

A CHILD MAINTENANCE SERVICE FOR IRELAND

This paper is a submission to the Public Consultation by the Child Maintenance Review Group being carried out in order to provide recommendations to the Department of Social Protection.

This submission makes a number of proposals in line with consultation with stakeholders who represent lone parent families and in view of existing Child Maintenance Service mechanisms in the North of Ireland.

The aim of these proposals is to assist lone parents in seeking and receiving child maintenance and to ensure that Child Maintenance and associated payments operate to ensure a minimum essential standard of living for lone parent families.

Introduction

To its shame, Ireland has an appalling track record when it comes to supporting lone parents and their families. In fact, Governments over the past decade have not only failed lone parent families, but they consciously taken policy decisions that have made life more difficult for them.

As a result of these policy decisions, many lone parents are either unemployed or underemployed, trapped in low paid precarious part time work, living in poverty and struggling to afford the most basic necessities.

In many cases, access to and affordability of adequate childcare are huge barriers when lone parents try to return to education or gain full time employment. Added to this, is the lack of financial supports available to assist lone parents especially, since the changes to the One Parent Family Payment (OPFP).

From 2012 onwards the age limit for the youngest child in order to qualify for the One Parent Family Payment was gradually reduced to seven. This has had, and continues to have, significantly damaging consequences for lone parents and their children and contributes to many of these families facing severe income inadequacy and poverty.

The most recent figures from the CSO's Survey on Income & Living Conditions (SILC) tells us that 17.7% of lone parent families live in consistent poverty.¹ This is compared to a consistent poverty rate of 6.1% for two-parent households. This means that lone parent families are almost three times more likely to be living in consistent poverty compared to two-parent households. Further to this, the same data shows that the 'at risk of poverty' rate for lone parent households is 29.7% with a deprivation rate of 45.4%.²

This compares to an 'at risk of poverty' rate of 11.9% and a deprivation rate of 22.1% in two-parent

1 CSO: Survey on Income & Living Conditions 2019: <https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2019/povertyanddeprivation/>

2 SILC data for 2017: <https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2017/povertyanddeprivation/>

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households.³ Data from 2019 shows positive progress on poverty rates in comparison with previous years⁴, there is clear evidence that the consistent rate of poverty remains far higher among lone parent families.

While, there is no one measure that will tackle poverty amongst lone parent families on its own, it is well recognised that child maintenance has a key role to play. Research (Hakovirta, 2011)⁵ has shown that in the U.K, there was a 30% reduction in the poverty gap as a result of child maintenance payments (where there was compliance with orders). This research concluded that child maintenance “has a relatively large impact in reducing child poverty for those who receive it.”

From a wellbeing perspective, a parent is more likely to stay engaged when they are paying maintenance; thereby underlining the important of designing social protection systems (like the system in the North) which encourage the custodial parent to seek maintenance.

For the reasons outlined above, Sinn Féin believes that a Child Maintenance Service similar to that which is operating in the North of Ireland should be established here.

Child Maintenance: the current situation

In March 2017 the United Nations published its report on the ‘Convention on the Elimination of All Forms of Discrimination against Women’ making a number of recommendations for Ireland. One such recommendation read:

“Consider establishing a statutory maintenance authority and prescribing amounts for child maintenance in order to reduce the burden on women of having to litigate to seek child maintenance orders.”⁶

Currently, there is no set procedure in place for the collection of child maintenance. The pursuit of child maintenance is left firmly up to the lone parent with no assistance from the State. From our discussions with lone parents and lone parent organisations we know that seeking child maintenance is costly, complex and time consuming for lone parents – so much so, that it actually deters lone parents from seeking it. We also know that securing maintenance and actually receiving it are two very different things.

3 CSO: Survey on Income & Living Conditions 2019: <https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2019/povertyanddeprivation/>

4 CSO Survey on Income & Living Conditions (SILC) 2017: <https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2017/povertyanddeprivation>

5 Hakovirta, Mia: ‘Child Maintenance and child poverty: a comparative analysis’
<http://docserver.ingentaconnect.com/deliver/connect/tpp/17598273/v19n3/s5.pdf?expires=1503409171&id=91269084&titleid=75006380&accname=Guest+User&checksum=4A88370ABEDFB8DCB64270C1ADC0F682>

6 ‘Convention on the Elimination of All Forms of Discrimination against Women’:
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgA84bcFRy75ulvS2cmS%2f%2bi2Olic4vOOol%2b%2fJdEApK4Y1bDvfs5hiCDBBEjK%2fEX3%2bio9SY4WyO2qG7JijYBEmLaDNBkAtODampBJJZhUgVH%2fsStH8n1EM2GaPB3Iu%2bPRA%3d%3d>

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The only option in cases where maintenance payments cannot be agreed by both parents is through the Irish court system. This is where the custodial parent seeks a maintenance order from the court. There are several issues with this system:

- Courts will not issue a summons for maintenance unless the custodial parent can provide an address for the non-custodial parent – this is not always known
- There are no statutory guidelines on how the rate of maintenance to be paid is determined –instead the amount deemed to be payable is at the discretion of the Judge on the day
- If the non-custodial parent fails to comply with the maintenance order, it is up to the custodial parent to issue enforcement proceedings themselves
- If the non-custodial parent fails to appear at court proceedings, a bench warrant is issued but rarely acted upon as there is no prosecuting Garda involved - this then delays any further proceedings while the warrant remains unexecuted

A condition of the One Parent Family Payment and the Jobseekers Transition Payment is that the applicant (lone parent) has to prove they have sought maintenance, usually through a court summons. Once a court order is issued, the Department for Social Protection assesses this as means, whether it is received or not. Poor compliance with court orders means that in many cases a court order can reduce a person's income to well below the poverty line and is a driver of child poverty.

Liabe Relatives Unit/Maintenance Recovery Unit – Department of Social Protection

For a State that does not facilitate a means of supporting the payment of child maintenance, the existence of a Liabe Relatives Unit within the Department to collect maintenance payments in order to cover their own costs seems unjust.

The Liabe Relatives Unit steps in where one parent applies to the Department for the One Parent Family Payment. When an application is received a contribution from the other parent (liable relative) to cover part of the cost towards the One Parent Family Payment is sought. The Unit's main functions are to:⁷

- Determine, based on income information supplied, whether the liable relative is in a position to contribute to the Department
- Determine the amount of contribution due by the liable relative
- Monitor and enforce payment of the contributions due
- Engage with both parties to ensure the requirements of the legislation are met

In recent years the obligation on parents to seek maintenance from a former partner (liable relative) in order to maintain their One Parent Family payment has been widely criticised. In cases

⁷ Department of Employment Affairs & Social Protection website: <http://www.welfare.ie/en/Pages/Liability-to-Maintain-Family.aspx>

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where domestic abuse meant that a lone parent was not in a position to make contact with a former partner, this obligation was swiftly removed in these cases. It still remains a condition for lone parents.

The interesting conclusion regarding the Liable Relatives Unit is that it is extremely ineffective in doing what it was set up to do.

Year	Cases examined	Payments commenced	No payments commenced
2018	8,244	1,104	7,140
2019	9,834	1,070	8,764
Jan 2020-Feb 2021	7,321	1,358	1,484

Data compiled from PQ Ref. No. 15389/21

It is clear from the above table that the Liable Relatives Unit has little success when it comes to recouping money from liable relatives. In 2020 and up to February in 2021 the Unit examined a total of 7,321 cases. Of this figure, 1,358 saw payments commenced following the Unit contacting the liable relative. This means that no payments from liable relatives were commenced for over half of the cases (1,484) determined to have a remaining liability in this period.

The Liable Relative legislation only covers One Parent Family payment and was not included in the Jobseekers Transitional payment legislation. This means that when the youngest child turns 7, the Department write to the liable relative informing them under social welfare legislation they are no longer obliged to contribute. The limitations of this legislation has led to a reduction in maintenance payments being made to custodial parents simply because their child(ren) is over the age of 7. In February 2021, 39,190 people were in receipt of the One Parent Family Payment, of which 17,751 people were recorded as also receiving child maintenance. Comparatively, in the same month 16,078 people were in receipt of Jobseeker's Transitional Payment (JST), and just 1,872 were recorded as also receiving child maintenance⁸.

Means-testing and impact on other social welfare payments

In the North of Ireland, child maintenance is excluded from social welfare assessments as a child poverty measure and also to encourage non-custodial parents to remain engaged in a child's life.

Here, child maintenance is currently assessed as means and as a result, 50% is deducted from social welfare payments (whether paid or not). With the qualified child increase sitting at €38 per for children on One Parent Family Payment, this means that maintenance payments above this amount are being deducted from the parent primary social welfare payment of €203 per week.

Therefore, parents may be entitled to less than their statutory social welfare payment because of money paid for their child's benefit. This in turn results in the custodial parent receiving payments which are well below the poverty line.

⁸ *Data compiled from PQ Ref. No. 15391/21*

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Furthermore, housing is an issue which has significant ramifications for child maintenance, based on the current system. Rules around the assessment of child maintenance do not support families remaining in the mortgaged or privately rented home and one parent families are at greatest risk of homelessness and are significantly overrepresented in emergency accommodation.

An example of this, mortgage payments are assessed as maintenance and can mean a person is not entitled to a social welfare payment. For custodial parents who are renting, every cent of child maintenance up to €95.23 is deducted off rent supplement.

The housing disregard was introduced 24 years ago in 1997, but the amount has not changed in line with current housing costs. In addition, the disregard remains the same irrespective of the number of children in the family, which has a disproportionate impact on larger families.

There are currently 2,078 recipients of the One Parent Family Payment and the Jobseeker's Transitional Payment who are also in receipt of Rent Supplement⁹. This means that, for many families, if there is a court order for child maintenance and it is not complied with, the custodial parent will be at risk of rent arrears and possible homelessness.

Given the current system of social welfare payments and its intersection with child maintenance, it is no surprise that one-parent households are most at risk of income inadequacy in the State¹⁰. It is clear that we urgently need to reform the Children Maintenance in Ireland.

RECOMMENDATIONS:

1. A Child Maintenance Service for Ireland:

Sinn Féin wants to see the establishment of a Child Maintenance Service (CMS) based on three guiding principles:

- The child/children are central to all child maintenance agreements;
- Maintenance is treated as a means to help lift children out of poverty and not as a source of household income;
- Lone parents are assisted and supported throughout the entire process.

Offer lone parents supportive CMS options – Circumstances different from family to family and an effective CMS should support lone parents where possible. Our proposal would see three options made available to lone parents under the CMS:

1. Parental arrangements:

While, the CMS will encourage parents to make their own arrangements, this will not be enforced given that the majority of parents will not use the CMS unless they have to.

⁹ Data compiled from PQ Ref. No. 15391/21

¹⁰ SVP Benchmarking Social Welfare Rates: Submission to the Department of Employment Affairs and Social Protection. April 2019.

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In cases of domestic abuse, parental arrangements will not be put forward as an option and therefore, no lone parent will be expected to make any contact with their ex-partner for maintenance. Parents who are willing to arrange child maintenance themselves can avail of assistance from the CMS who will provide them with free advice, support and information on reaching an agreed payment amount.

2. Direct Pay

This option can be used in cases where the non-custodial parent is willing to pay child maintenance but an agreement on the amount to be paid cannot be reached by the parents. This option will allow the CMS to examine the individual case and calculate the amount to be paid by the non-custodial parent. On arriving at an amount, and where there is agreement on that amount, this payment will be made directly from the non-custodial parent to the custodial parent.

3. Collect & Transfer

The third option will allow the CMS to calculate the child maintenance payment, collect the payment from the non-custodial parent and pay it to the other parent. This option will be used in cases where the non-custodial parent refuses to pay child maintenance or it may become the option where child maintenance ceases to be paid under the Direct Pay option. This option will be used automatically in domestic abuse cases.

Remove fees to use the CMS - A fee for lone parents to use this service cannot be justified. We believe that lone parents should not be charged to use this service and we therefore, propose the service is free.

Introduce penalties for Collect & Transfer option - The Collect & Transfer option will be a last resort for lone parents where the non-custodial parent refuses to pay child maintenance. We therefore, believe that the non-custodial parent should be penalised for this through an additional fee. This fee will be set at 20% and would incentivise non-custodial parents to pay child maintenance and therefore, avoid additional penalties.

Improve enforcement - The CMS must be relentless in its pursuit of child maintenance on behalf of lone parents. Proper enforcement action not only ensures payments are retrieved but also acts as a deterrent. We must do this from the outset to ensure that we do not allow for the non-compliance experienced in the U.K. We therefore, suggest the following:

- Strong enforcement powers, including the ability to deduct child maintenance from earnings, social welfare payments, and bank accounts
- Instruct bailiffs to collect arrears or seize payments
- Commit to prison

In this State, a person can be committed to prison for failing to pay fines, including the television

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licence, failure to pay child maintenance should be no different.

Provide information & advice - It is essential that lone parents are made aware of the CMS and the options available to them if they need to use it. We propose support and information being available both online and over the telephone for all lone parents to avail of especially in the Direct Pay option.

Create links to Revenue - We must ensure that there are strong links between Revenue and the CMS. Revenue must be consulted on the establishment of the CMS so there is absolute clarity on what is expected of both parties. Revenue will also need to advise the CMS on the type of information they can access in order to be of assistance. We also propose that the income of the non-custodial parent is not limited to earned income especially, where a non-custodial parent may own additional property.

Special circumstances: domestic abuse victims - It is of the utmost importance that victims of domestic abuse are not forced to contact the non-custodial parent at any stage in order to seek maintenance. We suggest the following two measures to be put in place:

- Training for all CMS staff on dealing with domestic abuse cases
- A fast track option for all cases

2. Remove means-testing of Child Maintenance

Child maintenance is not a type of household income and should not be calculated as means when it comes to other social welfare supports. Under our proposal, child maintenance will not be used in the calculation of means towards any other State support.

3. Extend the scope of Liable Relative legislation

Support from non-custodial parents does not simply end once a child turns 7 years old. We propose that the Liable Relative clause under the One Parent Family Payment is extended to include the Jobseekers Transitional Payment

4. Address implications for Housing

Increasing the amount for housing disregard would have a positive impact in supporting lone parents to meet their housing costs and could be significant in preventing family homelessness. Tiered rates of housing disregard should be introduced for families with more than one child.

Conclusion

Every year data shows us that there is a distinct gap in consistent poverty rates among families with two parents and families with one. Children in lone parent families experience greater

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poverty and greater deprivation.

We know that child maintenance payments play a role in reducing child poverty among lone parent families therefore, we must act on this. Leaving lone parents to pursue maintenance is unfair, instead we must support lone parents and their children in securing the maintenance they so badly need and deserve.

A Child Maintenance Service which is designed with the welfare of children in mind and concrete provisions to support custodial parents will achieve this.