

## **1. About One Family**

One Family, founded in 1972 as Cherish, is Ireland's organisation for people parenting alone, sharing parenting and separating. One Family believes in an Ireland where every family is cherished equally, and enjoys the social, financial and legal equality to create their own positive future.

We do two main things - we offer specialist family support services to families and we campaign to improve the lives of one-parent families and those sharing parenting.

The services we offer include the national askonefamily lo-call helpline, employability programmes, parenting services, support for those experiencing a crisis pregnancy, and counselling services – all to help people who parent alone or are sharing parenting to be confident parents with happier children. We also provide professional development training to people working with one-parent families.

You can view a video we made in 2013 which has real-life stories of one-parent families here: <https://www.youtube.com/watch?v=KGwGYWTGS10&t=1s>.

### **1. Policy Context:**

The frameworks within which we operate include a human rights-based approach as well as a child's best-interest approach. The work we undertake with separated parents and their children is fraught with gender issues both objectively real and subjectively felt. We work extensively with both mothers and fathers across our specialist family support services to assist them to maintain a strong focus on their children, despite the parental conflict. In general, we do not find a gendered approach to complex family dynamics including separation to be helpful, informative or child-centred.

There are however gender dimensions to one-parent families that are objectively visible and these must be acknowledged. In this submission we will not be able to address all the nuances of gender that are relevant in our work so we are limiting this paper to the most prevalent issues. We regret where we have omitted important issues and hope that other organisations and individuals will be able to address them.

### **2. Gender Stereotypes and Norms:**

Discrimination towards lone parents is, in itself, gender discrimination as the vast majority of them are female<sup>1</sup> (or are perceived to be) and they are constantly subject to judgmental policies, laws and practices. Today these judgements are mainly associated with welfare dependency and perceived entitlements, but we believe there is a constant undertone of judgement around female sexuality as well that has deep roots in how we treated unmarried mothers and their children for decades in Ireland.<sup>2</sup>

One-parent families experience far higher rates of consistent poverty, homelessness and unemployment than other families. Children living in one-parent families form

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<sup>1</sup> Census (2016)

<sup>2</sup> Submission to Mother & Baby Homes Commission (2020) One Family.  
<https://onefamily.ie/mother-baby-home-commission-submission/>

the majority of children in Ireland living in poverty<sup>3</sup>. This is ongoing, widely evidenced and at this stage indefensible.

Gender and care are complex and must be looked at in conjunction with family type and a child-centred approach to avoid a reductive view. The cultural norms and expectations around parenting become very explicit in separated families and, in particular, when people enter adversarial court proceedings. This can be when parenting behaviours that may be invisible in an intact family then become visible and problematic.

Lone fathers may be completely invisible in relation to care giving and whilst more men are staying very actively involved with their children following separation, we believe that negative attitudes towards Dads who are sharing parenting are also gender discrimination.

Fathering is not, to date, well supported in Ireland either practically, culturally or in workplaces. This lack of support is coupled in some instances with reluctance by some separated fathers to parent or by some separated mothers to enable them to do so. We believe that as more policies are put in place to support fathers, then practical supports should also be made available to increase confidence and skills if required. A financial support in the form of a tax credit that was in place to support separated fathers and mothers was removed with no consideration of the additional costs of sharing parenting and providing two appropriate homes for children.<sup>4</sup> The credit is now only available to one parent after separation, often the mother as it is linked to Child Benefit, leading to further conflict between mothers and fathers. Despite years of campaigning on this by many individual and organisations this has not been restored and there is a lack of institutional knowledge and support for shared parenting in Ireland, particularly when compared to our European neighbours by a number of government departments.

### **3. Gender & Family Law Courts:**

What happens post-separation in court-ordered parenting decisions is complex and varied, relying mainly on anecdotal evidence. However, it can be observed that there are several cultural behaviours that may privilege stereotypical gender roles and ignore the best interests of children.

It is widely reported that for those sharing parenting, the starting points for negotiations may not begin with both parents being equally responsible for children. What may emerge ultimately from court cases is that the mother primarily has day to day care with a lesser contact time for the father. This is not always the best solution for every family and more resources need to be available in and out of courts to assist families and judges to make individual decisions that suit all family members.

It is also widely reported that courts can have a strong pro-contact presumption even in families where there has been domestic abuse and One Family has been aware of inappropriate court-ordered contact for children with a violent or neglectful parent. Again, additional resources can assist courts in making decisions that are safe for

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<sup>3</sup>CSO SILC (2018)

<sup>4</sup> One Family Pre Budget Submissions 2014-2019 <https://onefamily.ie/media-policy/policy-submissions/>

children and the high prevalence of domestic abuse must always be taken into consideration.

Our experience and research tells us that both mothers and fathers in separated families strongly experience discrimination in the courts and in wider society.<sup>5</sup> There are distinct and important issues for both parents which need to be addressed. In our view the best way to do this is to increase supports for family court users; increase supports for fathers to parent; and increase supports for one-parent families in general whilst maintaining a focus on children's best interests. There are considerable dangers in making laws based on extreme cases and due to the highly privatised nature of family law in Ireland it is challenging for all relevant information to be made available in courts.

There is a widespread phenomenon of unpaid child maintenance in Ireland and this is described as financial abuse by COSC. This is generally experienced by mothers and their children where fathers will not or cannot pay voluntary or court-ordered maintenance. This leads to feelings of gender discrimination by mothers in separated families and increased levels of child poverty. Ireland urgently requires a statutory Child Maintenance Agency as part of a comprehensive Court Welfare Service.<sup>6</sup>

#### 4. Employment:

Parenting alone makes visible the invisibility of parenting work that all families and parents undertake. The lone parent must be the carer and the worker/student/trainee all at the same time with very little support. Government policies have been particularly unhelpful in acknowledging the reality of lone parent's lives despite extensive research indicating both the challenges they face and the solutions required.<sup>7</sup>

85% of lone parents in receipt of social welfare payments are female<sup>8</sup> so the treatment of these parents and their children is again a highly gendered issue. Lone parents on social welfare are required to be available for full-time work, training or education when their youngest child is fourteen years old and they are transitioned onto the Job Seeker's Transition Allowance when their youngest child is seven. By re-categorising them within the social welfare system as jobseekers their role as parents is rendered irrelevant and invisible although they are still required by society to be available as excellent parents until their children reach adulthood. Activation measures for lone parents need to recognise their continued parenting responsibilities until their children are 18 years old.

We see that the vast majority of lone parents are in low-paid, part-time work and they experience significant challenges in transitioning to higher paid employment in

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<sup>5</sup> National Shared Parenting Survey (2017) One Family. [https://onefamily.ie/wp-content/uploads/2017/01/One-Family\\_Shared-Parenting\\_Results-and-Recommendations\\_FINAL-REPORT\\_Online.pdf](https://onefamily.ie/wp-content/uploads/2017/01/One-Family_Shared-Parenting_Results-and-Recommendations_FINAL-REPORT_Online.pdf)

<sup>6</sup>Child Maintenance Position Paper (2019) One Family. <https://onefamily.ie/wp-content/uploads/2019/10/Child-Maintenance-Position-Paper-7-19.pdf> and <https://onefamily.ie/wp-content/uploads/2019/10/Vision-for-a-Court-Welfare-Service.pdf>

<sup>7</sup>Pre Budget Submission 2020 (2019) One Family, Page 4: [https://onefamily.ie/wp-content/uploads/2019/10/Budget-2020\\_One-Family-Pre-Budget-Submission-2020.pdf](https://onefamily.ie/wp-content/uploads/2019/10/Budget-2020_One-Family-Pre-Budget-Submission-2020.pdf)

<sup>8</sup>DEASP (2019)

order to fully sustain the costs of raising children. This employment is also frequently precarious, meaning it intersects negatively with the current system of social welfare and employment supports. There are many reasons for the prevalence of female lone parents in precarious and low-paid employment which include government policies, barriers to accessing education<sup>9</sup>, poor accessibility to early years and in-school childcare as well as a lack of support from employers for parents, carers and part-time or flexible employment options.

UK research<sup>10</sup> points to the fact that people who experience separation are more likely to experience work absences and to leave their jobs. This results in a loss of experience and talent from the work force.

Some government departments do not provide the sensible pro-active policies that could be put in place to support one-parent families often due to a perceived fear of fraud by two-parent families. Instead of challenging this, government policy over many years has been to continue to make one-parent families fit the two-parent family mould and this is simply not working.

Prior to the One-Parent Family Payment reforms/cuts in Budget 2012, lone parents were disproportionately poor and working in part-time low paid work and 98% of OFP recipients were female. Since the reforms in 2012 these issues have been further exacerbated. Approximately half of all Working Family Payment recipients are lone parents, which indicate how reliant these families are on state income supports to stay in work<sup>11</sup>. Lone parents in Ireland are also now five times more likely to experience in-work poverty than other households with children<sup>12</sup>. This means that there are a disproportionate number of women detached from the labour market in this group. Government must ensure that women can avail of equal opportunities to enter employment in comparison to their male counterparts.

A higher proportion of male lone parents are engaged in work outside the home in comparison to female lone parents and women are more likely to be invisible within the social welfare system. Properly designed and implemented activation strategies have a role to play to enhance gender equality and to ensure that female lone parents can attain similar levels of attachment to the labour market as men and increase their employability skills and economic independence. This is in line with Europe 2020 targets to increase female labour market participation.

However activation policies also need to take into account the caring responsibilities of lone parents. Access to affordable, flexible and accessible childcare is a key issue to enable those parenting alone to engage with education and work. An ESRI report found that due to the prohibitive cost of childcare, 16% of lone parents are better off not working<sup>13</sup>.

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<sup>9</sup>An Independent Review to Identify the Supports and Barriers for Lone Parents in Accessing Higher Education and to Examine Measures to Increase Participation. Delma Byrne and Cliona Murray. Maynooth University (2017)

<sup>10</sup> Resolution (2014) Divorce is hurting British workplaces.  
[https://www.familylaw.co.uk/news\\_and\\_comment/british-businesses-are-suffering-as-a-result-of-divorce-and-separation](https://www.familylaw.co.uk/news_and_comment/british-businesses-are-suffering-as-a-result-of-divorce-and-separation)

<sup>11</sup>DEASP (2019)

<sup>12</sup>Society of St Vincent de Paul, Working, Parenting and Struggling? An analysis of the employment and living conditions of one parent families in Ireland (2019)

<sup>13</sup>Lone Parent Income and Work Incentives (ESRI 2018)

5. **Article 41.3:** One Family has been seeking an expansion of Article 41.3 of the Constitution in relation to the definition of the family for over 45 years.

There are many important reasons for reviewing and expanding the understanding of family in the Constitution which include:

1. The Constitutional definition of family only affords rights and protection to the marital family and no other set of people are considered a Constitutional family. This is wildly at odds with not just the reality of family life, but also with social policy and even legislation in Ireland which can, within limits, recognise other types of families.
2. An expanded understanding of family will build on other recent changes such as the Children's Referendum; the Child and Family Relationships Act; marriage equality and the role of women in the home.
3. Census statistics and Growing Up in Ireland data show us the rich diversity of family life in Ireland today. One in three children in Ireland are born to parents not yet married to each other; one in three families do not conform to the traditional model of a married couple in their first marriage; and one in five children live in one-parent families.

Article 41.3 discriminates against all types of non-marital families and only married families (same sex or opposite sex or divorced) are provided protection. We are seeking an expansion of the current definition of family to include all types of non-marital families, as any unmarried parent/s and their children are not a Constitutional family. This has permitted discrimination against children of unmarried parents for decades in this country including the 'Baby Ann' adoption case<sup>14</sup>, pregnant women and unmarried mothers losing their jobs<sup>15</sup> and the treatment of unmarried mothers and their children in various institutions.

Having consulted with experts and bringing our own experience of working with diverse families to bear, we believe that a good workable solution is to edit Article 41 to add in Article 8 of the European Convention of Human Rights<sup>16</sup>. This new wording offers high level symbolic change that does not put restrictive wording or automatic rights for anyone into the Constitution but allows legislation to be crafted for specific situations as required.

It removes the barriers to family equality that are there at the moment, it is child-centred and is potentially helpful to any households/families based on caring arrangements including siblings, other non-nuclear family members, foster families and non-marital families. Though the wording of our Constitution could be considered to have only symbolic significance, it is incredibly important and could go

<sup>14</sup> 'Baby Ann' adoption case Supreme Court Judgment. Murray J. 2006

<http://www.courts.ie/Judgments.nsf/09859e7a3f34669680256ef3004a27de/b43e456d7a8eea87802572250052b81b?OpenDocument>

<sup>15</sup> 1980s Ireland was no place for women. Dan Buckley in the Irish Examiner, 2019.

<https://www.irishexaminer.com/breakingnews/views/analysis/1980s-ireland-was-no-place-for-women-931480.html>

<sup>16</sup> Article 8 of the ECHR – Right to respect for private and family life “1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

some way to provide symbolic reparation to the thousands of unmarried mothers and their children mistreated in Ireland for many decades, particularly those in Mother & Baby Homes<sup>17</sup> and Magdalen laundries.

In 2013 we established *All Families Matter*<sup>18</sup>- a campaigning coalition calling on the Constitutional Convention to progressively review the Irish Constitution in relation to the family. Members at the time included BelongTo, Family Resource Centre National Forum, GLEN, ICCL, Marriage Equality, New Communities Partnership, One Family, TENI and Treoir.

We wrote an article at the time calling for the then Constitutional Convention to consider Article 41.3 and this can be read here: <https://bit.ly/2SRVBSC>.

We made a video that succinctly describes the problem of Article 41.3 as it stands for families that are not considered Constitutional. The video can be viewed here:

<https://bit.ly/3bZklj9>

#### 6. Gender Equality vs the Best Interest of the Child:

Even though the work of the Assembly is focused on gender equality, it is important to remember that our Constitution, the Children & Family Relationships Act 2015, Children First and case law all require us to take a child's best interest approach when looking at issues where parents and children's needs intersect. We are aware of issues related to families and parents that are highly sensitive where a gender equality perspective can over-ride a child's best interest approach. There are several examples of this:

- (i) Automatic Guardianship for Unmarried Fathers: there are advocates for automatic guardianship for all fathers who argue that it is necessary for gender equality and that children deserve a legal relationship with their parents irrespective of whether they are married or not. This argument has great appeal and merit until you consider all the instances in which a child may be conceived or born into, including acts of conception that are crimes. This issue is not simple or straightforward and this is why we do not have automatic guardianship in Ireland. Without knowing the individual circumstances of each child, it is impossible to protect their interest with a blanket automatic guardianship of all fathers even though this may be appropriate in the vast majority of cases.
- (ii) Parental Leave Benefit Act: this act was introduced in November 2019 by the Department of Employment Affairs & Social Protection and the Department of Justice and Equality to provide greater gender equality in the provision of parental leave for parents of newborn babies. The interpretation of gender equality adopted by the Departments meant that it became impossible for a single parent to avail of all the leave. So while two-parent families can maximise the amount of time their babies have access to them with fourteen weeks of paid parental leave, our understanding is that lone parents can only access seven weeks. It is important for all babies to have access to their parents at this critical time

<sup>17</sup> Submission to Mother & Baby Homes Commission (2020) One Family.

<https://onefamily.ie/mother-baby-home-commission-submission/>

<sup>18</sup><https://www.facebook.com/AllFamiliesMatterIreland/>

and not just those in two-parent families. Because the majority of lone parents and new parents are women, there is an additional negative gendered impact if the leave remains non-transferrable. One Family understands the reason why it is non-transferrable is to ensure that fathers avail of the leave and that it is not routinely transferred to the mother by fraudulent means in two-parent families<sup>19</sup>. Thus a well-meaning gender equality approach coupled with a conservative approach to fraud prevention has resulted in a poorer outcome of opportunity for some babies and their parents.

- (iii) National Childcare Scheme: whilst the National Childcare Scheme purports to provide quality education and care for young children, in practice it is primarily operating to provide childcare to women to participate in education and employment. Whilst the latter is a laudable aim and one that is critically required by people parenting alone, the emphasis should be on a quality educational experience for young children.
- (iv) Contact Post-Separation: there is a widespread perception that family law courts may at times privilege the rights of parents to have contact with the children they do not live with, over the safety of the children involved. Due to a lack of resources to ensure all relevant information is brought into private family law cases, courts may not always be aware of all the issues taking place in a family and we are aware of instances of court-ordered contact with an abusive or negligent parent. In these cases Tusla are unable to act on a child protection notification to change a court-ordered action. There is a gender dimension to this as most contact parents are fathers.

We recommend that in all the work of the Assembly gender equality can be balanced with the needs of vulnerable affected people such as children.

## **7. Gender Identity**

One Family recognises the diversity of gender identities and expressions experienced by family members in Ireland and we work regularly with service users who identify as transgender or non-binary. We believe this is an important aspect of gender that needs to be considered in all aspects of society, legislation, policies and services in order to ensure the full human rights of transgender people and to ensure their good physical and mental health. We also recognise increasingly that parents need appropriate services to support their children on their individual journey of gender identity and these services, particularly healthcare services, are currently lacking in Ireland.

**Ends**

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<sup>19</sup> Email communication by DEASP representative.