

# FOCUS Ireland

## Social Welfare (Child Maintenance and Liable Relatives Provisions) Bill

### Introduction

Focus Ireland acknowledge that lone parent households are at a disproportionate risk of homelessness and housing precarity and currently 57% of families in emergency accommodation are lone parent families<sup>1</sup>. Focus Ireland staff provide support to families in emergency accommodation through are Family Centre and the Family Homelessness Action Team. Our experience working with families informs our concerns around the treatment of mortgage payments by the Department of Social Protection. We believe that families are at a particular risk at the time of a relationship breakdown and where there is a family home, robust measures must be in place to prevent the family losing a family home and

### Background

In 2017, the UN CEDAW (Committee on the Elimination of Discrimination against Women) recommended that Ireland should “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”. As a result of this recommendation, the Department of Social Protection (DSP) commissioned the Child Maintenance Review Group to look at whether a statutory maintenance agency should be established and the treatment of maintenance by the Department of Social Protection. There were seven members in the group and in November 2022, the report was published. The report recommended that:

1. Child maintenance should be disregarded as means by DSP.
2. The condition to seek maintenance should be removed from all social welfare payments.
3. The liable relative’s unit should end, and that DSP would no longer issue Determination Orders.

Minister Humphreys has agreed to implement all these recommendations through the *Social Welfare (Child Maintenance and Liable Relatives Provisions) Bill*. We believe that consideration should be given to the treatment of mortgage payments in this Bill to prevent more families experiencing housing precarity and being put at risk of homelessness.

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<sup>1</sup> <sup>1</sup> Department of Housing, Local Government and Heritage, (2023). Monthly Homelessness Report July.

## The Problem

The treatment of the family home in Judicial separation/ divorce hearings will usually prioritise the needs of the children and will also seeks to minimise their disruption. Court Orders, (where possible) will try to leave children in the family home and many parents will also try to keep the children in the family home. A typical scenario would be that the primary earner pays the mortgage and retains his interest in the family home, which can be sold when the youngest child reaches 18 years old, or 23 if they remain in full time education.

In cases, where there is one main earner, the main earner may be ordered to pay the mortgage, and the primary carer may then need social welfare to support their weekly financial needs if they are not working or are working reduced hours. Under existing legislation, DSP assesses mortgage payments as means and treats it as if it were maintenance. This means that 50% of any payment, is deducted from the social welfare payment. The average mortgage payment is between €1,020 (First Time Buyers) and €1,361 (movers)<sup>2</sup> so this deduction from a primary social welfare payment, places the family at grave risk of poverty and deprivation and ultimately maintaining the family home becomes unsustainable. There is a weekly housing disregard of €95.23 (£75.00) which is not reflective of current housing costs and has not increased since it was introduced in 1997.

In addition to increased housing costs, the situation has deteriorated over the last decade for two other reasons.

1. Since Budget 2014, DSP no longer provides financial support for mortgages to new applicants, and this means crucial short term support for families in a crisis is no longer available and the family home is at greater risk.
2. Previously, some local social welfare offices disregarded half of the mortgage and only assessed 50% of the payment, where a non-custodial parent retained an interest in the home. A Precedent Decision included the statement that *“given the joint ownership of the property and liability of both parties to discharge the debts/bills on the property it is reasonable that half the mortgage and associated payments should be disregarded.”* This was not applied universally and an applicant who was refused this assessment, exhausted all social welfare appeal routes, and then applied to the High Court for judicial review of the Chief Appeal Officer’s decision. The final ruling was delivered in April 2020 in the case of *Deirdre Brennan v Minister for Employment Affairs and Social Protection* [2018] No.76 J.R. and as a result, the full mortgage payment must be assessed in full, regardless of the non-custodial parent’s mortgage liability/benefit and this has resulted in a significant loss of social welfare entitlement in cases where a mortgage is being paid.

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<sup>2</sup> Banking and Payments Federation H1 report, 2022. <https://bpfi.ie/publications/mortgage-market-profile-report-h1-2022-2/>

## EXAMPLE

€300 weekly mortgage payment

### Pre High Court Decision

Mortgage	€300
Assessed Amount	€150
Disregard	€95.23
Means	€27.39

### Post High Court Decision

Mortgage	€300
Assessed Amount	€300
Disregard	€95.23
Means	€102.39

**This means in an average case, the legal ruling means a loss of €102.39 per week from a social welfare payment, instead of a previous loss of €27.39. This difference of €75 per week is critical for a family relying on social welfare. In the medium term, it is unsustainable and places families at risk of losing their home, relying on HAP supported tenancies and ultimately at risk of homelessness.**

### Possible solutions.

As the legislation to implement this is still at Pre Legislative Scrutiny stage, it would seem prudent that the Bill includes provisions that would support families to remain in the family home until all children have completed their education and are no longer dependents. This would be a strong preventative measure for lone parent households. There are three possible solutions.

1. Ensure that all mortgage payments are treated in the same manner as child maintenance and are decoupled from social welfare payments. This would allow children to remain in the family home, until their education is completed. It would also prevent the family relying on HAP/ rent supplement in the private rental market.
2. Increase housing disregard to reflect current housing costs. The housing disregard was part of the introduction of the One Parent Family allowance in 1997. At the time of introduction, the disregard was £75 (€95.23) but this allowance has not changed in over 25 years and is no longer a reflection of housing costs. If the housing disregard was increased in line with market values, more families could remain in their homes. This is a cheaper solution than families losing a home and later receiving a Housing Assistance Payment.
3. Restore Mortgage Interest Supplement on a time limited basis to support households during periods of crisis. This issue was highlighted during Covid lockdowns, when renters on PUP could receive help with their housing costs, but mortgage holders on the same income could not receive help towards their housing costs. Supporting households during critical points such as family breakdown, illness and redundancy can keep families in the home. Once a family loses a home, they will usually enter the private rental sector and are then they are at

an increased risk of becoming homeless. A report<sup>3</sup> showed in 2009 that the average household claim for Mortgage Interest Supplement cost €4,079 per claimant household, whereas the average payment under the Rent Supplement was €5,490 per household. As the average rent in Ireland has more than doubled in this period, while interest rates have seen modest changes, the economic benefits of MIS over rent supports, become even greater. It is economically more efficient to keep people in their own homes and it reduces the risk of homelessness and trauma after family breakdown.

## Conclusion

Supporting separating families to retain their family home is a strong preventative measure. It reduces the risk of homelessness for these families and is the better financial outcome for the exchequer. As the legislation is currently subject to amendments, we believe this is a good opportunity to implement preventative measures for one parent families who remain at the greatest risk of homelessness.

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<sup>3</sup> Distressed Mortgages, Labour, 2011