



Seirbhís Sláinte
Níos Fearr
á Forbairt

Building a
Better Health
Service



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informing unmarried parents

Maintenance of Children

Whose parents are not married to each other



Tel: 01 670 0120

Maintenance

- Both parents have a duty to financially maintain their dependent children up to the age of 18, or up to age 23 if the child is in full-time education. A duty to financially maintain the child may continue indefinitely where the child has special needs.
- A cohabitant of a person who is a parent, or a cohabitant of a person who has the day-to-day care (in loco parentis), of a child may have to financially maintain the child, where he/she is not the parent but is a guardian. The court shall consider all the circumstances of the case, in particular the income of both cohabitants and any maintenance responsibilities they may have towards any other children or former partners. If a non-parent is ordered to pay maintenance the order will remain in place up until the child is 18 years of age (unless the court orders otherwise).

How can maintenance be arranged?

Informal agreements may be made regarding maintenance. An agreement does not rule out the possibility of applying for a maintenance order through the courts at a future date. If you are having difficulty agreeing maintenance you could try **mediation** and/or **collaborative law** (see below). If all else fails, an application can be made to the court for maintenance.

Mediation and Collaborative Law

Mediation is where a third party, the mediator, helps parents/guardians/family members to reach an agreement. Mediation encourages all parties to co-operate with each other in working out arrangements concerning their children. A written agreement can be made a **Rule of Court** (see below).

NOTE: A mediation service is currently available through local district courts located in Dublin (Dolphin House), Naas, Carlow, Ennis, Nenagh, Clonmel, Limerick City, Cork City and Tralee. Check with your local district court for availability.

Useful Contacts

The Family Mediation Service: 01-874 7446, www.legalaid.ie

Mediators' Institute of Ireland: 01-609 9190, www.themii.ie

Collaborative law is where parents/guardians/family members work with specially trained lawyers, receive legal advice and guidance, and together with the lawyers, discuss and attempt to resolve issues through face-to-face meetings. Written agreements can be made a **Rule of Court**.

Useful contacts

Association of Collaborative Practitioners: www.acp.ie

Legal Aid Board: LoCall 1890 615 200 www.legalaid.ie

What is a Rule of Court?

Where an agreement for maintenance is entered into and made in writing (including written agreements made during mediation), an application can then be made to court for an order to make that agreement a **Rule of Court**. The court may make an order if it is satisfied that the agreement is fair and reasonable and adequately protects the interests of the child. The agreement then has the same standing as a court order. A written agreement that is not made a Rule of Court is **NOT** legally binding.

Maintenance through the courts

Parents

Where maintenance is not being paid, either parent may apply to the court for a maintenance order against the other parent in respect of a dependent child. It is necessary to have an address for the other parent. The court may order the parent to pay a regular amount based on income and expenses. The maximum that the District Court can order from either parent is €150 per week for each child. There is no limit in the Circuit/High Courts.

A parent can also seek a once-off lump sum up to a maximum of €15,000 through the District Court. Where a court orders that a lump sum be paid, the court can specify how this sum is to be used. A parent can seek a contribution from the other parent towards expenses related to the birth of a child, or funeral expenses if a dependent child dies. The maximum that can be awarded in the District Court in each of these circumstances is €2,000. If the court decides that the parent cannot afford to pay maintenance it is possible to ask the judge to make an order for a nominal sum (even €5 per week). In this way if financial circumstances were to change in the future, it would be easier to apply for a variation order than to re-apply for maintenance. It also means that there is a Court Order naming the man as father, which could be important for birth registration or other purposes. Maintenance is payable from the date the application was made to court.

Non-Parents

Where a parent or a person, who is a guardian, and has the day-to-day care of a child (in loco parentis), is in a cohabiting relationship and that relationship comes to an end, he/she can seek maintenance for the child (through the court) from his/her former cohabitant. This will only apply where the former cohabitant is a guardian.

Before making a decision the court shall consider all the circumstances of the case, in particular the income of both cohabitants and any maintenance responsibilities they may have towards any other children or former partners. If ordered to pay maintenance the order will remain in place up until the child reaches the age of eighteen (unless the court orders otherwise).

Appeals

If you are not happy with the decision made by the court you have fourteen days in which to appeal. The terms of the order will apply while waiting for the appeal unless a court directs differently.

What if maintenance is not paid as ordered by the court?

At any stage, it is possible to apply for an Attachment of Earnings Order. This means that an employer can be instructed to deduct the maintenance payments from the person's wages. If the person falls behind in payment, it is also possible to apply to court for arrears.

Having the amount of maintenance varied

Where a maintenance order has been made either party can go back to court at any time to have the amount of maintenance increased or decreased should circumstances change. This is called a Variation Order.

What if the parent who is, or should be, paying maintenance lives abroad?

A person who wishes to apply for, vary or enforce, maintenance from a person who lives outside of Ireland may seek the assistance of Irish Central Authority for Maintenance Recovery, provided that the country where the other parent lives is signed up to the UN Convention, or is party to the EC Council Regulation 2009 (see links at www.treoir.ie). This includes all EU countries and the USA. **Tel: 01-4790200 / E-mail: mainrecov@justice.ie**

Maintenance, marriage and adoption

If a parent marries someone who is not the other parent of the child, then both biological parents still have the responsibility to maintain their child. If the child is adopted, then only the adoptive parents are required to maintain the child.

NOTES

- For further information and to see how maintenance affects Social Welfare Payments and Income Tax see **'maintenance'** section on www.treoir.ie.
- Paying maintenance does not in itself give a parent any access or guardianship rights. It may be useful to record the payment of maintenance in case this record needs to be shown at a later date if there is a dispute in relation to maintenance payments. For court forms, see **'maintenance'** at www.treoir.ie. Further information on applying for maintenance is available at www.courts.ie
- Family Law court hearings, including maintenance hearings, are not open to the general public. You are entitled to represent yourself in the District Court.
- You may qualify for legal aid. Contact the Legal Aid Board: LoCall 1890 615 200, www.legalaid.ie.
- You could also contact the Free Legal Advice Centre (FLAC): LoCall 1890 350 250, www.flac.ie.



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