



S.P.A.R.K.
Single Parents Acting for the Rights of our Kids

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SPARK is a peer led advocacy campaigning group representing lone parents and their children. We were formed in December 2011 and we have almost 5,000 members. During this period, we have made submissions to Oireachtas Committees, The CEDAW committee and various Ministerial meetings. We campaign for supports for our families to ensure full inclusion and

Background

One parent families, 86% of whom are headed by women, are among those most at risk of poverty in Ireland; 29.7% of one parent families are at risk of poverty compared to 12.8% of the overall population and they are more likely to live in consistent poverty (17.1%) or to experience deprivation (45.4%).¹ They represent the highest proportion of families living in emergency accommodation. In 2016, the UN Committee on the Rights of the Child expressed its deep concern at the ‘significant increase in the number of children living in consistent poverty’ and in particular referred to one-parent households.²

The effects of missing or late child maintenance payments can be very damaging. In Ireland, a comparatively low level of maintenance is paid to lone parents by their former partners; currently only 35% are in receipt of child maintenance payments.³

SPARK recommends:

- A Statutory Maintenance Agency that has full enforceable power to issue child maintenance orders and to ensure compliance of all orders. The responsibility of the enforcement of the orders should lie with the agency and not with the recipient parent.
- Child maintenance should be seen as a financial support for children and should not be used to offset social welfare payments made to an adult.
- Consideration should be given to the State paying all child maintenance orders directly to the recipient parent and recouping the money directly from the debtor.
- Maintenance and mortgage payments should be separated in assessments of maintenance along with a complete reassessment of mortgage payments being calculated as means.
- Research to be undertaken on international ‘best practise’ to assess the fairest methods to calculate appropriate levels of child maintenance taking into account needs of the child and the means of both parents.

¹CSO (2020). SILC 2019

² UNCRC ‘Concluding Observations: Ireland’ (20) UN Doc CRC/C/IRL/CO/3-4 para 59.

³ Joint Committee on Social Protection (2017). Report on the Position of Lone Parents in Ireland.

- An urgent review of social welfare rules which discourage parents from seeking maintenance and a legislative change to ensure 'Liable Relative' provisions extend from One Parent Family payments to Jobseeker Transitional payments.

Issues with child maintenance and the Social Welfare system

The interaction of maintenance with the social welfare system creates additional barriers to lone parents in receipt of social welfare payments:

There are 6 main areas of specific concern to SPARK.

1. Mortgage payments are assessed as maintenance and can mean a person is not entitled to a social welfare payment.
2. A condition of OPF/ JST is that the applicant has to prove they have sought maintenance, usually through a court summons. Once a court order is issued, DSP 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 below supplementary social welfare rates and is a driver of child poverty.
3. Liable relative - The liable relative clause in social welfare legislation allows the Maintenance Recovery Unit to pursue the other parent to pay maintenance and gives them enforcement powers. The legislation only covers OPF and was not included in the JST legislation. This means that when the youngest child turns 7, DSP write out to the liable relative informing them under social welfare legislation they are no longer obliged to pay maintenance. This has led to a reduction in maintenance payments being made. As a result, intreo offices put pressure on JST recipients to comply with conditionality of seeking maintenance. There are 2 problems with this. Firstly, it's very difficult for the custodial parent to do this when the liable relative has a letter from DSP saying it's no longer statutory. Secondly, if the custodial parent hasn't an address for the liable relative, they can't issue a summons for child maintenance. There was a Bill introduced by Fianna Fail in 2019, but this was abandoned at the dissolution of the last Dail. This is an urgent issue that could be remedied with a simple legislative change.
4. Child maintenance is assessed as means and 50% is deducted from a social welfare payment regardless of whether it is paid or not. The issue is that the qualified child increase is €38 per for children on OPF. This means that maintenance payments above this, are being deducted from the parent's 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. There is something perverse about money paid for a child, being used by the state to reduce an adult's statutory entitlement.
5. In the UK and other jurisdictions, child maintenance is excluded from social welfare assessments as a child poverty measure and to encourage non-custodial parents to remain engaged in a child's life.

Research⁴ has proven that a parent is more likely to stay engaged when they are paying maintenance, so social protection systems are designed to encourage the custodial parent to seek maintenance.

6. Rent supplement- every cent of child maintenance (under €75 per week) is deducted off rent supplement. Most district court orders are well under this amount, so there is no incentive for a custodial parent on rent supplement to seek maintenance and a serious risk of rent arrears, if they are awarded a maintenance order. If there is a court order and it is not complied with, the custodial parent will have a reduced rent supplement and could be in grave risk of rent arrears and homelessness.

We welcome the fact that DSP no longer requires survivors of domestic violence to contact their abuser or provide evidence of efforts to seek maintenance from them in order to access social welfare payments, however, it does not solve the problem that domestic abusers can avoid paying child maintenance payments and the survivors of domestic violence lose out on maintenance payments due to safety risks posed by the Courts process.

Child Maintenance leading to Housing Insecurity

Lone parent families are at greatest risk of homelessness and are significantly over-represented in emergency accommodation. We also know that family separation puts all members of a household at risk of homelessness. There is a significant need to prevent homelessness and this can be done by (i) supporting families to remain in a mortgaged family home after a relationship breakdown and (ii) by excluding child maintenance payments from means assessment for rent supplement/ HAP payments.

- Under current rules, if the joint owner contributes towards the mortgage, this is assessed as means for the custodial parent. This can mean a parent could have low/ no entitlement for support for day to day living costs because of payments made by a former partner to a mortgage. In such circumstances, the resident parent may feel it's better to sacrifice mortgage payments so they can have an income. If mortgage payments paid by a joint owner were not assessed as means, it could keep families in the family home.
- Rules around the assessment of maintenance do not support families remaining in the mortgaged or privately rented home. Currently, there is a housing income disregard of up to €95.23 per week that can be offset against maintenance received. This housing disregard was introduced 24 years ago in 1997 (at the time it was £75 per week) but it has not changed since and it does not reflect current market housing costs. In addition, the disregard is the same regardless of the number of children in the family and this disproportionately impacts upon larger families. A family with 4 children receiving €200 per week maintenance should not be assessed using the same formula as a family receiving €200 for one child. An increasing in

⁴ Amato, P. and Gilbreth, J. (1999) „Non-resident fathers and children's well-being: a meta-analysis", Journal of Marriage and the Family, 61 (3): 557-73.

the housing disregard could have a significant impact in supporting lone parents to meet their housing costs and could be significant in preventing family homelessness.

- As detailed earlier, assessing court ordered child maintenance payments as means, whether it is paid or not, puts lone parent households in receipt of a housing support payment at grave risk of rent arrears and possible homelessness.

Child Maintenance in Ireland

Unlike other jurisdictions, child maintenance is seen largely as a personal, parental obligation and therefore a matter of private Family Law. There is no state agency with responsibility for child maintenance payments and pursuit of maintenance is left up to the claiming parent on behalf of their child. Where a maintenance agreement cannot be reached by parents privately, they are forced to seek maintenance through an adversarial, costly and time-consuming court system.

Processes in the Courts are difficult to enforce, precipitate protracted and often hostile parental negotiation, contribute to poverty and have little regard to the safety of those who have been subjected to domestic abuse, violence, coercion and financial abuse.

From our work with families, we are aware that there is a significant rate of non-compliance with child maintenance orders⁵, significant delays in the courts system and a high cost involved in engaging a litigious route. Issues with this system include:

- Parents cannot issue summons for child maintenance unless they can provide an address for the non-custodial parent – this is not always known.
- There are no statutory guidelines; and instead, they are at the discretion of the court
- Revenue does not have the power to deduct maintenance at source. If the non-custodial parent fails to comply with the maintenance order, it is up to the custodial parent to issue enforcement proceedings. An attachment of earnings order can only issue when the payee is a PAYE worker. It is linked to an employer and is invalid if the payee changes jobs.
- If the liable parent fails to appear at court proceedings, a bench warrant is issued but rarely acted upon as there is no prosecuting Garda involved – this stops any further proceedings while the warrant remains unexecuted
- In cases of domestic abuse, the system places survivors in a difficult situation. While survivors can request that their address be redacted, there are no specific rules to deal with this and it

⁵SPARK Survey (October 2017) showed 66% families either no maintenance or maintenance in arrears.

is dependent on the discretion of the judge. In some cases, survivors forgo maintenance payments rather than risk compromising their safety and security.

Ireland's child maintenance framework is archaic, disjointed and does not reflect the changing nature of modern day families. The state needs to take a more proactive role in the management of child support payments and to see it as a tool in reducing child poverty among lone parent families. We need a future-proofed, publicly accessible, and holistic approach to child maintenance, set within a wider court welfare system which provides stability for families and children. The Joint Committee on Social Protection⁶ has called for the establishment of a statutory maintenance system and a review on how child maintenance is assessed by DSP. This is echoed in recommendations from the UN Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) which has asked the State to review the need for a statutory maintenance agency and to prescribe amounts for child maintenance. We welcome that Government has agreed to examine its approach to child maintenance on foot of these recommendations.

The Benefits of a Child Maintenance System?

Such an approach to child maintenance would have many benefits, including:

- Reducing child poverty levels in children living in one-parent families who are currently the majority of consistently poor children.
- Reducing the burden on lone parents to litigate for child maintenance orders by doing away with an adversarial, Court based approach
- Reducing conflict between parents while also encouraging shared parental responsibility. Parents who pay child maintenance are more likely to have frequent contact with their children than those who do not pay child maintenance⁷
- Ensuring maintenance is paid in full and on time, creating certainty and security and helping to prevent poverty. Research has shown that in the UK, there was a 30% reduction in the poverty gap as a result of child maintenance payments (where there was compliance with orders)⁸
- Protecting survivors of domestic violence and guarding against the court system being used by perpetrators to continue domestic abuse, violence and control
- Ensuring the recovery process for maintenance is not overly burdensome, time-consuming or costly to the party who has already obtained a final maintenance order from the courts
- The administrative blocks and backlogs within 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.

⁶ Joint Committee on Social Protection (2017). Report on the Position of Lone Parents in Ireland.

⁷ Amato, P. and Gilbreth, J. (1999) „Non-resident fathers and children's well-being: a meta-analysis", *Journal of Marriage and the Family*, 61 (3): 557–73.

Wikeley, N., Ireland, E., Bryson, C. and Smith, R. (2008) Relationship separation and child support study, DWP Research Report No 503, London: DWP

⁸ Hakovirta, (2011). Child maintenance and child poverty: a comparative analysis", *Journal of Poverty and Social Justice*, Volume 19, Number 3, pp. 249-262(14)

