reappear on HMRC systems**
- **HMRC should be more closely involved in addressing child maintenance avoidance, lending similar expertise as it does on tackling tax avoidance.**

82. There is a clear need for much closer working between the CMS and HMRC to arrive at a true picture of a non-resident parent's income and assets. This would help to ensure accurate calculations and limit child maintenance avoidance. The new use of HMRC data is one step forward, but more can be done.

### Improve data sharing between DWP and HMRC

83. The DWP could do more to scrutinise paying parents' incomes through direct links with HMRC. Currently, the onus is placed on receiving parents to challenge HMRC income data used for calculations. For example, where a paying parents' non-declaration of income is suspected, the receiving parent is expected to raise their concerns with HMRC and provide supporting evidence. Not only can it be difficult to access evidence once separated, there is often little a receiving parent can do to investigate (eg what income has and has not been reported) given the confidentiality of HMRC records.

84. Where a parent does get in touch, HMRC are reluctant to get involved in these matters – either because there are no systems or resources in place to do so, or because they are unaware of their role in addressing these concerns.

The CMS sent a single parent to HMRC to report the paying parent's tax evasion as a company director but, as had been heard before, HMRC said they are inundated with similar calls and that they cannot look into all reported cases as they do not have the resources.

Gingerbread helpline case

85. Similarly, receiving parents may not be sufficiently aware of their ex-partner's income sources to know to request that the CMS obtain 'other income' data (eg dividend income) for a fair calculation. Based on helpline calls, the process for getting 'other income' to be taken into account (making a specific request for a variation) is not always made clear to parents. This is a longstanding issue, previously flagged by the Public Accounts Committee in 2012 (Public Accounts Committee, 2012); Gingerbread

has consistently argued for automatic CMS access to a paying parent's income data from HMRC, including 'other' income data.

86. HMRC systems also have potential to assist with tracing paying parents through improved links with CMS systems. There is currently little real-time information – for example, it must be possible for an automatic flag to appear on CMS systems when a paying parent, recorded as 'not traceable', (re-)appears on HMRC HMRC systems (eg as a result of an employer notification of a new employees for NI purposes). At present, the DWP must submit lists of paying parents it wishes to trace at intervals for a 'HMRC wash' – a cumbersome and time-consuming process.

*"I continue to be annoyed by the CSA, or the now Child Maintenance Service (CMS), simply because I know that my ex is now working in a stable job. However, the CMS say that they can't help me unless I know his National Insurance number, but I don't have this information and don't understand why they don't have this on file."*

['Situations change'](#), Gingerbread (2016)

## **Strengthen expertise on child maintenance avoidance**

87. Finally, HMRC has a role to play alongside the DWP in reviewing how child maintenance avoidance – ie cases where paying parents minimise their income in order to reduce their child maintenance liability – can be tackled.



**8. Is there any international evidence on ways of ensuring parents regularly contribute to their children's maintenance payments?**

88. Current reforms in the UK draw heavily on Australian child maintenance system, and there are clearly alternative models in other countries which can be explored. A properly evidenced review of 'what works' in child maintenance is beyond the resource and timescale available for this inquiry; academics working in the areas of family law and child maintenance systems may be better placed to review the international evidence on ensuring compliance with maintenance payments. We have therefore drawn the attention of the International Network of Child Support Scholars to the committee's inquiry, whose members should be able to provide more expert evidence.

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