



Submission to the Child Maintenance Review Group

March 2021





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1. Summary of Recommendations

Recommendations

1. In the assessment of income for social welfare payments, only **actual** child maintenance payments should be included.
2. When maintenance payments are in arrears, social welfare payments should be adjusted to make up the shortfall, within a reasonable time-frame, so as not to leave women and children at risk of poverty. It should not be up to the woman to try and enforce payments. Recovery of missed payments should be entrusted to the Social Welfare Department or to a specialist maintenance agency.
3. Relevant social protection staff should be trained in domestic violence abuse, including coercive control and on working safely with survivors.
4. Social protection staff should be vigilant in maintaining confidentiality of survivors of domestic abuse whose safety may depend on their location, and other identifying information being kept confidential from a former partner who poses a risk to them/their children.
5. A written self-declaration that maintenance has ceased should be accepted as proof without having to go to court.
6. The Government should establish and resource a Statutory Maintenance Authority, separate from the family courts, to manage and enforce payments of maintenance.
7. This authority should be appropriately funded, independent and have the power to compel attachment of earnings to income or social welfare payments.



2. Introduction

Women's Aid is a leading national organisation that has been working in Ireland to stop domestic violence¹ against women and children since 1974. In this time, the organisation has built up a huge body of experience and expertise on the issue, enabling us to best support women and share this knowledge with other agencies responding to women and children experiencing domestic violence. More information on Women's Aid work is provided in Annex 1.

Women's Aid welcomes the opportunity to make a submission to the Child Maintenance Review Group of the Department of Social Protection. Given our remit, we will focus on the experiences of women seeking maintenance and accessing social protection in the context of domestic abuse and the issues specific to this group.

3. Statistical Data

Domestic violence is a very pervasive issue. The EU Fundamental Rights Agency² survey on violence against women has found that in Ireland:

- 14% of women have been subjected to physical violence by a partner (current or ex).
- 6% of women have been subjected to sexual violence by a partner (current or ex).
- 31% of women have been subjected to psychological violence by a partner (current or ex).

Data from Women's Aid³ shows that:

- In 2019 there were 20,763 contacts made with our direct services.

¹ While recognising that the legal term in Ireland is 'domestic violence' we acknowledge that many victims/ survivors identify more with the term 'domestic abuse' or 'intimate partner violence'. Women's Aid uses these terms interchangeably in this submission to refer to the same set of abusive behaviours perpetrated by current or former intimate partners (including emotional, physical, sexual and financial abuse and coercive control).

² European Union Agency for Fundamental Rights, 2014, Violence Against Women: an EU-wide survey Main results

³ Women's Aid Annual Impact report 2019 available here:

<https://www.womensaid.ie/about/policy/publications/womens-aid-annual-impact-report-2019/>



- In these contacts we heard 19,258 disclosures of domestic violence against women and 4,791 disclosures of abuse against children.
- As part of the abuse against women and children, we heard of 2,034 instances of financial abuse, including non-payment of maintenance.
- Data from Women's Aid direct services suggests that 90% of the women using our One to One Service for the first time in 2019 have children, many of whom are minors.

4. Seeking and Enforcing Maintenance from an Abusive Partner

Domestic violence does not necessarily end with separation. Abusers often continue to abuse and control their partner through various tactics, including financial abuse and non-payment of maintenance. There are a number of issues that women leaving an abusive partner experience in relation to maintenance:

- When maintenance is being determined, women may agree to inadequate and unfair maintenance amounts because they are in fear of the perpetrator, they want to end costly and stressful proceedings or they do not have accurate and complete knowledge regarding the family's assets and income.
- Maintenance is used by the perpetrator as a tool to continue controlling the woman and children, with agreed payments not made at all or made irregularly or partially.
- Women have to go back to court to try and to have maintenance enforced, which takes time, energy and money. Even for women eligible for legal aid, there may still be a fee and many women are not eligible at all.
- When a woman cannot afford legal representation and has to represent herself, she will find it very difficult to obtain a good outcome, as these hearings can be quite technical.
- Many abusers purposefully do not bring to court the necessary documentation on earnings, resulting in adjournments. Adjournments and appeals may mean that enforcement proceedings are protracted and, in the meantime, no maintenance is paid. In fact, there may be additional costs in going to court, such as legal fees, child care, parking and having to taking unpaid time off work.



- In many cases where large arrears have been incurred over a period of time the court will finally order the perpetrator to pay only half the arrears. The unpaid amount is lost to the woman and, by extension, any dependent children also
- In other cases, the perpetrator may pay a small part of the arrears or re-start payments for a while as a response to court enforcement and then stop paying again. New enforcement proceedings then become necessary.
- For many women we work with, having to go to court for maintenance is rarely a once off occurrence. Due to the emotional and financial stress of trying to get maintenance for their children, many women decide that constantly going to court is not worth it, so they do without maintenance, which suits abusive fathers.

While domestic violence occurs in all social classes, women escaping from a violent relationship have often suffered economic abuse as part of the violence. They may have been prevented from working by the abuser, have disrupted work histories, have little or no personal income and savings and in some cases, they have debts the perpetrator incurred in their name. As discussed above, maintenance orders may be difficult to enforce. **For many women leaving an abusive partner, the economic support provided by social welfare payments is therefore absolutely vital.**

5. Response to Specific Topics in the Call for Submissions

Treatment of Child Maintenance Payments in the Department of Social Protection

The main issue in relation to the treatment of child maintenance payments in the Department of Social Protection is the assumption that the amount of maintenance that **should** be paid based on court orders or agreements between the parties is **actually** paid.

In our experience, many abusers do not pay, do not pay in full, or do not pay on time. Sometimes they do not pay maintenance at all; sometimes they pay partially or erratically. When this happens, payments from social welfare continue to be made on the basis that the woman is receiving a



maintenance amount **which she is not actually getting**. The shortfall is not made up by social welfare payments, leaving the woman and children with insufficient income and at risk of poverty.

For all the reasons noted above in **section 2**, it is important that the Department understand that payment of court mandated maintenance may be neither automatic nor straightforward at all, particularly in the context of domestic abuse.

Recommendations:

1. In the assessment of income for social welfare payments, only **actual** child maintenance payments should be included.
2. When maintenance payments are in arrears, social welfare payments should be adjusted to make up the shortfall, within a reasonable time-frame, so as not to leave women and children at risk of poverty. It should not be up to the woman to try and enforce payments. Recovery of missed payments should be entrusted to the Social Welfare Department or to a specialist maintenance agency.

Liable Relative Provisions

Women's Aid appreciate that current regulations should provide an exemption to women experiencing domestic violence from having to seek maintenance from their former partner as a condition for One-Parent Family Payment (OFP).

However, anecdotal evidence from our frontline services indicates that this exemption is not operating in practice and that in some cases women are still expected to seek maintenance from abusive partners. This is particularly true in cases where there is no domestic violence protective order from a court in place. If a woman applies for a social welfare payment, she will receive a temporary supplementary welfare allowance until the day of the maintenance order hearing, that she is still required to apply for, takes place.



It is essential that this exemption is adhered to consistently and that applicants are made aware of it, as many women do not disclose domestic violence due to shame and stigma. Many women will also not go through the highly stressful process of seeking protective orders through the court once the relationship is ended, as they believe that they can avoid being in the presence of the ex-partner and his abusive behaviour. A woman's safety and wellbeing may be contingent on her trying to ensure she initiates no contact with him at all, including applying for maintenance from him.

Similarly, women may be required to go to court to prove that maintenance has ceased. This could also put her at risk of abuse. Moreover, it takes time to get a court hearing as courts are overstretched, and in the meantime she will have a reduced income. A written self-declaration that maintenance has ceased or other less onerous proof should be accepted.

It is also important that relevant staff are trained in understanding and recognising domestic abuse and responding appropriately. This includes ensuring that sensitive information about women and children (such as any information that would reveal their address or general location) is not passed on should an abusive parent be contacted by social protection staff as a liable parent. For example, the UK Child Maintenance Service has developed specific procedures to pay victims of domestic violence without the abuser getting information about their new location or any change of name.⁴

⁴ <https://www.gov.uk/manage-child-maintenance-case/making-and-getting-payments>



Recommendations:

3. Relevant social protection staff should be trained in domestic violence abuse, including coercive control and on working safely with survivors.
4. Social protection staff should be vigilant in maintaining confidentiality of survivors of domestic abuse whose safety may depend on their location, and other identifying information being kept confidential from a former partner who poses a risk to them/their children.
5. A written self-declaration that maintenance has ceased should be accepted as proof without having to go to court.

Possible Establishment of a State Child Maintenance Agency

Women's Aid strongly supports the establishment of a well-resourced and independent State Child Maintenance Agency. As discussed above, many abusers do not pay maintenance. Currently its enforcement through the court is left to the abused party, which puts her at risk of retaliation, forces her to have continued contact with the abuser and results in lack of adequate and regular income. Unfortunately, courts don't often make attachments of earnings anymore which, in the past, have been a better way of guaranteeing maintenance payments.

For many women, trying to enforce maintenance through the courts is a stressful, costly and prolonged process, which they may have to go through time and again and which often only brings partial and temporary relief. Many women simply give up, even with the consequence of struggling financially. Women's Aid believes that maintenance enforcement should not rely on individual women having to go to court. It should be the state's role to hold parents responsible for their maintenance obligations to their children.

Therefore, we support the establishment of a State Child Maintenance Agency which would pay the payee parent in full and on time and collect payments from the liable parent. Payments to the payee



parent should be made regardless of whether the payer has made payments to the Child Maintenance Agency so as to ensure regular and adequate income to the payee and the children. It would be the Child Maintenance Agency's role to recoup any outstanding payments from the payer parent. This would also take pressure from the very over-stretched courts, and would free up more judges to deal with other family law matters.

It would be important that the Agency had good links with the Family courts and with Revenue and that they have strong enforcement powers, including attachment of earning orders for private income or social welfare payments, and the ability to deduct money owed from tax refunds.

Recommendations:

6. The Government should establish and resource a Statutory Maintenance Authority, separate from the family courts, to manage and enforce payments of maintenance.
7. This authority should be appropriately funded, independent and have the power to compel attachment of earnings to income or social welfare payments.

For more information, contact

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Appendix 1. Letter to the Minister

Women's Aid would like to share the voice of just one woman (with her permission), who wrote the letter below to the Minister of the day in 2019 on this topic. Her voice echoes that of so many of the women we engage with in our Services.

Dear Minister,

I have some questions for you. Why does Ireland still not have a child support agency when Britain, Denmark, Germany, and many other countries have one? Why do mothers have to go to court to fight for child support? (and it is mostly Mothers, but some single Fathers too). Why do Judges have to sit through arguments about money that should be going towards children automatically? Why should children be impoverished while mothers wait for months to go to court after a breach in payment of child support?

Why do children have to live with the stress of traumatised mothers who are abused by ex-partners in the courtroom? Why are these men let away with it? I'm not condoning an approach like in Brazil where the debtors are arrested and put in jail the first month they don't pay child support, but it is a question of these parents robbing from their own children.

An agency to collect money from the debtor's wages or social welfare is what is needed. I sat in the district court yesterday for an hour and a half listening to my son's father ranting and arguing. He insulted both the barrister and myself several times and disrespected the judge who threatened to walk out.

I have been in court 5 times over the years because he keeps breaking court orders. The negative effect on my mental health and thus the impact on my son has been huge. My boy is 19 now, and when he is finished in college in 4 years I will not be responsible for



supervising a court order anymore but I am in a group of single Mums. Most of them are younger, just starting out. Their babies are small. I don't want them to have to go through two decades of what I have gone through.

Please talk to Women's Aid for more information, Minister. It would be fabulous if you would formulate a plan to set up a child support agency in Ireland. The time is right to stop the oppression of women and children.

Many thanks for reading this,

Women's Aid client, letter to Regina Doherty, Minister for Social Protection, November 2019 (used with permission).



Appendix 2. Women's Aid Services and Expertise

24hr National Freephone Helpline

The 24hr National Freephone Helpline provides a listening ear, emotional support and practical information to women experiencing abuse from their current or former male partners. It is the only free, national, domestic violence helpline with specialised trained staff, fully accredited and quality assured by The Helplines Partnership. It has a Telephone Interpretation Service facility covering 170 languages for callers needing support in their own language. We also provide a text service for deaf and hard of hearing women. The Helpline is a gateway into our Dublin-based face-to-face and court support services and to other local independent support services and refuges around the country. The National Freephone Helpline also provides an instant chat service through www.womensaid.ie.

One to One Support Service and Court Accompaniment

We provide direct face-to-face support to women at safe, accessible outreach locations embedded in communities around Dublin city and county. We offer court accompaniment and court advocacy support to women who access our one to one services and who are seeking legal redress in the courts regarding violence and abuse by a current or former spouse or partner.

Dolphin House Family Law Support and Referral Service

Based in the Dolphin House Family Law Court, the support and referral service is a free and confidential drop in service for women who are experiencing domestic violence. This can include emotional, physical, sexual or financial abuse. The service provides support and information on legal options, safety planning and links women in with domestic violence services for ongoing support. Women's Aid runs this service in partnership with the Inchicore Outreach Centre.



High Risk Support Project

The High Risk Support Project provides a multi-agency response to women at high risk of ongoing abuse and homicide from their ex-partners. Women's Aid partners with An Garda Síochána and local domestic abuse services to deliver a coordinated rapid response system for women and families, which is generously supported by the Vodafone Foundation and the Department of Justice Commission for the Support for Victims of Crime.

Women's Aid Law Clinic

Our confidential and free legal information and assistance clinic supports women experiencing domestic violence who are representing themselves in domestic violence and family law proceedings. The clinic is staffed by volunteer lawyers from McCann Fitzgerald whose services are provided free of charge.

Specialised Training

Women's Aid provides high quality specialist Training and Development to support professional and organisational responses to women and children experiencing domestic violence. We provide support to local and national organisations throughout Ireland, both statutory and non-statutory, to promote best practice responses to women and children experiencing domestic violence. All Women's Aid training is informed and guided by over 40 years of experience of direct work supporting women and by international models of best practice.

Public Awareness and Campaigns

Women's Aid leads the way in raising awareness and providing information on domestic violence to women experiencing abuse, their families and friends, their communities and wider society. Our annual public awareness campaigns and communications activity are a vital way to highlight the prevalence, nature and impact of domestic violence, dating abuse and femicide. We also engage with the media to promote the 24hr National Freephone Helpline and our other support services. The Women's Voices testimony project encourages and facilitates survivors of domestic violence



to tell their stories in a safe way to create better awareness and change for women in similar situations.

Influencing Government and Policy

Women's Aid provides solution based recommendations on experiencing abuse to a number of national and local fora. We make submissions and meet with Government ministers, policy-makers and members of the Oireachtas to discuss a range of issues and collaborate with other agencies and organisations to bring about political and social change.