



Department
for Work &
Pensions

Child Maintenance: Accelerating Enforcement

Government response to the consultation

February 2024

Contents

Glossary of Terms 3

Ministerial Foreword 4

Executive summary 5

Responses..... 6

Administrative Liability Orders 6

Appeals..... 10

Wider improvements to the CMS 13

Conclusion..... 17

Next steps..... 17

Glossary of Terms

Child Maintenance Service (CMS)	The administrative body for the child maintenance scheme launched in 2012.
Liability Order	A legal recognition of debt incurred when a parent does not pay their full child maintenance liability for a specified period.
Receiving parent	The parent who has main day-to-day care of the qualifying children and should receive child maintenance. Otherwise known as the person with care.
Paying parent	The parent who does not have main day-to-day care of the qualifying children and is responsible for the payment of child maintenance. Otherwise known as the non-resident parent.
SMS	SMS stands for Short Message Service and is commonly known as texting.
Act of Sederunt	Secondary legislation made by the Court of Session, the supreme civil court of Scotland, to regulate the proceedings of Scottish courts and tribunals hearing civil matters.
First-tier tribunal	Administered by HM Courts & Tribunals Service, the first-tier tribunal are responsible for handling appeals against certain decisions relating to child maintenance.
HM Revenue & Customs	The UK's tax, payments, and customs authority.
Direct Pay	One of the two service types offered by the CMS, whereby the CMS calculates the maintenance liability and provides a payment schedule. Parents arrange the transfer of payments between themselves. No collection fees are incurred.
Collect and Pay	The other service type offered by the CMS, whereby the CMS calculates the maintenance liability, provides a payment schedule, and facilitates transmission of payments between the clients. A collection fee is incurred by both clients.

Ministerial Foreword

Families are the cornerstone of our communities. This government is committed to promoting family cohesion and reducing conflict so that children grow up with the love and support they need. That includes protecting children in separated families, so they have a solid financial foundation.

In 2022, an estimated 4 million children in Great Britain were part of separated families.

The Child Maintenance Service plays a crucial role securing financial support for children where parents have separated – mandating, and where necessary, enforcing arrangements.

In the quarter ending September 2023, the Child Maintenance Service oversaw 694,700 agreements involving 633,800 paying parents and benefited 953,000 children.

Notably, Child Maintenance payments have kept around 160,000 children from falling into poverty each year.

Most parents want to do the right thing and support their children. For those who continually avoid their obligations, strong action can be taken, including using bailiffs, forcing the sale of property, or disqualification from holding a driving licence or UK passport, and ultimately prison.

However, the current enforcement process is slow and outdated, requiring an often lengthy court process. As a result, it can take many months to ensure receiving parents get the money they are due. This has a severe negative impact on the financial security of families and, the prospects for children.

That is why the introduction of the new Administrative Liability Orders is important. They allow the Child Maintenance Service to act swiftly against those parents who do not fulfil their financial duties. By taking quick enforcement action, we can successfully recover arrears. These changes speed up the process, making it more straightforward, fairer and faster. This helps us secure payments sooner, stops arrears from increasing, and gets money flowing faster to receiving parents.

This change is part of our wider improvements to modernise the Child Maintenance Service. These include improving our online services for employers to speed up deductions from earnings, reducing the time taken to move cases to bailiffs and working with HM Courts and Tribunals Service to reduce timescales where enforcement is pursued through the courts. We have also made the Child Maintenance Service more accessible, especially for poorer families, by removing the £20 application fee.

I am grateful to all those who have taken the time to feed into the consultation. Having considered these, this response sets out how we will move forward with implementing Administrative Liability Orders through regulations.

Executive summary

1. On 2 October 2023, the Government published a Child Maintenance consultation: Accelerating Enforcement, that sought views on how we could streamline our enforcement processes and get funds to children quicker. Specifically, the consultation sought views on proposed regulations to support the introduction of administrative liability orders and the procedure for dealing with the appeals process.
2. These changes would mean that the CMS would no longer need to apply to the court for a liability order, thereby simplifying the administrative process and enabling the CMS to take faster action against paying parents who actively avoid their responsibilities.
3. The consultation was open for 8 weeks from 2 October until 24 November. In total, 87 responses were received: 14 from paying parents, 14 from receiving parents and 49 from members of the public who did not specify if they were a Child Maintenance customer.
4. Alongside making the consultation available on GOV.UK, Government also specifically invited feedback from voluntary and community sector organisations with a known interest in child maintenance. A list of organisations who provided feedback can be found at Annex A. All responses were received via email.
5. This consultation put forward the following proposals:
 - to give a minimum 7-day (or 28-day if living overseas) notice period to a paying parent prior to the making of an administrative liability order.
 - where a paying parent pays the whole amount of the arrears within the notice period, the administrative liability order will not come into force.
 - to allow an administrative liability order to be discharged where:
 - the maintenance calculation on which the order is based (the amount of arrears) has changed since the order was made; or
 - an appeal against the maintenance calculation is made to the first-tier tribunal for a period covered by an administrative liability order.
6. The consultation invited responses to 8 questions covering our proposals.
7. There was broad agreement that the proposals as outlined in the consultation would allow the CMS to move quicker to get money to receiving parents. As expected, this view was more prevalent among receiving parents and

organisations that support receiving parents than paying parents. Amongst other members of the public responses were split evenly.

8. Although this consultation focused specifically on proposed regulations relating to administrative liability orders and the procedure for dealing with the appeals, some respondents chose to use this opportunity to voice their views on the CMS more broadly. These included comments related to the calculation process, customer service, arrears, mental health and domestic abuse. Sections 60-85 address these queries and cover some of the more recent improvements made by the CMS.
9. This document summarises the main points made by respondents and provides an overview of next steps, including how Government will take these proposals forward.
10. It is important to note that views gathered through a public consultation should not necessarily be considered as representative of the views of the wider population. Rather, they are the views of a self-selecting group of people who were aware of the consultation, have an interest in the subject matter, and chose to take part.

Responses

Administrative Liability Orders

We asked:

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

You said:

12. 19 responses considered that the notice period was too short, with alternative suggestions ranging from 14 days to 1 month.
13. 10 responses were positive or neutral to the proposal and 2 responses noted that no notice period should be given.
14. A key theme among those who disagreed with the minimum 7-day period was that it did not give sufficient time to prepare an appeal or seek legal guidance. Some also felt that delays in postage could mean that the notice itself was not received before the order was made.

What we are doing:

15. We will proceed with the proposal to give a minimum 7-day (or 28 days if overseas) notice period to a paying parent prior to the making of an administrative liability order, including giving details of the amount of unpaid maintenance.
16. We have noted concerns that the 7-day notice period may not enable sufficient time to prepare for an appeal, however, the CMS would not require an appeal to be prepared within this notice period. As detailed in the consultation itself, the intention of the notice period is simply to allow the paying parent time to contact the CMS and make payment or indicate that they wish to raise a dispute against the balance of arrears before a liability order comes into force. There is therefore no expectation that a formal appeal would be required for a paying parent to raise this dispute.
17. We have also noted concerns around postage times, however the vast majority of paying parents will be notified instantly through electronic means such as SMS and via their online child maintenance account. Where more traditional postage is used, the CMS can allow additional time to take into account postal delivery.
18. The 7-day period is the same as the notice period which is already in place and is currently given to a paying parent before the CMS applies to the courts for a liability order. Importantly, the 7-day (28-day) proposal is a minimum notice period and the CMS will retain the flexibility to allow a longer notice period where needed. For example, the CMS might extend this notice period where a paying parent is experiencing exceptional or severe financial difficulties.
19. A paying parent will remain able to notify a change in circumstances at any time. This can also be done through their online child maintenance account which has been improved to allow the majority of changes of circumstances to be reported online.
20. The regulations will allow an administrative liability order to be discharged where the maintenance calculation on which the order is based (the amount of arrears) has changed since the order was made. Additionally, where a paying parent pays the whole amount of the arrears within the notice period, the administrative liability order will not come into force.

We asked:

21. Question 2. What are your thoughts on the proposal to allow an administrative liability order to be discharged in the circumstances set out?

You said:

22. 16 responses were positive to the proposal to discharge a liability order where the amount of arrears change or where there is an appeal to the first-tier tribunal against a maintenance calculation.

23. 9 responses were negative to the proposals, with concerns raised including that the first-tier tribunal appeals may be used simply to delay enforcement or to discharge a liability order.

What we are doing:

24. Government will proceed to allow an administrative liability order to be discharged where:
- the maintenance calculation on which the order is based (the amount of arrears) has changed since the order was made; or
 - an appeal against the maintenance calculation is made to the first-tier tribunal for a period covered by an administrative liability order.
25. Importantly, the discharging of an order will not be mandatory in these situations so each case can be assessed based on individual circumstances.
26. We note concerns that the appeals process may be raised simply as a means of discharging a liability order. However, where the CMS are confident that the arrears balance is correct and will not be altered as a result of tribunal appeal, there would be no requirement to discharge an administrative liability order under the above circumstances.

We asked:

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

You said:

28. There were 9 responses which made suggestions for additional circumstances. These included:
- paying parent bereavement.
 - being in receipt of benefit without assets.

What we are doing:

29. Government appreciates the suggestions made for additional circumstances and agrees that these are important considerations to take into account when making a decision on enforcement actions.

30. However, we do not consider that it will be necessary to add these additional circumstances into the regulations. Each case in which an administrative liability order is either made or is subject to further enforcement will be assessed individually to establish whether the enforcement actions are appropriate. Importantly, the additional circumstances suggested can already form part of these deliberations and so do not require regulations. The CMS will produce instructions and guidance for caseworkers to assist in making these judgements.

We asked:

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

You said:

32. 19 responses indicated that there would be unintended consequences. However, the majority of these responses either did not give a reason or made broader points that were not specific to the use of administrative liability orders, such as suggesting changes to the child maintenance calculation.
33. Of the small number of responses that did relate to the use of administrative liability orders, suggestions included that either parent may use the CMS to inflict control over the other. Examples given were:
- repeatedly using appeal processes to prevent or delay enforcement.
 - false allegations of non-payment.

What we are doing:

34. There will be a right of appeal to a court against the making of an administrative liability order.
35. It will also be possible to discharge an administrative liability order where an appeal against the maintenance calculation is made to the first-tier tribunal for a period covered by the order.
36. It will not be mandatory to discharge an administrative liability order in these circumstances. For example, the making or enforcement of an administrative liability order may still be considered appropriate if:
- appeals processes are being used to repeatedly prevent or delay enforcement; or
 - it is clear that the arrears balance is correct and will not be altered.

37. With regards to false allegations of missed payment, missed payments will continue to be investigated by the CMS where reports are received. This ensures the paying parent is given the opportunity to show payments have been made.

We asked:

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

You said:

39. Responses to this question were generally positive, with 17 responses agreeing that the proposals for a simpler administrative process would enable the CMS to take faster action against those paying parents who actively avoid their responsibilities.

What we are doing:

40. An administrative liability order will replace the current requirement for the CMS to apply to the court for a liability order. Taking enforcement action at the earliest opportunity is key to successful arrears recovery and the introduction of administrative liability orders provides another step towards the ongoing goal of the CMS to maximise the efficiency and effectiveness of enforcement action.

Appeals

We asked:

41. 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?

You said:

42. This question received mixed responses. There were 8 positive and 8 negative replies with 4 responses specifically indicating they were neutral towards the

proposal. Views ranged from concerns that appeals may delay enforcement to suggestions that the CMS regularly fail to accept a paying parent's grounds for appeal.

What we are doing:

43. While we had proposed that appeals against an administrative liability would be made to the Family Court in England and Wales, following engagement with other government departments, we have decided that an appeal through the magistrates' court would be a more suitable route for paying parents. In Scotland an appeal will be made to the Sheriff's court. Any appeal will be made within 21 days from the date that an administrative liability order is made.
44. With regards to the concerns that the CMS regularly fail to accept the paying parent's grounds for appeal, appeals will be able to be made directly to the court without a paying parent first needing the agreement of the CMS.
45. The jurisdiction of the appeal court will not include consideration of the CMS calculation on which the debt is based. This is also currently the case with court issued liability orders. The CMS calculation can already be appealed to the first-tier tribunal and changes of circumstances leading to a change of calculation can be reported at any time. The focus of appeals against the making of an administrative liability order will therefore relate to whether the CMS decision to make an order was wrong in law or was made in error in any other way.
46. The CMS have worked in partnership with HM Courts and Tribunal Service to improve court processing times, using technology to speed up sending information and enforcement applications to the courts.

We asked:

47. 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?

You said:

48. There were 10 responses not in favour of this proposal and 5 in favour or neutral.
49. Concerns raised indicated a misunderstanding of the proposals. For example, the fact that the appeal does not include consideration of the CMS calculation on which the debt is based led some to conclude that there would be no right of appeal against a maintenance calculation in the future.

50. There was also some confusion around the proposal to discharge an appeal against an administrative liability order where an appeal is made to the first-tier tribunal. Some interpreted this to mean that the CMS will be able to prevent the paying parent exercising their appeal rights against an administrative liability order by discharging the order.

What we are doing:

51. The right of appeal against the making of an administrative liability order will be as follows:
- a paying parent will have a right of appeal to a court within 21 days from the date that an administrative liability order is made.
 - appeals will be able to be made directly to the court without a paying parent needing the agreement of the CMS.
 - the jurisdiction of the appeal court will not include consideration of the CMS calculation on which the debt is based, as this can already be appealed to the first-tier tribunal.
52. We note concerns that there will be no right of appeal against the maintenance calculation in the future, however this is a misunderstanding of the proposal. Maintenance calculations can already be separately appealed to the first-tier tribunal without the liability order process and the introduction of administrative liability orders will not change this important right of appeal.
53. There is also no intention for the CMS to be able to prevent the paying parent exercising their appeal rights against the making of an administrative liability order by discharging that order. As is currently the case, appeals to the first-tier tribunal against a maintenance calculation and appeals against a liability order will remain different appeals against different decisions.

We asked:

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

You said:

55. There were 19 responses to this question, with 11 commenting negatively and 8 replies being positive or neutral to the proposals.
56. Concerns ranged from suggesting the proposals were too favourable towards paying parents, to concerns about lengthy appeal processes.

What we are doing:

57. The role of the court in the appeal process will not include consideration of the child maintenance calculation. This ensures appeals need only be correctly focussed on points of law, to prevent court time being used to consider day to day CMS business which can be completed operationally, without unnecessary delays.
58. Paying parents will remain able to notify changes in circumstances that affect their maintenance calculation at any point, without any requirement to raise a formal appeal.
59. This approach aims to strike a balance between giving a paying parent a reasonable window to appeal and the CMS moving swiftly to enforcement measures. It is intended the provisions will therefore not place any additional or unreasonable constraints on a parent's ability to seek an appeal.

Wider improvements to the CMS

60. While the focus of the consultation was on the administrative liability order specifically, many respondents chose to use this opportunity to raise concerns or views on CMS more broadly. A summary of the broad themes raised is below.

Calculation

61. The child maintenance calculation was raised by 24 respondents, with respondents voicing concerns that the calculation was unaffordable or otherwise unfair.
62. The CMS calculation process utilises income information from HM Revenue & Customs to ensure the most up to date and accurate information is used in the payment schedule. The calculation is intended to represent a level of financial support that is proportionate to the sum of money that a paying parent would spend on a child(ren) if they were living with them. The calculation is also designed to reflect the individual circumstances of separated families and takes into account the number of qualifying children, any other children that the paying parents is responsible for, and the number of nights the paying parent has overnight care.
63. Calculations are reviewed annually, meaning they stay up to date and are not wholly reliant on customers reporting a change of circumstance. Paying parents can also report a change in their income at any time, which if significant enough, will lead to a change in calculation.
64. However, Government recognises the need to ensure that the formulas used to calculate payments remain relevant and reflective of wider societal changes.
65. Government is therefore undertaking a strategic review of the calculations. This work is likely to include a review of the formulas used and the ways in which

calculations currently incorporate changes in tax and national insurance payments. We will announce further details in due course.

Customer service

66. A number of respondents (16) expressed dissatisfaction with the service they had personally received from the CMS, highlighting difficulties in contacting the CMS or making an application.
67. The CMS aims to support separated parents to work together in the interests of their children and set up their own family-based child maintenance arrangements where possible. We want to ensure that as many families as possible have an effective arrangement in place, and where a family-based arrangement is not possible, the CMS provides the support of a statutory service.
68. The department does not attempt to provide a unique bespoke solution for each child whose parents live apart; it instead aims to provide the best overall outcomes for all customers of the service and their children.
69. The CMS is reviewing its customer service framework through its digitalisation and transformation programmes aiming to further transform towards a more customer focused, digital-first services organisation with more self-serve and automation. This will ensure that resources are deployed where they are most needed. The CMS have also developed a programme of activity which aims to improve outcomes for children, by enabling parents to put in place and manage sustainable child maintenance arrangements in an efficient and convenient way. This includes:
 - the introduction of a new application service to allow customers to apply online.
 - an upgraded online account 'My Child Maintenance Case' (MCMC) to allow customers to access and maintain data for themselves. Customers can raise a majority of their change of circumstances via their online account, saving them having to contact the service.
 - Webchat on both applications and MCMC digital services to help customers stay online.
 - improvements to our Employers Digital Service to improve the way payments are processed from employers and significantly reduce the time from payment received to it being issued.
 - Get Help Arranging Child Maintenance (GHACM) was fully introduced on 1 April 2022. This provides a simple and user-friendly way for parents to determine the best finance arrangement to support their children, providing information about family based arrangements, an online calculator and information on how to use the CMS.
70. The online service is available 24/7 making it easier to access. Customers who choose to make an arrangement using the CMS can make their application online, meaning they can now complete their full journey digitally. The majority

of applications are now made online and 20 different changes of circumstances can now be reported, and in many cases processed, online. For customers who are unable to use the online service, there is a telephony service that will enable customers to speak to a member of staff to get information about child maintenance arrangements and support to make their application if they choose to use the CMS.

Arrears

71. 12 responses expressed concerns with the arrears process. Some felt that action wasn't taken soon enough once arrears had begun to build up and others felt that there had been a miscalculation with the amount they owed in arrears.
72. Government is committed to collecting funds owed to parents without delay and will not hesitate to take enforcement action where required.
73. This may include direct deductions from paying parents bank accounts and/or deductions from earnings.
74. The CMS has also worked to improve the bailiff process in order to speed up the outcome of cases. This has included reducing the requirement of making three separate visits to a single visit in instances where it is evident that the paying parent has no assets suitable for bailiff action. Bailiff action has been reduced from on average 21 weeks to 12 weeks.
75. A paying parent can contact the CMS at any time to ask to negotiate the repayment of their arrears. Additionally, if the paying parent has evidence that the arrears are incorrect, the CMS will revisit the amount.

Mental health

76. Some respondents raised concerns around the impact of the CMS on the mental health of paying parents. Some felt that the enforcement powers available to the CMS were used too aggressively. This included some allegations that the service had contributed to suicide amongst parents who use the service.
77. The Government recognises that some paying parents face difficult circumstances and may be in distress. Where paying parents are struggling with their mental health due to the cost of child maintenance payments, the CMS will work with them to come to a suitable arrangement. In addition, the CMS will provide referral advice to organisations that specialise in providing support and guidance regarding mental health, emotional difficulties, and suicidal ideation where deemed appropriate.
78. Where a paying parent's income has changed by 25 per cent or more, they can contact the service for a reassessment of maintenance payments. Furthermore, CMS can signpost paying parents to relevant organisations that can provide specialist advice and guidance with regard to issues of debt, money management and financial hardship.

79. The Government is examining issues that may impact upon the affordability of child maintenance payments and we will continue to develop referral pathways to forms of support such as mediation, financial support, and debt advice, etc. The Government does not recognise data that suggests a causal link between the CMS and suicide amongst paying parents.

Domestic abuse

80. Domestic abuse was raised in 8 responses, including as part of comprehensive responses from voluntary and community sector organisations. Responses stressed the importance of considering impacts on victims of abuse as improvements are made to modernise the CMS.

81. The CMS takes the issue of domestic abuse extremely seriously and is committed to ensuring that victims of abuse get the help and support they need to use the service safely.

82. In 2021, the Department commissioned an independent review of ways in which the CMS supports survivors of domestic abuse. The review was conducted by Dr Samantha Callan, a leading expert in domestic abuse. The Government accepted eight of the ten recommendations made by Dr Callan and is committed to taking whatever steps it can to help separated parents who have experienced abuse to set up safe maintenance arrangements.

83. In June 2023, the Child Support Collection (Domestic Abuse) Act received Royal Assent. The Act allows a CMS case to be placed onto the Collect and Pay service where a parent applies on the grounds of domestic abuse, and where there is evidence of domestic abuse against the parent or children. Secondary legislation will be required to implement the measures in the Act and we will shortly be publishing a consultation which will explore this topic in more detail and on the way in which the CMS collects and makes payments more broadly.

84. In addition, the CMS reviewed its domestic abuse training in 2021 to ensure caseworkers were equipped to support parents in vulnerable situations. The CMS also has a Complex Needs Toolkit for its caseworkers, which includes clear steps to follow in order to support customers who are experiencing abuse. This toolkit is regularly reviewed and strengthened on the basis of customer insight.

85. Other ways in which the CMS aims to support cases involving domestic abuse are as follows:

- waiving the application fee for those who have experienced domestic abuse (the Department has announced its intention to remove the £20 application fee for all parents).
- acting as an intermediary in direct pay cases to facilitate the exchange of bank details which helps to ensure no personal information is shared between parents.
- providing advice on how to set up bank accounts with a centralised sort code to limit the risk of a parent's location being traced.

- signposting parents to a number of specialist domestic abuse support organisations.

Conclusion

86. The Government recognises the sensitivities around the issue of child maintenance enforcement and the strongly held views on all sides of the debate. We thank all individuals and organisations who have taken the time to submit their views as part of the consultation.

Next steps

87. Government will make the necessary changes in secondary legislation to implement these proposals as soon as parliamentary time allows.

88. As there is a separate legal jurisdiction in Scotland, engagement will continue with officials in the Scottish Government and the Scottish Civil Justice Council on how the impacts on Scotland will be reflected in secondary legislation, as well as on their Acts of Sederunt (court rules that set out the practice and procedures of the courts). As such, later commencement and regulation of the provisions will be necessary in Scotland.

Annex A

Full list of organisations who responded to the consultation.

- Families Need Fathers
- Fife Gingerbread
- Women's Aid
- Welsh Women's Aid
- Money Advice Scotland
- East Midlands Money Advice
- Poverty Alliance
- Surviving Economic Abuse
- Domestic Abuse Commissioner
- Brodies LLP Family Law