

Child Maintenance Review

To: Child Maintenance Review Group

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Introduction

The Society of St Vincent de Paul (SVP) welcome the opportunity to make a submission to the Child Maintenance Review Group. As the largest charity of social concern in Ireland we work to provide practical assistance to those experiencing financial hardship and work to address the root causes of poverty through our policy and advocacy work.

Last year we received over 170,000 requests for assistance and almost 70% of those requests were from families with children – the majority of which were headed by a mother parenting alone. As the group most at risk of poverty in Ireland today, lone parents and their children represent the largest group assisted by SVP. In our experience the main driver of poverty among one parent families are inadequate social welfare payments, precarious and low paid work, unaffordable childcare, housing costs and insecurity.

We also see how the ineffective system of child maintenance in Ireland leaves children in poverty and the onus on the custodial parent to pursue maintenance through the courts causes significant stress and strain for resident parents. We also see how this system can also cause problems for low-income non-resident parents who may cut back on basics like food and heating to make maintenance payments. It is from this perspective that we make this submission to the Child Maintenance Review Group.

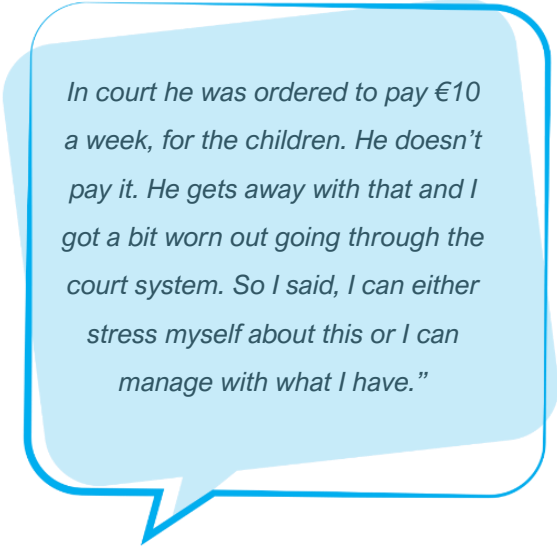
Key Issues Arising for the People SVP Support

In qualitative research carried out by SVP with sixty lone parents who were being assisted by SVP in 2014, many had been involved in legal action with a non-resident parent; these proceedings invariably introduced considerable stress and anxiety.¹

¹Society of St Vincent de Paul (2014) It is hardest job in the world.
<https://www.svp.ie/getattachment/0dfc3b0e-9165-4792-946e-43f84199eb57/It-s-The-Hardest-Job-in-The-World.aspx>

Maintenance-related actions were commonplace, while other court orders concerned violence in relationships.

Some respondents became dissatisfied with the process for assessing and awarding maintenance through the court system and withdrew from the process, while in other cases, where court orders were obtained, they were not adhered to, causing further stress and tensions. In some cases, respondents were reluctant to obtain or enforce court orders as they needed the co-operation of the non-resident parent with regard to childcare or access. The importance of receiving help from the non-resident parent with childcare, school pick-ups and sharing parenting was noted. This kind of support is particularly relevant where the non-resident parent was also on a low income, with limited or no resources to pay maintenance or provide financial assistance. No questions were asked in the interviews about the personal circumstances of the non-resident parent; however, replies to other questions indicated that many, perhaps the majority, were in poor personal circumstances



In court he was ordered to pay €10 a week, for the children. He doesn't pay it. He gets away with that and I got a bit worn out going through the court system. So I said, I can either stress myself about this or I can manage with what I have."

themselves, dealing with significant difficulties including addiction, imprisonment, poverty and low income.

SVP members report providing support to both mother and father in some cases, in order to help the non-resident parent who has part-time access to his/her children. SVP members also reported the difficulties facing non-resident parents (usually a father) living in accommodation

which is too small or otherwise unsuitable for access visits; and the fact that a single person's social welfare payment is inadequate to meet the needs of children during access visits.

In 2018 research commissioned by SVP on the experience of families living in poverty and below a minimum standard of living, the vast majority of one parent

families interviewed did not receive any support from the father of their children, including maintenance payments. The small number who did receive financial support, received it on an irregular basis. This left families without enough to make ends meet and the constant insecurity and uncertainty caused additional stress and strain.²

The Role of Child Maintenance in Reducing Child Poverty

It is the view of the Society that the main purpose of an effective child maintenance system should be to reduce child poverty. Data from the Growing up in Ireland Survey shows 50% of non-resident parents provide no maintenance payment, 30% regularly pay maintenance and 14% on a 'required basis'.³ Currently, the level of child maintenance that is paid by non-resident parents is very low and is a contributing factor in the very high number of one parent families were living in consistent poverty (17% compared to 6% among two parent families) prior to the pandemic.⁴

Improving child maintenance compliance has the potential to reduce child poverty and many countries do have strong enforcement powers to make this happen. However, another problem relating to the poverty effectiveness of child maintenance is the extent to which the states retain all, or a proportion, of child maintenance in order to offset other fiscal costs.⁵ This particularly relates to the poorest lone parent families who receive social welfare. Research shows that the poverty reduction effectiveness of child maintenance can also be reduced when child maintenance is

² Vincentian Partnership for Social Justice (2018) Stories of Struggle: The Experiences of Families Living Below a Minimum Essential Standard of Living. <https://www.svp.ie/storiesofstruggle>

³ Murray, A., McNamara, E., Williams, J., Smyth, E. (2019) *Growing up in ireland national longitudinal study of children: The lives of 5-year-olds*, report 9, Dublin: Department of Children and Youth Affairs, www.esri.ie/system/files/publications/SUSTAT71.pdf

⁴ CSO (2020) Survey of Income and Living Conditions 2019 <https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2019/>

⁵ Skinner, C., Meyer, D.R., Cook, K. and Fletcher, M., 2017. Child maintenance and social security interactions: The poverty reduction effects in model lone parent families across four countries. *Journal of Social Policy*, 46(3), pp.495-516.

counted as income in calculating benefit entitlements, and where it is treated as a substitute or a complement to cash benefits.⁶

A comparative study published in 2020 shows that effectiveness of child maintenance policies in reducing poverty among one parent families is curtailed in some countries due to interaction effects with social assistance, leaving lone parents no better off even if child maintenance is paid.⁷ It finds that child maintenance is most effective at reducing child poverty in the UK compared to the other countries included in the study- Australia, Germany and Finland. This is due to the fact that the UK has decoupled child maintenance from social assistance benefits. The authors conclude that this is a clear way to maximise the anti-poverty effectiveness of child maintenance and potentially may also improve incentives for non-resident parents to pay if they see the benefit of “pass through” of payments to their children.

Guiding Principles for an Effective Child Maintenance

System

Given the potential of the child maintenance to reduce child poverty, we recommend along with other members of the National One Parent Family Alliance, that an effective child maintenance system should:

- Reduce child poverty levels in children living in one-parent families who are currently the majority of consistently poor children.
- Reduce the burden on lone parents to litigate for child maintenance orders by doing away with an adversarial, Court based approach
- Reduce conflict between parents while also encouraging shared parental responsibility. Parents who pay child maintenance are more likely to have

⁶ Skinner, C., Meyer, D.R., Cook, K. and Fletcher, M., 2017. Child maintenance and social security interactions: The poverty reduction effects in model lone parent families across four countries. *Journal of Social Policy*, 46(3), pp.495-516

⁷ Hakovirta, M., C. Skinner, H Hiilamo, and M. Jokela. "Child poverty, child maintenance and interactions with social assistance benefits among lone parent families: A comparative analysis." *Journal of Social Policy* 49, no. 1 (2020): 19-39.

frequent contact with their children than those who do not pay child maintenance

- Ensure 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)
- Protect survivors of domestic violence and guarding against the court system being used by perpetrators to continue domestic abuse, violence and control
- Ensure 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
- Remove 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.

Response to the Consultation Questions

Treatment of Child Maintenance Payments in the Department of Social Protection

SVP along with the other members of the National One Parent Family Alliance have identified the following issues that arise in the interaction between child maintenance and payments from the Department of Social Protection.

- In the shift from One-Parent Family Payment (OFP) to Jobseekers Transitional Payment (JST), the Department of Social Protection (DSP) expressly ends the child maintenance payment requirement of the other parent. This confuses often fragile maintenance agreements and can disrupt established maintenance payment arrangements.
- DSP assesses court ordered maintenance as means in relation to a range of different supports, including HAP, Rent Supplement, the Medical Card and subsidies under the National Childcare Scheme. While there are disregards in place for some social welfare payments, these are not sufficient to prevent poverty. Maintenance is also subject to multiple means tests.

- Child maintenance is assessed as means regardless of whether it is paid or not. This can leave a parent below social welfare rates, if the liable relative does not pay. Failure to provide proof of “efforts to seek maintenance” can lead to payments being suspended, cancelled or not awarded.
- Many people have been forced to forgo court ordered mortgage payments as it impacts on their eligibility for social welfare payments, leading to arrears problems and housing insecurity.

Recommendations

- **Ensure that JST is underpinned by liable relative legislation in the same way that OFP is, to prevent the need for DSP to end child maintenance payments when claimants move from OFP to JST. Child maintenance should be available until a child reaches 18 or 22 if in education.**
- **Child Maintenance should be fully decoupled from social protection payments and be treated as a non-means-tested, non-taxable income for children, as with Child Benefit, to support one parent families out of poverty.**
- **Maintenance and mortgage payments should be separated in assessments of maintenance along with a complete reassessment of mortgage payments being calculated as means.**

Liabile Relative Provision

Current mechanisms available to parents to seek maintenance orders, and their subsequent enforcement, rest with those who are seeking the payment. ‘Liabile Relative’ legislation places the burden of locating an absent or refusing parent on the parent who has care responsibilities. While there are established legal mechanisms

to enforce financial responsibilities, compliance continues to be problematic as there little or no enforcement.

This is often a cause of great stress on the resident parent as the court process can be daunting and overwhelming.⁸ As there is no statutory authority with power to enforce and collect maintenance payments, in a situation of non-payment, the onus is on the recipient to pursue the matter through the courts, which is time-consuming, costly and may provide only a temporary solution to an ongoing problem, resulting in repeat visits to court if non-payment persists.

Immediate Recommendations

- **Learning from arrangements during Covid-19 accept self-declarations or another less onerous method of proof so that parents do not have to go to Court to prove they have sought maintenance or that maintenance has ceased.**
- **The Family Justice Oversight Group should review the issue of child maintenance assessment and enforcement as part of the reform of Family Law in Ireland.**

Possible establishment of a State Child Maintenance Agency

Research has shown that children have better outcomes in countries where a guaranteed state mechanism is in place for the payment of child maintenance.⁹ In countries like Ireland, where maintenance is viewed as a family matter with no

⁸ Cross, R. and Millar, M. (2020) 'Off the hook: mutual absolution of responsibility by fathers and the state, the experiences of separated and divorced Irish mothers. *Journal of Poverty and Social Justice*, Vol 27 (3) 369-388.

⁹ Hakovirta, M., C. Skinner, H Hiilamo, and M. Jokela. "Child poverty, child maintenance and interactions with social assistance benefits among lone parent families: A comparative analysis." *Journal of Social Policy* 49, no. 1 (2020): 19-39.

guarantee schemes, the proportion of lone parents receiving child maintenance is low and levels of poverty in these families is very high.¹⁰

In 2017, the UN Convention on the Elimination of Discrimination of All Forms of Discrimination against Women recommended that Ireland “*Consider establishing a statutory authority and prescribing amounts for child maintenance in order to reduce the burden on women of having to litigate to seek child maintenance orders*”. SVP would support the call and need for such a statutory body. As highlighted by One Family, the pursuit of child maintenance should also be integrated within a wider service which provides concurrent supports for the range of issues facing separating and one-parent families.¹¹

An effective state system of child maintenance should help lift children out of poverty and above a minimum standard of living. At the same time low-income non-resident parents should not be pushed into poverty as a result of a child maintenance obligations and assessment of pay level should incorporate the Reasonable Living Expenses as utilised by the Insolvency Service of Ireland. When a parent cannot pay or won't pay maintenance the state should step in and ensure child maintenance is paid.

Recommendations

- **Establish a Statutory Maintenance Agency or equivalent mechanism to take maintenance out of the private sphere and ensure the State is responsible for assessment and enforcement of child maintenance. Responsibility for recouping payments from the liable parent should lie with the State, where applicable.**

¹⁰ Hakovirta, M., C. Skinner, H Hiilamo, and M. Jokela. "Child poverty, child maintenance and interactions with social assistance benefits among lone parent families: A comparative analysis." *Journal of Social Policy* 49, no. 1 (2020): 19-39.

¹¹ One Family. Child maintenance position paper. <https://onefamily.ie/wp-content/uploads/2019/08/Child-Maintenance-Position-Paper-7.19-2.pdf>

- **Commission research to examine what works internationally in terms of positive reductions in child poverty and family conflict in order to understand best what may work in Ireland.**