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### 1. Pre Budget Submission 2009

Treoir together with OPEN, which represents lone parent groups in Ireland, made an unprecedented joint appeal to the Minister for Social and Family Affairs, Ms. Mary Hanafin, T.D. at her Department's annual Pre-Budget Forum in October 2009.

Frances Byrne of OPEN and Margot Doherty of Treoir made a united plea to the Minister for no reductions to social welfare payments. *"A report by the ESRI commissioned by the Department of Social and Family Affairs paints a graphic picture of the disadvantaged position of one-parent families",* said Ms. Byrne *"and it shows that lone parents and our children are much more likely to live in poverty than any other family".* Ms. Doherty stated that *"The current rate of One-Parent Family Payment (OFP) is just barely adequate. Any cut in social welfare would put enormous pressure on families already stretched to the limit. It would be unfair to ask the poorest families to pay for the mistakes of the rich. We are aware from the calls to our national helpline that families are already worrying about possible cuts".*

In their joint Budget 2010 submission, Treoir and OPEN also urged the Minister to reinstate the Christmas Bonus which provides families with a much needed extra week's payment. *"If it is not available it will push one-parent families into the hands of moneylenders and they will be forced to pay exorbitant interest rates for very small loans",* concluded Ms. Byrne.

The Pre-Budget Submission 2010 can be viewed on [www.treoir.ie](http://www.treoir.ie) or [www.oneparent.ie](http://www.oneparent.ie)

## **2. TREOIR Publications**

A new digital edition of Treoir's **Information Pack for parents who are not married to each other 2009** is now available on our website, see [www.treoir.ie](http://www.treoir.ie). The Pack may be ordered from Treoir, [info@treoir.ie](mailto:info@treoir.ie), 01 6700120.

### **Information for Young Parents in Education**

A guide to existing programmes and financial supports. The 3<sup>rd</sup> edition of this publication is now available on our website, see [www.treoir.ie](http://www.treoir.ie), or may be ordered from Treoir 01-6700120

## **3. MEMBERS' CORNER**

### **Members' Workshop on November 10th**

The aim of this workshop is to formulate a response to the Law Reform Commission's Consultation Paper 'Legal Aspects of Family Relationships' (see below). We hope that all member agencies will be represented so that the diverse views of members, based on their experiences, can be captured and reflected in Treoir's submission to the Commission.

Treoir believes that this Consultation Paper is the most significant report for unmarried parents and their children since the publication of "Abolishing Illegitimacy" by the Commission in 1982. That report led ultimately to the enactment of the Status of Children Act 1987 which removed the concept of illegitimacy and has had a very significant impact on the relationship between children, their unmarried fathers and extended families. By attending this Workshop members will have an opportunity to influence the final report of the Commission on issues such as compulsory birth registration, automatic guardianship rights for fathers, extending the categories of persons who could acquire guardianship or parental responsibility rights, making it easier for grandparents and others to acquire access rights, widening the category of persons eligible to apply for custody and on the rights of step parents.

We are delighted that Natalie McDonnell, barrister at law, former staff member of Treoir has agreed to facilitate the process of formulating the submission.

The Workshop will be held on 10th November in the Treoir office from 11a.m. to 1p.m. RSVP to [bella@treoir.ie](mailto:bella@treoir.ie) by Friday 6<sup>th</sup> November.



#### **4. Consultation Paper on Legal Aspects of Family Relationships**

Mr. Justice Liam McKechnie launched this Consultation Paper, by The Law Reform Commission, on the 9th of September. The Consultation paper examines the rights and duties of fathers in relation to guardianship, custody and access to their children. It also examines the rights and duties (if any) of grandparents, step-parents and other members of the extended family. The Consultation Paper makes wide-ranging provisional recommendations for reform of the law taking into account the best interests and welfare of children. Among the provisional recommendations contained in the Paper are:

- Instead of the current legal terms guardianship, custody and access, the law should use the terms parental responsibility, day-to-day care and contact. This would give a clearer indication of what is actually involved in this part of family law and remove any misunderstanding that parents might have rights involving their children without corresponding responsibilities.
- There should be a statutory presumption that a non-marital father is granted an order for guardianship unless to do so would be contrary to the best interests of the child or would jeopardise the welfare of the child. The Commission also invites submissions on whether automatic guardianship (parental responsibility) for all fathers should be introduced.
- That a central register be established in Ireland to keep account of the existence of statutory declarations agreeing parental responsibility/guardianship of children. Treoir has been lobbying for this for many years now. *[See below for recent ruling in the high court on this issue]*
- The removal of the current two stage procedure for applying for access (contact) by members of the extended family.

The Commission invites submission on these and many other family law issues to be made in writing by post, 35-39 Shelbourne Road Dublin 4, to the Commission or by email to [info@lawreform.ie](mailto:info@lawreform.ie) by 31 December 2009. The Consultation Paper is available from [www.lawreform.ie](http://www.lawreform.ie).

## **5. Registration of Joint Guardianship Agreements (SI No.5 of 1998)**

**E. R. O'B. (a minor)**

**Suing by her father and next friend W. O'B. - Applicant**

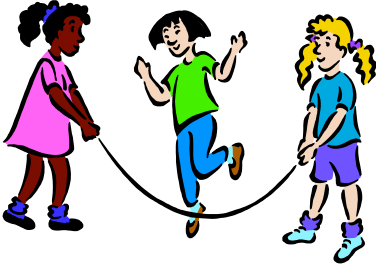
**And**

**The Minister for Justice, Equality and Law Reform, Ireland and Attorney General - Respondents**

On the 6th October Justice O'Neill of the High Court handed down his Judgment in relation to a case before him concerning the registration of joint guardianship agreements. This case was taken by an unmarried father on behalf of his child. The case was made that it would be in the child's best interest that the **guardianship** agreement (i.e. the statutory agreement which is signed by both parents and which gives the father guardianship rights in respect of his child) be registered on a public register recording the existence of such agreements and that the failure on the part of the state to establish and maintain such a register constitutes a breach of the applicant's legal and constitutional rights. The judge in handing down his judgment said, *it is possible that the loss of the **guardianship** agreement could disadvantage the child and equally it is possible that the existence of such a register in that circumstance might enhance the position of the child. However, it cannot be said that the absence of such a register infringes the constitutional rights of the child to equality of treatment under Article 40.1 of the Constitution, in circumstances where there is an obvious and realistic alternative which is entirely within the ordinary competence of every guardian, that is, the preservation of the agreement.* He went on to say, *It may very well be the case that the introduction of a public register for **guardianship** agreements would be a desirable social reform. Whether it is or is not is a matter solely for the executive and the Oireachtas. I am satisfied that the lack of such a register is not a breach of any of the applicant's Constitutional or Convention rights and hence this Court cannot bring about the introduction of such a register through the compulsion of a judicial ruling.*

## **6. Growing up in Ireland**

Congratulations to Professor Williams, ESRI and Professor Green, TCD who jointly head up the Growing up in Ireland study on the launch of the Key Facts on the nine year olds launched on 10<sup>th</sup> July. Many readers will know that over the last 20 years Treoir was very active in promoting a longitudinal study of children and it is really gratifying that early findings of the study are now emerging. Four 'Key findings' sheets on 9 year olds are published: 1 - being 9 years old, 2 - the families, 3 - education and 4 - health. For further information see [www.growingup.ie](http://www.growingup.ie). A fuller report will be published later in the year.



## **7. Committee to recommend Children's Referendum**

The Chairperson of the Oireachtas Committee on the Constitutional Amendment on Children has said the Committee is to recommend that a referendum on the rights of the child be held. Fianna Fáil TD Mary O'Rourke said that suggested wording for the referendum, from Barnardos, is being legally examined by advisors to the committee. She said that there is a need for the referendum to give a ring of confidence to what is going to happen to protect children in the future. Ms O'Rourke said she is anxious to bring about an era where those involved in child protection will feel confident doing the things they are doing. She made these comments as she launched the 2008 annual report of the One in Four organisation.

Treoir recently wrote to the members of the Committee regarding equality of all children in the Constitution. In 2006 the 10th Progress Report of the All Party Oireachtas Committee on the Constitution (APOCC) suggested that *the Constitution needed to express in unambiguous terms that all children, irrespective of whether they were born outside of marriage or not, have exactly the same constitutional rights and entitlements.* One of the main areas where there is inequality between children born within and outside marriage is the area of guardianship of fathers. Treoir has urged members of the Committee to endeavour to promote the inclusion of the equality of rights of all children in the Constitution and to consider the inclusion of improved access to guardianship rights for unmarried fathers. See [www.treoir.ie/submissions.html](http://www.treoir.ie/submissions.html)

## **8. Enforcement of Court Orders (Amendment) Bill 2009 – The McCann Case**

In July 2009 the Enforcement of Courts Orders (Amendments) Bill 2009 was enacted. This was introduced following a constitutional challenge in the High Court to the imprisonment of a woman who failed to pay a debt. The woman, a single parent with two children, was not present in court for her sentencing and did not at the time have access to legal or financial advice.

This Bill amends the Enforcement of Court Orders Act 1940. Ms. Justice Laffoy found Section 6 of the 1940 Act to be unconstitutional on a number of grounds:

- It allows for the imprisonment of the debtor in his/her absence
- The onus of proof is on the debtor to show that his/her failure to pay the instalments is not due to 'wilful refusal' or 'culpable neglect'

- The State does not provide legal representation for the debtor to defend him or herself where a term of imprisonment can be imposed.

The law as amended makes attendance at the committal hearing compulsory. It provides that the onus will now be on the creditor to establish that the debtor's failure to pay instalments was due to wilful refusal or culpable neglect. Finally, it provides for the debtor's right to criminal legal aid where s/he cannot afford a solicitor.

Until McCann, Ireland was the only country in Europe where you could be jailed for failure to pay a privately contracted debt. This is not the same as failure to pay a fine, the subject of a recent bill which introduces the idea of 'equality of impact.' This gives the courts power to assess a person's financial situation and how repayments will impact on the debtor and his/her dependants. (flacNews Vol. 19)

### **9. Unmarried father fails to prevent mother and children moving to Britain B –v- O'R – May 15<sup>th</sup> 2009**

In an appeal made to the High Court an unmarried father of three children failed in his attempt to prevent the children's mother moving to Britain with the children. In October 2008 the Circuit Court appointed the father as joint guardian of the children, with joint custody and primary care and control with the mother, with whom the children had been living. The children were to take up residence with their mother in the UK. This decision was appealed to the High Court.

Mr. Justice Murphy of the High Court said that the interests of the child were paramount and that the court must devise a regime which adequately fulfils the child's right to regular contact with the parent no longer living nearby. The mother in this case was in a relationship with a man whom she intended to marry and also had plans to set up a business in the UK in addition to her business in Dublin. Justice Murphy considered the section 47 report which had been ordered by the Circuit Court. Dr. Brian Houlihan had been appointed to carry out this report. Dr. Houlihan met the children and also visited the homes of both parents and the father's new partner and spoke with the children's paternal grandfather. In court he described the children as "delightful", they loved both their parents and their parents loved them. He said that if the children were to move, then access should be as frequent and as close to the present arrangement as possible. In his decision Mr. Justice Murphy said: "The court is of a view that the welfare of the children and of their mother, who have constituted a unit since 2003, is of paramount importance." The custody was working well and the court should not lightly interfere with a reasonable way of life as selected by the mother. He said he believed that the welfare of the children was best served by all three remaining with the mother and he affirmed the Circuit Court order permitting the move. He said that the children should be well prepared for the move and that the rights of the father were best regulated by reasonable access. See full judgment on [www.courts.ie](http://www.courts.ie) (Irish Times 26/10/2009)

## **10. Age of Consent**

An 11-month sentence has been imposed on a young man for having non-coercive sex with a girl under the age of consent, which is 17 years. The girl was 16 years and three quarters and the youth 19 at the time. The pair were in a relationship which the girl's parents did not approve of. Judge John Neilan of Mullingar District Court accepted that the youth did not know that the age of consent was 17 and he referred to a report prepared for the court by consultant psychiatrist Sean O'Domhnaill who stated in the report that it is "a very widely held belief" that the age of consent is 16.

## **11. Adoption order overturned**

Where an unmarried mother goes on to marry someone other than the father of her child and wishes to adopt her child with her new husband the biological father must be consulted and where that father has guardianship rights in respect of the child his 'consent' is required. In a recent High Court case an unmarried father was successful in having an adoption overturned. His daughter had been adopted by his former partner and her husband without his knowledge. In a reserved judgment, Mr. Justice Iarfhlaith O'Neill quashed the adoption order of June 2007 after finding that the Adoption Board had acted unlawfully in allowing the adoption application to proceed in July 2006 without notifying the father. The judge stressed his decision related only to the requirement to notify the father of the application, not whether the adoption order should be made. (Irish Times 7/10/2009)

## **12. Property slump a woe for separating couples (Irish Examiner 20/8/2009)**

Judge John O'Hagan of the northern circuit family court said that more separation cases were being revisited because there was no longer any equity left in the family home. He said he would have to consider ordering fathers to pay the mortgage in lieu of maintenance because they could not afford anything more.

### **13. Human Fertilisation and Embryology Act 1990**

The amended Human Fertilisation and Embryology Act 1990, the bulk of which came into effect in Britain on October 2009, clarifies the information that the Human Fertilisation and Embryology Authority and licensed clinics can give to donors and donor-conceived people and regulates all human embryos created in the lab. It also enshrines in law the concept of a two-mother family for the first time by allowing civil partners of women carrying a child conceived through donation to be registered as the legal parent. This removes the legal requirement for clinics to take into account “the need for a father” when treating patients and replaces it with “the need for supportive parenting”. Dr. Allan Pacey, the secretary of the British Fertility Society, said: “The area of reproductive medicine is constantly evolving and our knowledge of the science and technology is increasing all the time. He went on to say, “We need to ensure that the legislation keeps up with this rate of change and is regularly reviewed to take account of new scientific findings and techniques”. The Daily Telegraph 1/10/2009

### **14. Housing**

The number of people needing help from the State to pay their rent has risen by more than 50% in just over 18 months. The housing agency Threshold said finding accommodation for single people or one-parent families was a concern because local authority houses were not designed for small families. It wants the Rent Supplement system to be changed to encourage more landlords to take part. The Housing Bulletin 2008, which measures activity in the housing market, shows that over 118,000 local authority homes are rented to tenants. Of the 56,249 people on the housing waiting list, almost one in three – 20,059 – are single parent households. Irish Independent 18/8/2009

### **15. Child Abduction**

Former MEP Mary Banotti has called on the Government to monitor the number of reported child abduction cases involving sharia law countries which have not signed international conventions on the issue. Recent figures published by the Department of Justice showed that a record 141 transnational child abduction cases were received by the Central Authority for Child Abduction in 2008, an increase of 42 cases on 2007 and the highest annual total since the Authority was established. While traditionally the overwhelming majority of transnational abduction cases investigated here involved the United States and the UK, recent immigration patterns are reflected in the variety of central and eastern European countries involved. Ms. Banotti who is president of the Irish Centre for Parentally Abducted Children, said it was very difficult to retrieve children who were abducted by one parent to a state that had not signed the Hague Convention on child abduction. Irish Times 6/7/2009





## **16. Parenting Courses for Dads**

One Family is presenting a series of information support meetings over the coming months. The following workshops are for dads who parent on their own or who are sharing parenting:

1. Managing your Child's Behaviour  
December 1st 2 p.m. – 4.30 p.m.
2. Forming Relationships with your Child  
February 2nd 2 p.m. – 4.30 p.m.

These meetings will offer dads the opportunity to explore issues in parenting that affect them and their child while also meeting other dads in a similar situation. Workshops cost €10 to attend. For more information please contact Geraldine at 01 – 6629212 or email [gbrereton@onefamily.ie](mailto:gbrereton@onefamily.ie)



**17. Sticky Fingers Travel:** This is a family travel site researched and run by parents for parents. It provides independent and unbiased advice on family holidays, family friendly hotels, family accommodation, family activities and things to do with children so that you can plan the perfect family holiday. This Irish website company has specific advice for single parents on its site and useful links.

See [www.stickyfingerstravel.com](http://www.stickyfingerstravel.com).