

## **Maintenance**

Both parents are legally responsible to financially maintain their children. This financial contribution is referred to as maintenance, in legal terms. It is also important to note that paying maintenance does not in itself give a parent access or guardianship rights. The payment of maintenance is NOT related to whether a parent has actual access to the child or not, it is a stand-alone obligation.

It is the responsibility of both parents to financially care for their dependent children up until the age of 18, or 23 if the child is in education full-time. If the child has special needs which prevents them from achieving financial independence then support may be required indefinitely.

### **Arranging a maintenance agreement**

It is possible to make an informal agreement for maintenance between yourselves. Usually maintenance is a contribution to costs for the parent with the main care of children, made by the non-resident parent. There are no rules for this; sometimes two people may agree a weekly or monthly cash payment into a bank account and others might agree regular payment of a particular cost such as childcare. It is a good idea to have a record of contributions made and contributions received hence why payment into a bank account may provide a clear record.

The maintenance arrangements can be put in writing and made a rule of court, if required, by applying to court. This agreement may then be enforced under relevant legislation.

It is important to note that a written document that has not been made a rule of court is not legally binding. Having an agreement does not exclude the option of applying for a summons for maintenance in the courts at a later date, if necessary.

### **Amount of maintenance payable**

There is no legal or recommended amount as an individual's income and expenditure can vary greatly.

It can be difficult to decide on an amount for maintenance so a good place to start is by writing down the actual expenses for your child, perhaps on a monthly basis whilst not forgetting once a year expenses such as return to school costs. Then look at your income and living expenses of both parents with a view to deciding on an agreed contribution and method of payment.

## **Support to negotiate a maintenance agreement**

If you and your child's other parent are finding it difficult to reach an agreement you could try alternative dispute resolution such as **Mediation** or **Collaborative Law**, especially if there are other decisions or agreements to be made when sharing parenting

If an amicable agreement cannot be reached then an application for a summons for maintenance can be made in the District or Circuit court.

## **Applying to court for maintenance**

To obtain a maintenance order you will need to apply to the relevant court, either the District Court or the Circuit Court, for a summons for maintenance in relation to the dependent child.

The maximum amount that the District Court can order is €150 per week, per child and €500 per week for a spouse, so this will determine in which court you make your application. The Circuit Court and High Court have no limit. A majority of applications are made in the District Court so you will need to attend the court nearest to you or your child's other parent to apply.

You will need to complete court documents for a summons for maintenance and the court staff will be able to assist you with this, although they do not give legal advice nor can they tell you how to complete the form. You will need a postal address for the person you are seeking maintenance from so that the summons can be sent to them.

You will be given a date for court.

The court will look at the incomes of both parents, their outgoings, and what is needed to maintain the particular child. All expenses such as school, medical and dental, food and so on will be taken into account. The court will expect each party to be able to prove what their actual incomes and outgoings are. The amount of maintenance set by the court will vary in each case depending on the individual circumstances.

If you do not have a postal address for your child's other parent then talk to the District Court staff as there are other ways to issue a summons in exceptional circumstances.

## **Payment of maintenance**

A **maintenance order** may require payment to be made directly with cash, by cheque or payment directly into a bank account or some other agreed account.

Alternatively, a court can order that the maintenance be paid to the District Court clerk who will then pass it on to the individual concerned.

### **When maintenance is not being paid**

If you are not receiving the maintenance that is due to you there are a couple of options:

If the person is in employment you can apply to the court for an ***Attachment of Earnings Order***. This is where the court instructs their employer to deduct the maintenance directly from their wages and pay it to the court clerk who will pass it on to the party concerned.

Secondly, you can apply for an ***Enforcement Order of Arrears of Maintenance***.

### **Changing the rate of maintenance**

If you are paying maintenance to the parent of your child and you need to make a change to the amount due to a change in circumstance, reduction in wages/job loss/increase in wages etc, you can apply to the courts for an order to vary maintenance. It is really important to do this if you cannot maintain the payment of the existing order as arrears can accrue, which you are liable for.

Both the maintenance debtor (the person who pays the maintenance) and the person who receives the maintenance (the maintenance creditor) can apply to vary the order; this may be to increase or decrease the rate, depending on circumstances.

### **Appeals**

If you are unhappy with the decision that the court has reached you have two weeks to appeal it. However, the terms that the court has decided will be in effect during this period unless an alternative is stated by the court.

### **Maintenance when a parent lives abroad**

If you wish to apply for a maintenance order, an enforcement order or to vary an order when the maintenance debtor is living outside of Ireland you can do this through the **Irish Central Authority for Maintenance Recovery** under the following circumstances:

- Where the other person lives in a country signed up to the UN Convention (see list of applicable countries [here](#)).
- Where the other person resides within the European Union.

8 Coke Lane, Dublin 7  
Tel: 01 662 9212  
Email: [info@onefamily.ie](mailto:info@onefamily.ie)  
[www.onefamily.ie](http://www.onefamily.ie)



This service is usually free of charge.

You can contact the Irish Central Authority for Maintenance Recovery office on 01 4790200 or email: [mainrecov@justice.ie](mailto:mainrecov@justice.ie)

**Further information:**

Free Legal Advice: [FLAC](#) (Free Legal Advice Centres)

[Legal Aid Board](#): for low cost/means tested legal advice and representation in civil law

Courts Service: [www.courts.ie](http://www.courts.ie) for contact details for courts and legal information

The Law Society: lists of registered solicitors - [www.lawsociety.ie](http://www.lawsociety.ie)

Mediation: the [Family Mediation Service](#) within the Legal Aid Board or the Mediators Institute of Ireland for private mediators

Collaborative Law: the Irish Association of Collaborative Practitioners, [www.acp.ie](http://www.acp.ie)

*This is a very brief outline of maintenance issues; it is not intended as a substitute for a proper consultation with a legal adviser. It is essential that anyone who needs to obtain maintenance from the other parent seeks legal advice beforehand, in order to decide how best to proceed.*

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