

1. About One Family

One Family is Ireland's leading support organisation for people parenting alone, sharing parenting, separating, and those in crisis pregnancy. We were established in 1972 as Cherish and provide specialist parenting and family support services around Ireland. We train professionals on working with one-parent families and we promote policies that actively support diverse families. Children are at the centre of our work.

Introduction

This paper considers the legal and social policy contexts which underpin our current child maintenance system. It examines the everyday effects the administration of this system has on lone parent families and those who are negotiating parental¹ breakup, particularly for those children and parents who are vulnerable in various ways. It proposes a fundamental reorientation of our child maintenance system towards a child-rights centred model and calls for the establishment of an administration which would provide positive resolutions to the personal and social difficulties which arise in these situations.

Defining Child Maintenance

Child maintenance is traditionally defined as “*a regular contribution from a non-resident parent towards the financial cost of raising a child, usually paid to the parent with whom the child lives most of the time*”.²

In terms of financial support, child maintenance serves several functions. It positively impacts child poverty rates where wider social structures provide formal mechanisms for its management. It contributes to the developmental well-being of children through supporting their relationships with their parents, and de-personalises conflictual parental negotiations by providing third-party support at all stages of the maintenance process.³ However, given increasing focus on the importance of child-centred parenting arrangements as a matter of public policy, and the realities of changing family forms internationally, child maintenance negotiations are no longer reducible to ‘financial contribution’ alone.

Child maintenance sits at the centre of a complex web of child-focused relationships and responsibilities in each family and in society as a whole. It is closely related to issues of the nature of parental relationships, access and custody, affordability, family court case-management, as well as risk identification, prevention and intervention. As stated, it is linked to child poverty but also attends to the financial and career impacts of parenting on primary carers.

Child maintenance is a core moment of negotiation about shared parenting when a relationship is in dissolution, or new parents not in an intimate relationship are

¹The *Children and Family Relationships Act 2015* allows maintenance claims where a cohabitant is not the parent of the dependent child, but has been appointed guardian. This paper will use the term ‘parent’ to indicate both parent and guardian.

²Hakovirta, M., ‘*Child maintenance and child poverty: A comparative analysis*’ (2011, p249)https://www.researchgate.net/publication/233665642_Child_maintenance_and_child_poverty_A_comparative_analysis

³For further discussion on these points, see point 6.1 ff, below.

establishing what being a parent means in real terms. A recent Treoir report⁴, which researched the experiences of unmarried separated fathers, defines shared parenting as a process of shared responsibility and care-giving which is substantive, regardless of what is happening in the parental relationship. A UK report into the enforcement of child maintenance payments, and parental behaviours associated with it, found that affordability and the duration and quality of parental relationships were core drivers. In particular, it noted that the quality of the relationship between parents was a crucial indicator or outcome.⁵

Furthermore, when fully commenced, the *Children and Family Relationships Act 2015* on surrogacy and donor-assisted human reproduction will also impact on child maintenance matters in relation to paternity, maternity and parenting roles. All these negotiations are increasingly complex and require nuanced and holistic approaches to the provision of the supports every child requires, regardless of their parental or family situation.⁶

Currently, ‘child maintenance’ poses serious personal and administrative blocks within our social protection and legal systems. In the case of those in need of income supports who parent alone, and where there is an absent or refusing other parent, current social welfare One-Parent Family Payment and child maintenance regulations can reduce, rather than increase, the level of a family’s income. In these cases, the level of regulatory complexity presents a significant structural block to lone parents accessing the income support they need. Additionally, blocks also occur within our Courts Service, where delays are an inherent part of child maintenance proceedings given the cycles of agreement, default and pursuits involved. In 2018 the Courts Service Annual Report recorded 8,935 incoming applications. These include applications subsequent to initial applications, and applications to vary or recover arrears. 6,541 cases were resolved by the court, while none were resolved out of court, leaving 2,394 unresolved at the end of the Court Term. This is a considerable figure, and indicative of the timelines involved in pursuing arrears or outright non-payment of, among other matters, child maintenance.⁷

In short, Irish society needs a ‘future-proofed’, publically accessible, and holistic approach to child maintenance, set within a wider court welfare system which provides stability for every child throughout changes which may occur in their family life and formation.

2. EU Frameworks and the Irish Child Maintenance System

In the EU, all member states make payment of child maintenance by the non-resident parent a legal obligation. This obligation, however, is framed and regulated

⁴ Kiely, E., Bolton, R., (2018) Unmarried Fathers in Ireland: An Examination to the Barriers to Shared Parenting: <https://www.treoir.ie/wp-content/uploads/2018/12/Unmarried-Fathers-in-Ireland-An-Examination-of-the-Barriers-to-Shared-Parenting-1.pdf>

⁵ Andrews, S., et al (2011) *Promotion of Child Maintenance: Research on Instigating Behaviour Change*.

<https://webarchive.nationalarchives.gov.uk/20120716162148/http://www.childmaintenance.org/en/pdf/research/Main-Report-Vol-I.pdf>

⁶ Claessens, E., Mortelmans, D., (2018) ‘Challenges for child support schemes: Accounting for shared care and complex families’. (2018).

<http://journals.sagepub.com/doi/abs/10.1177/0958928717753592>

⁷ Most applications are made through the District Court. Courts Service Annual report 2018:

[http://www.courts.ie/Courts.ie/library3.nsf/\(WebFiles\)/C2B4BFC1AFEC7B098025842D00473F25/\\$FILE/Courts%20Service%20Annual%20Report%202018.pdf](http://www.courts.ie/Courts.ie/library3.nsf/(WebFiles)/C2B4BFC1AFEC7B098025842D00473F25/$FILE/Courts%20Service%20Annual%20Report%202018.pdf)

in different and significant ways across the EU. Scandinavian countries, for example, guarantee child maintenance payments through their welfare system as a matter of social policy, whereas in Ireland, child maintenance is not integrated into social policy fully, other than for means-testing various supports. It is largely seen as a personal, parental private obligation and therefore a matter of private Family Law alone.⁸

One Family believes that child maintenance needs to be integrated into a maximised public understanding of the supports and services all dependent children require up to the age of 18 or 22, if still in education, regardless of their family situation. This position rests on principle as well as pragmatism. The central principle here is the clear establishment of the independence of children's rights and the identification of appropriate ways in which the State can provide infrastructures to support them. In practical terms, evidence shows that child maintenance reduces child poverty when the correct social systems are in place to make it effective. It also helps reduce family and parental conflict because objective supports guide separation processes. Additionally, the administrative blocks and backlogs within both the Courts and Social Welfare systems are eased by having an independent service which can process the layered bureaucratic demands of family dissolution and transition.

With these considerations in mind, Ireland appears to embody a generally disjointed position in relation to the wide range of child-focused family supports which are already in place. On the one hand, there is a positive and openly acknowledged need for systematic supports for all children through the increasing provision of childcare, paid and unpaid parental leave, some housing supports, educational and health supports, the universal payment of child benefit, the untaxed status of child maintenance (currently for recipients alone) and, implicitly, through the provision of certain 'qualified adult' supports. On the other hand, and especially in relation to lone parents in receipt of the One-Parent Family Payment (OFP), there seems to be a lack of clarity about the focus and purpose of child maintenance from government departments.

In sum, there appears to be a punitive residue remaining in our society in relation to those parents who are unmarried or who parent alone – a constant positioning of these families as 'social anomalies'. In relation to one-parent families no less than eight research reports have been published since 2016 alone. All indicate that the poorer financial outcomes experienced by one-parent families urgently need to be addressed.⁹ One-parent families make up 25.4% of all families with children in Ireland which means they are not in any way a social anomaly. Rather, they are indicative of rapidly changing family forms throughout Europe. As such, they offer direct insight into the emergent needs and requirements of parenting, especially in the context of the demands of new socio-economic orders in the 21st Century, a point raised at the recent National Economic Dialogue in Dublin Castle.¹⁰ Fundamentally, it is our position that lone parents simply make visible the usually hidden work of all primary parental care work and no social or economic order will function well without taking account of these realities.

⁸ EU Directorate General for Internal Policies: '*Child maintenance systems in EU Member States from a gender perspective*' (2014, p 6ff)

[http://www.europarl.europa.eu/RegData/etudes/note/join/2014/474407/IPOL-FEMM_NT\(2014\)474407_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2014/474407/IPOL-FEMM_NT(2014)474407_EN.pdf)

⁹ One Family Pre-Budget 2020 Submission: <https://onefamily.ie/wp-content/uploads/2019/07/Budget-2020-One-Family-Pre-Budget-Submission-2020-1.pdf>

¹⁰ Dept. of Finance: National Economic Dialogue 2019 : <https://www.gov.ie/en/news/05a724-national-economic-dialogue-2019/>

One Family believes that Ireland requires a social policy framework for child maintenance that is founded on children's rights, ensures children do not live in poverty, helps families maximise their incomes, and eases the often conflictual processes of family separation.

3. Legislative Context for Child Maintenance

A wide range of legislation governs different dimensions of child maintenance in Ireland as follows: the *Guardianship of Infants Act, 1964*; *Family Law (Maintenance of Spouses and Children) Act 1976* (as amended); *The Status of Children Act 1987*; *Social Welfare Act 1993*; *Maintenance Act 1994*; *Family Law Act 1995*; *Family Law (Divorce) Act 1996*; *Children Act 1997*; *Social Welfare Act (Consolidation) 2005*; *Civil Law (Miscellaneous Provisions) Act 2011*; the *Children and Family Relationships Act 2015* (enacted, not fully commenced) and the *Social Welfare Act 2016*.

4. Recent Research and Reports on the Irish Child Maintenance System

In 2016, One Family undertook Ireland's first *National Shared Parenting Survey*.¹¹ The most common financial problem identified by respondents was non-existent or insufficient child maintenance payments by the non-resident parent to support children of the relationship.¹²

In March 2017, as part of the Irish periodic country-reporting structures, the UN *Convention on the Eradication of all forms of Discrimination Against Women* (CEDAW) observed:

“(a) There are no data on the economic consequences of divorce on women and girls in the light of reports of increasing rates of poverty among single mothers;

*(b) There is no statutory maintenance authority and no amounts are prescribed by legislation, which compels women into litigation to seek maintenance orders”.*¹³

In June 2017, the “*Report on the Position of Lone Parents*”, by the Joint Oireachtas Committee on Social Protection also noted that Ireland has no state body with responsibility for child maintenance payments and recommended that “*A state body, similar to that in other countries, should be put in place to appropriately seek and pursue maintenance payments*”.¹⁴

¹¹ One Family Ireland: *Ireland's First National Shared Parenting Survey* (2017, p9ff) https://onefamily.ie/wp-content/uploads/2017/01/One-Family_Shared-Parenting_Results-and-Recommendations_FINAL-REPORT_Online.pdf

¹² Joint Committee on Social Protection *Report on the Position of Lone Parents in Ireland* found that only 35% of parents in receipt of OPFP received child maintenance: (2016, p.27.) <https://webarchive.oireachtas.ie/parliament/media/committees/socialprotection/reports/joint-committee-on-social-protection-report-on-the-position-of-lone-parents-in-ireland-june-2017.pdf>

¹³ CEDAW/C/IRL/CO/6-7 2017: *Concluding observations on the combined sixth and seventh periodic reports of Ireland*, (paras 56/57) <http://www.refworld.org/docid/596f48a94.html>

¹⁴ Joint Committee on Social Protection *Report on the Position of Lone Parents in Ireland*. Op.Cit. (p. 41)

In September 2017, these concerns were again echoed in the One Family submission to the *Law Reform Commission on the Preparation of the Fifth Programme of Law Reform*,¹⁵ where we then recommended the setting up of a Court Welfare Service and a Child Maintenance Service as being the best mechanisms for families to safely and consistently access child maintenance payments and reduce the unacceptable burden currently placed on resident parents.

In December 2018, Treoir launched their report on “*An Examination of the Barriers to Shared Parenting Experienced by Unmarried Fathers*”. In relation to child maintenance, it similarly recommends the establishment of an integrated court-welfare system akin to the UK.¹⁶

Finally, there is strong party political support for a reformed maintenance system. Sinn Féin has published proposals for the establishment of a free and non means-tested *Child Maintenance Service* with the aim of providing information and advice for all separating parents, with stepped facilities for mediation and maintenance information, assessment, determination, collection, transfer and enforcement.¹⁷

Fianna Fáil similarly introduced a Bill which would close a loophole which allows estranged partners to avoid payment of child maintenance through the DEASP.¹⁸

The Fine Gael Minister for Employment Affairs and Social Protection has asserted a child-centred position in support of the universal payment of child benefit, ruling out means-testing on these payments. To the extent that this acknowledges the independent rights of children directly, her position supports our own view that social policy should move in this direction, and explicitly include child maintenance into its remit.¹⁹

Summary: Overall, current research demonstrates that Ireland’s child maintenance framework needs to be updated and gain capacity to meet the needs which arise when families separate and where individuals parent alone. As it stands, current systems, within both the Department of Employment and Social Protection (DEASP) and Court structures, are difficult to enforce,²⁰ precipitate protracted and often hostile parental negotiation,²¹ increase poverty levels, particularly among children in lone parent families,²² and does not sufficiently attend to the safety and stability of

¹⁵ One Family Ireland: ‘*Submission to Law Reform Commission on the Preparation of the Fifth Programme of Law Reform*’ (2017, p4ff) https://onefamily.ie/wp-content/uploads/2011/12/OneFamily_Submission-to-Law-Reform-Commission-on-the-Preparation-of-the-Fifth-Programme-of-Law-Reform_Sept17_final.pdf

¹⁶ *Unmarried Fathers in Ireland: An Examination of the Barriers to Shared Parenting* (p67) 2018. Commissioned by Treoir and funded by the Community Foundation of Ireland <https://www.treoir.ie/wp-content/uploads/2018/12/Unmarried-Fathers-in-Ireland-An-Examination-of-the-Barriers-to-Shared-Parenting-1.pdf>

¹⁷ Sinn Féin : Social Protection ‘*A Child Maintenance Service for Ireland*’ (2018) http://www.sinnfein.ie/files/2018/A_Child_Maintenance_Service_for_Ireland.pdf

¹⁸ Social Welfare (Payment Order) (Amendment) Bill 2018 <https://www.oireachtas.ie/en/bills/bill/2018/7/>

¹⁹ DEASP Press release 6.6.2018: <https://www.welfare.ie/en/pressoffice/Pages/pro60618a.aspx> See also: The Journal, June 6th 2018: <http://jrnl.ie/4055082>

²⁰ In 2017 there were 1, 185 applications to recover child maintenance arrears to the Dolphin House (verbal communication with Courts Services, June 2018), while only 35% of OPFP recipients received Child Maintenance <https://webarchive.oireachtas.ie/parliament/media/committees/socialprotection/reports/joint-committee-on-social-protection-report-on-the-position-of-lone-parents-in-ireland-june-2017.pdf> (p.27)

²¹ Smallhorne Dunne, S.p 81, 2016.

²² Ibid. p 81ff and Watson, D., et al, ESRI, 2018, p75ff

those who are exposed to coercion, abuse and violence, which seriously restrict abilities to access and negotiate child maintenance.²³

5. Current Child Maintenance Structures: The Case of Lone Parents – The Canary in the Mine

As stated above, lone parents in receipt of income supports are particularly vulnerable with regard to child maintenance mechanisms. Their position highlights wider structural cul-de-sacs which themselves demonstrate out-dated presumptions and prejudices about marital status, family formation, adult personal relationships, gender, parenting roles and responsibilities, and the independence of children's rights.

Much of these residual social prejudices are apparent in the working of the One Parent Family Payment (OFP). The OFP is the principle state support for lone parents, but is available only to those who have children up to the age of 7 years since 2013.²⁴ At this point a lone parent moves to Job Seekers Transition (JST) payment. This 'age-stop' system of moving lone parents from one DEASP category to another according to the age of their child demonstrates a deep incoherence in this system, since it explicitly erases the role of parent from the income support category in favour of 'worker'. All Irish children are legally dependent on their parents between the ages of 0 and 18 years. Children need care and attention throughout their growing years, yet with the shift from OFP to JST at age 7, and to JA at 14 years, our current system effectively erases this dependency entirely in terms of social policy. Indeed, more generally, children of 18 years who are still in school, cease to be eligible even for the universal Child Benefit payment.

The point here is not a resistance to measures to support parents into educational and employment pathways. On the contrary, it is to reiterate that, in particular, lone parents remain primary carers for their children until they are 18 and can never be subsumed into activation measures which are designed for sole workers or two-parent families but rather require specific supports designed for their families' needs.

Further difficulties arise with regard to child maintenance and OFP income supports since DEASP regulations require the resident parent seeking this payment to present proof of maintenance agreements, or demonstrate 'efforts to seek maintenance' from the 'liable relative'.²⁵ The administrative mechanisms here are excessive in practice:

- Failure to provide proof of 'efforts to seek maintenance' can lead to the OFP payment being suspended, cancelled or not awarded.

²³ One Family Ireland: *'Ireland's First National Shared Parenting Survey'*(2017, p8ff)

²⁴The principal state support for lone parents is the One Parent Family Payment. This is payable to lone parents until the child reaches the age of 7. Between the ages of 7 and 14, lone parents can apply for Jobseekers Transition Payment. Between 14-18/22, lone parents transfer to Jobseekers Allowance - available to all eligible adults.

²⁵ Citizen's Information: One-Parent Family Payment Regulations:
https://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/social_welfare_payments_to_families_and_children/one_parent_family_payment.html

- In cases where a resident parent does not have an address for the liable relative, this proof can include making a ‘missing report’ to the Gardai.²⁶
- In the shift from OFP payment to JST payment the DEASP expressly ends the child maintenance payment requirement of the other parent. This confuses often fragile maintenance agreements and can disrupt established maintenance payment arrangements. It also effectively erases child/ren’s visibility and their rights in child maintenance, since it is focussed on parental DEASP status.
- Child maintenance payments are means-tested against the OFP payment, and other payments such as Rent Supplement and the Working Family Payment. This layering of means-testing can lead to a parent having less income instead of more.
- The DEASP may require parents to return to court as proof that payment of maintenance has ceased before reassessing a resident parent’s income, causing direct income loss to them. In such a situation a lone parent may need to apply for Supplementary Welfare Allowance, which itself is means assessed, creating further hardship.
- The Maintenance Recovery Unit (MRU) of DEASP has the sole remit of recovering revenue from liable relatives in respect of children who are being supported through the OFP – up to the age of 7. Maintenance recovered is absorbed by the DEASP. Recompense is not extended to resident parents in receipt of State supports. Any financial losses experienced by lone parents where agreed maintenance payments are unpaid must be absorbed by the lone parent. The recovery rate of maintenance by the Maintenance Recovery Unit is low and overall only 35% of lone parents receive maintenance from the liable relative.²⁷

The MRU has a highly bounded task in this context and has limited powers of enforcement. Throughout this process, the burden lies solely with the resident parent to locate the liable relative, seek maintenance formally (sometimes repeatedly), and provide evidence of same in order to access State supports. This can mean they must initiate legal proceedings.

The withholding of child maintenance has been recognised as a form of financial abuse by COSC and reinforces the stresses that these negotiations can have on vulnerable families.²⁸ In cases of coercive control, domestic violence and financial or emotional abuse child maintenance processes can exacerbate hostilities. While the DEASP accepts verbal assertion of these constraints in principle, Intreo staff need training in order to deal with these issues. Indeed, in 2017, Minister Doherty identified and committed to staff training as an important element in this matter and we await that implementation.²⁹

²⁶ Welfare.ie: Appendix 1 -Efforts Guidelines for Separated Lone Parents

<https://www.welfare.ie/en/Pages/One-Parent-Family-Payment.aspx#guideunm>

²⁷ Joint Committee on Social Protection: *Report on the Position of Lone Parents in Ireland*. Op Cit. (2016, p 27ff)

²⁸ COSC includes economic abuse as an important element in domestic violence. (2010, p1ff)
<http://www.cosc.ie/en/COSC/Final%20Electronic%20NS%20Ex%20Summary%205%20March.pdf/Files/Final%20Electronic%20NS%20Ex%20Summary%205%20March.pdf>

²⁹ Oireachtas - Parliamentary Questions: 29.11.17.

<https://www.oireachtas.ie/en/debates/question/2017-11-29/33/>

Summary: There are two parallel issues which arise when considering child maintenance mechanisms. One issue is the cumbersome administration processes in relation to collecting child maintenance, as outlined here. The other issue is the punitive effects these administrative mechanisms can and do have on parents in these situations. When dealing with child maintenance cases, both the Courts and the DEASP have administrative and regulatory limitations and difficulties which impact heavily on families who are separating or parenting alone. In the case of one-parent families these difficulties cause considerable hardship.

6. Child Maintenance: Impacts on Children and Parents

Child Poverty

In Ireland, although consistent poverty is lowering, it remains disproportionately high for children at 8.8%.³⁰ This suggests that supports generally for families with children are inadequate. Poverty rates are directly related to family form where lone parent households have the highest consistent poverty rates at 20.7%.³¹

In this context, comparing child maintenance systems is notoriously difficult given the variables and parameters involved. Appendix 1 to this paper shows the range of models adopted within the EU.³² However, seminal research carried out in 2011 by Hakovirta ³³, supports the argument for the direct engagement of government showing that *“in countries where maintenance payments are seen as a private family matter, without guaranteed maintenance schemes, the proportion of lone parents receiving child maintenance is low.”*³⁴

The research further notes that child maintenance only impacts poverty levels positively where it is consistently paid - and closes the poverty gap as follows: *“in the UK (30%), followed by Canada (23.9%) and the USA (20.5%), indicating that child maintenance is quite an important source of income for those receiving it”...* and *...“lifts most poor children out of poverty in Denmark and Sweden.”*³⁵

Clearly, there is a gap in our understanding of the needs, supports and services required for parents who are parenting alone, sharing parenting or establishing new families. Child maintenance is a part of this and offers an effective mechanism for the Government to honour commitments made in *Better Outcomes, Brighter Futures* (BOBF) to lift over 68,000 children out of poverty by 2020.

³⁰The term ‘consistent poverty’ describes someone whose income is below the relative/at risk of poverty threshold and who also cannot afford at least two of the eleven deprivation indicators. The relative or at-risk of poverty threshold represents an income of less than 60% of the national median (middle) annual income. <http://www.eapn.ie/>

³¹ Central Statistics Office (CSO), Survey on Income and Living Conditions (SILC) (2017) <https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2017/povertyanddeprivation/>

³² Organisation for Cooperation and Development (OECD) Social Policy Division - Family Database – Child Support (2010, p.2ff)., Table PF1.5.A Key characteristics of Child Support Regimes <https://www.oecd.org/els/family/41920285.pdf>

³³Hakovirta, M., ‘Child maintenance and child poverty: A comparative analysis’ Op. Cit.(2011, p249)

³⁴ EU Directorate General for Internal Policies: ‘Child maintenance systems in EU Member States from a gender perspective’ Op. Cit. (2014, p 16ff)

³⁵Hakovirta, M., Op Cit (2011 p259ff).

Coercive Control, Abuse and Violence

A common problem regarding child maintenance processes is the prevalence of coercive control, abuse and violence exerted over resident parents by non-resident parents. Some parents are reluctant to pursue maintenance for fear of abusive and harassing behaviour from non-resident parents. The disclosure of addresses in summons and physical proximity in court, for example, can cause acute distress and create openings for threatening engagements. In sum, our current administrative infrastructures are direct barriers to abused parents and their children accessing child maintenance.

Child and Family Well-Being

Conversely, research shows that where it is made clear that child maintenance is a child's direct legal entitlement, rather than a gift³⁶ to (usually) the mother³⁷, parental relationships may be directed away from acrimonious personal engagement towards a positive focus on their child/ren's well being. Research on the explicit benefits of shared parenting is emergent and complex,³⁸ showing overall positive effects on children's well-being where there is an absence of parental conflict.³⁹ In this context, child maintenance negotiations provide a starting point for wider agreements on shared parenting.⁴⁰ The importance of external, legally established, mediating services here formalises this move away from a highly privatised model and encourages respectful engagement. Additionally, since maintenance payments and child contact are often closely linked for parents, those who pay child maintenance are more likely to have frequent contact with their children than those who do not pay child maintenance.⁴¹ This dynamic creates better relationships for children with both parents, increasing their overall well-being.⁴²

Liable Relative Legislation for Lone Parents in receipt of One Parent Family Payment

Liable Relative legislation⁴³ appears at face value to be a positive way to increase lone parent income and by the same token hold refusing parents to account. However, in its current form it creates burdensome parameters for both the DEASP and lone parents themselves. It often does not, in fact, increase income for lone parents by any meaningful amount, since it is multiply means tested. Further, given DEASP / lone parent activation child 'age-stop' measures, levels of return for the pursuit of child

³⁶ Natalier, K., Hewitt, B., *'It's Not Just About the Money: Non-Resident Fathers' Perspectives on Paying child Support'* Sociology (2010)

<http://journals.sagepub.com/doi/abs/10.1177/0038038510362470?journalCode=soca>

³⁷84% of lone parents in Ireland were female and 13.6% were male. Census 2016

³⁸Child Support and Children's Well-Being 1 Judith A. Seltzer and Daniel R. Meyer. Wisconsin Family Impact Seminars (2003)

<https://pdfs.semanticscholar.org/3361/21ce2b4778d117618265fd4f21006c40729a.pdf>

³⁹*Unmarried Fathers in Ireland: Treoir Report 2018 (p20ff)* <https://www.treoir.ie/wp-content/uploads/2018/12/Unmarried-Fathers-in-Ireland-An-Examination-of-the-Barriers-to-Shared-Parenting-1.pdf>

⁴⁰ Henry, P.A., *'Child Maintenance, Father Child Relationships and Family Wellbeing'* (2015) <https://doi.org/10.5296/iss.v3i2.7693>

⁴¹ UK Government, Dept. Of Work and Pensions, Report No. 503: *Relationship separation and child support study*. Wikeley, N., et al. National Centre for Social Research, (2008)

<http://lx.iriss.org.uk/sites/default/files/resources/rrep503.pdf>

⁴² One Family National Shared Parenting Survey, (Op. Cit.p4 ff)

⁴³Liable Relatives are 'Men and women who must, by law, pay maintenance to a dependent spouse or civil partner and any dependent children not living with them are called 'liable relatives'.

<https://www.welfare.ie/en/Pages/Who-is-a-liable-relative.aspx>

maintenance by the MRU⁴⁴ are very low at 35%. Overall, it appears as a relatively low-return measure.

Liable relative regulations also appear to target lone parents particularly, since to meet OFP/DEASP eligibility requirements they often must also engage with the legal system on a recurring basis - on their own. One Family proposes that the DEASP avail fully of its discretionary powers and *believe* lone parents when they have provided the information to them about the other parent, and when they have declared that they have tried to seek maintenance. Staff training is essential here. As with their acceptance of verbal statements about violence and abuse, we strongly suggest that this also be the protocol for child maintenance.

The provision of formal child maintenance support systems in these processes lies at the heart of the problem and is central to their resolution. The pursuit of refusing or absent parents for child maintenance payments cannot lie solely on the shoulders of the people who are parenting alone. An integrated 'whole-of-government' approach to child maintenance tackles these operational difficulties directly through inter-departmental IT systems, information-sharing and cooperation

7. Recommendations

One Family takes a child-rights centred approach to resolving the series of difficulties which currently hinder an accessible, equitable, secure and stable system for the provision of child maintenance.

As stated, all parents are legally responsible for the physical, emotional, social and economic well-being of their children from birth to the ages of 18. It is the State's responsibility to assert and uphold these rights, and, additionally, assumes its own direct responsibilities to protect children's rights through legislation and through various international charters and declarations.

In the case of child maintenance, however, there is confusion and inconsistency. We believe that child maintenance should be construed as an independent and ring-fenced form of support directly for children. As with Government's construal of the role of child benefit, it should not be taxed or means-tested, as is the case in the UK.

Child maintenance is a complex and layered matter and requires a robust Court Welfare Service to meet the changing demands of contemporary family life. Regardless of the context in which the need for child maintenance arises, there are currently barriers to achieving a consistent and equitable system. We suggest below essential elements of a progressive child maintenance system which needs to be developed within the wider context of family separation issues.

Amicable Parental Child Maintenance Arrangements Issue - Establishing Payment Levels

- Establish accessible advice and self-assessment information and support systems.
- Establish transparent, consistent and age-appropriate child maintenance payment rates benched-marked to Minimum Essential Standard of Living

⁴⁴Maintenance Recovery Unit.

which identifies adequate income levels for both younger and more costly older children.⁴⁵

Many parents separate and agree child maintenance in an amicable, private and mutually agreeable fashion. However, even in these cases, there are concerns about the case by case basis on which payment rates are established. Currently child maintenance is linked to parental income and so levels of child maintenance are not based on evidence which ties it to established measures for acceptable standards of living for children in order to lift them out of poverty. When assessing maintenance levels, for example, a Minimum Essential Standard of Living (MESL) offers a clear, age-appropriate amount, which every child needs to live, regardless of the parental income. Where this rate is unattainable for various reasons, for example in the case where a non-resident parent does not have sufficient income, a state insurance system should be in place to top up the payment to the required level. An agency with the capacity to administer the entire process could mediate and recoup payments directly and independently of either parent.

The Swedish Social Insurance Agency, Forsakeringskassen, offers such a model. It offers support and connections for the range of issues which arise during family breakdown. For example, information and support in agreeing child maintenance can be provided independently online, with web-meetings and in-person professional advisory support available when necessary.⁴⁶ It provides links to the independent Swedish Consumer Agency for established 'living costs' when parents are self-assessing online to agree maintenance for their children. In Ireland the Minimum Essential Standard of Living (MESL) offers such a benchmark.⁴⁷

Unresolved Parental Child Maintenance Agreements

Issue - Structures and Supports

- Establish co-mediation services in child maintenance proceedings regarding access, custody and child contact issues.
- Establish direct 'whole-of-government' capacity to deal with child maintenance.

Parents who cannot arrange a child maintenance agreement amicably currently must turn to the Irish courts to assert payment orders, access, custody, ascertain children's well-being arrangements, partner asset negotiations, and so forth. However, taking a child-centred approach, the distress caused by ongoing delays and familial hostility could be greatly ameliorated if parallel integrated services were provided to maximise positive results.

Because of the often escalated emotional nature of these proceedings, it is grossly unfair to leave the burden of negotiating the best interests of child/ren to the 'pursuant' custodial parent alone. There is a very clear need to:

- Establish transparent and evidence-based maintenance rates, outlined above,

⁴⁵Vincentian Partnership for Social Justice: *Minimum Needs of Older Children*. Preliminary Pre-Budget 2019. Submission: <https://www.budgeting.ie/publications/minimum-needs-of-older-children/>

⁴⁶ Swedish Social Insurance Agency: Forsakeringskassen: 'When Parents do not live together': <https://www.forsakeringskassan.se/>

⁴⁷ Vincentian Partnership for Social Justice : MESL - <https://www.budgeting.ie/>

- Operationalise these payments automatically through an independent agency which can assess, determine, collect, transfer and enforce the determination in a swift and efficient manner.⁴⁸
- In order to do this, there is a need for inter-departmental information sharing and cooperation. In the case of enforcement, for example, cooperation between DEASP and Revenue would be necessary. As with establishing child maintenance rates, enforcement procedures need to be clear and transparent.

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Coercion, Abuse and Violence in Child Maintenance Negotiations Issues - Safety, Facilities, Advocacy, Case-Management

- Ensure protection, safety and barring orders are in place and operative.
- Establish safe and appropriate facilities to ensure safety and non-intimidation.
- Provide mediation/advocacy/*Guardian ad Litem* supports directly for children as required.
- Establish an integrated case-management approach for risk / needs assessments, representation purposes, and the identification of required supports and services.

Parental relationships that breakdown as a result of coercion, abuse or violence obviously require access to the courts to establish child maintenance payments in the first instance, as above. However, because of direct fear and intimidation, there are absolute barriers at every point in the process. The provision of physical and psychological safety, facilities which allow for privacy and protected dialogue, mediation, advocacy and *Guardian ad Litem*(GAL) services, as well as a risk and case-management approach is of paramount importance to children’s safety and well-being.

Social Welfare and Child Maintenance

- Standardise the child maintenance processes and provide support for those parents with sole or primary care of their children, who are pursuing child maintenance.
- Use current DEASP discretionary powers to believe parents when they have provided the liable relative information available to them and declared they have made efforts to seek maintenance, as is the case with domestic violence and abuse.
- Adjust DEASP OFP-JST-JA regulations / categorisations to acknowledge that children are dependents until age 18/22. They require child maintenance throughout this life-stage regardless of the ‘activation’ category their parent may be in.
- Establish child maintenance as a separate income source for children. As with child benefit and tax regimes, do not means-test for DEASP parent supports.

The current system of individual pursuit and ‘proofs’ creates a deeply distrustful environment for all involved in the process.

⁴⁸ Sinn Fein Policies: <https://www.sinnfein.ie/policies>

⁴⁹Gov.UK - <https://www.gov.uk/child-maintenance/nonpayment-what-happens>

8. Conclusion – our Vision

One Family works with people parenting alone and those sharing parenting in a range of family forms, every day. We meet first-hand the realities of building robust and happy families and the challenges parents face in doing so. In all instances we assume a child-rights centred position.

Traditionally, policy debates often polarise around the differences between Nordic and Anglo-Saxon social models, setting a universalised ‘social insurance’ model over and against a more liberal, privatised model of family law dispute resolution and the maintenance of children.

We are calling for a future-proofed child maintenance service. One Family is very aware that family forms are changing rapidly, that work patterns are changing also, with debates about the nature and extent of precarious work, for example, of particular concern for lone parents. The future of secure housing tenure, work-related nomadism, and homelessness further problematises the nature of family life. In this fast-changing globalised environment, Ireland will need to design social and employment systems which meet newly emergent and fluid socio-economic and political realities. To that end, we believe that the way out of the particular stumbling block that our current child maintenance system exhibits is to establish a comprehensive independent Court Welfare Service which integrates all the requirements of families and children accessing the family law courts and social services.

When considering how best to establish child maintenance as a normalised and less conflictual part of adult relationship breakdown, it is apparent that such an independent agency, which has full powers to administer child maintenance issues at every stage from identification of liable relatives to enforcement, needs to be established, as in the case of Sweden.⁵⁰ Such an agency would also need capacity to provide the parallel services and supports which separating parents need, and which crucially ensure that voices of children are clearly heard and represented, as in the case of CAFCASS in the UK.⁵¹ An integrated Court Welfare Service would make these processes both protective and productive. Given Ireland’s historical relationship to unmarried mothers, to parents who separate and, above all, the general care and well-being of children, such a system is much needed and long-overdue.

Ends

⁵⁰ Forsakeringskassen: Op. Cit.

⁵¹CAFCASS: Children and Family Court Advice and Support Service. <https://www.cafcass.gov.uk/>

APPENDIX 1 –EXCERPTED CHART OF CHILD SUPPORT MODELS IN EU: OECD 2010

<https://www.oecd.org/els/family/41920285.pdf>

COUNTRY	INVOLVEMENT IN THE DETERMINATION OF CHILD MAINTENANCE			RESPONSIBILITY FOR DETERMINING MAINTENANCE PAYMENTS	RULES FOR DETERMINING AMOUNT OF PAYMENTS	RESPONSIBILITY FOR ENFORCEMENT OF PAYMENTS	DIFFERENT ARRANGEMENTS FOR CHILDREN OF UNMARRIED PARENTS	AGE AT WHICH SUPPORT ENDS	ADVANCE ON MAINTENANCE PAYMENTS
	Parents	Court	Agency						
Australia	Yes - entry into formal system if parents cannot agree.	Yes (residual role)	Yes -Child Support Agency	Parents or CSA if parental disagreement or PWC in receipt of means tested benefits	Rules/rigid formula	Child Support Agency	No	18 years or when schooling is finished	No
Belgium	Yes - ratified by court	Yes	No	Court	Mostly discretion, no fixed rules or methods	Court	No	18 years	Yes
Canada (Ontario)	Yes - ratified by court	Yes	No	Parents	Formal guidelines	Court	No	18 years	No
Denmark	Yes - ratified by Country Governor's Office	No	Yes - Country Governor's Office	Parents or State County's Agency if parental disagreement	Rules/ rigid formula	State County's Agency	No	18 years	Yes
Finland	Yes - mediated and confirmed by Social Welfare Bond	Yes (residual role)	Yes - Social Welfare Board	Parents or Social Welfare Board and court if parental disagreement	Mostly discretion, normal guidelines	Municipal Social Welfare Board	No	18 years	Yes
France	Yes - ratified by court	Yes	No	Court	Mostly discretion, no fixed rules or methods	Courts and Social Security Agency	No	18 years	Yes
Germany	Yes	Yes	No	Parents or Court if parental disagreement	Mostly discretion, using support tables'	Court	Yes	18 years	Yes
Ireland	Yes - ratified by court	Yes	No	Parents or Court if parental disagreement	Legal guidelines but high level of court discretion	Court	No	18 years or up to 23 if in full-time education	No
Netherlands	Yes - ratified by court	Yes	No	Parents with supervision of lawyers; Court if parental disagreement or	Mostly discretion, informal guidelines	National Collection and Support Agency; Enforcement through a bailiff	No	21 years	No
New Zealand	Yes	Yes	Yes, Inland	Parents or IRCS	Rules/rigid	Inland Revenue	No	16 years or	No
Norway	Yes	Yes (residual role)	Yes, Work and Welfare Agency	Parents or NAV if parental disagreement	28th 2003 Rules/rigid formula	National maintenance payment	No	disabled 18 years	Yes
Spain	Yes	Yes	No	Court	Mostly discretion, using 'supoprt tables'	Court	No	18 years	Yes
Sweden	Yes - confirmed by Social Welfare Bond	Yes	No	Court	Mostly discretion, informal guidelines	Enforcement Service	No	18 years	Yes
UK	Yes - ratified by court	Yes (residual role)	Yes -Child Support Agency	Parents or CSA if parental disagreement or PWC in social assistancebenefitts	Rules/rigid formula	Courts and Child Support Agency	No	16 years or 19 years if in full-time education	Yes
US**	Yes - ratified by court	Yes	Yes -Child Support Agency (varies by state)	Court	Formal guidelines	Courts and Child Support Agency	No	Varies across states (at age 16 in some states in others up to age 25)	No

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