



# Establishing Meaningful Relationships between Children and Fathers Who Do Not Live Together: Challenges and Solutions



Commissioned by:



**This research was developed with expert guidance from the following organisations:**

Treoir

Daughters of Charity Child and Family Service

Doras Buí

From Lads to Dads

Men's Development Network

One Family

SPARK

Women's Aid

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# Welcome from Treoir CEO

It has been well documented that the involvement of fathers in raising their children brings a series of benefits. However, research evidence has shown that the role of unmarried fathers in their children's lives can be marginal for a myriad of reasons compared to married or cohabiting fathers.

There are many challenges, some unforeseen, when we seek to develop, maintain and support the meaningful relationships between children and their non-resident father. Some of these challenges are to do with the emerging rights of children and child centred approaches in our policy and parenting services and the legal situation of non-married fathers. The presence or threat of domestic violence and the impact on children is another serious concern. Differences in approaches to addressing and supporting families where domestic violence exists can derail collaborative working and finding common ground. It was primarily for these reasons that Treoir invited a number of organisations to come together and collaborate on this research.

Finding ways to realise children's rights to develop relationships with both parents in families where parents are not living together is at the heart of this research. Exploring ways to ensure that a child can be nurtured by both parents in non-conflictual and beneficial ways is the driving force behind this work. When parenting is of high quality and consistent children benefit, regardless of which parent is providing it.

Finding ways to explore and find solutions to support greater involvement of fathers in raising their children and thus ensuring the responsibility of parenting does not rest solely on mothers are central elements examined in this research.

One of the most significant findings from this research is that both fathers and mothers would like the father to have more time or have a larger role in the child's life. The majority of fathers wish to have more time with their children and to be more than 'weekend dads', and mothers also wish for fathers to become more involved and be more present in their children's life. It is important to emphasise that in situations where domestic abuse and/or other challenging behaviours are present the wish for the father's involvement in their children's life comes with strong caveats.

Treoir is extremely grateful to the organisations who agreed to work together to frame this research in the best interests of the child. Each organisation brought their expertise to the table. All worked from the assumption that where it was safe to do so, it is in the child's best interest to have both parents involved in their lives. Ensuring that we understood what 'safe to do so' meant in reality was important. Children need to be safe and feel protected, with their voice and needs at the centre of decision that impact on their lives.

The research comes at a time of great change in the Children and Family Court services following the Referendum relating to Children in 2012 (Constitution (Children) Act 2012) and Children and Family Relationships Act 2015 both of which advance children's rights. The Irish Government has committed to long overdue major reforms of Family Justice system and have published the Family Justice Strategy which seeks to reform the family courts system for children and families who need to access these services.

The recommendations provide a sensible, sensitive and practical approach to moving forward. There are a number of recommendations that need to be advanced at state level, some at organisational level and others will benefit from us working in collaboration to bring about their implementation.

Treoir's hope is that where collaboration is recommended we will take up that challenge and continue to work in partnership to improve the outcomes for children.

Treoir wishes to thank all the organisations who put time and effort into this research, developing the terms of reference for the research, helping to recruit parents for the study, reading drafts of the report and providing feedback. While the process was slower it is far more robust thanks to your willingness to keep working through the process and keeping the focus on children.

Finally, I want to thank the research team from Quality Matters for their work and commitment to this research. Their energy, skills and clarity of thought was so important throughout the process. We are really grateful for your dedication to work in this collaborative way.





01

**Introduction**

## 1.1 Background

A vast amount of international research supports children's rights to develop relationships with both their mothers and their fathers, while also highlighting the benefits of father involvement in children's lives when inter-parental violence and consistent high conflict are not a feature of the parental relationship. However, there will be instances where the safety of children and their parents will require parenting time not to be equalised or shared, but rather to be managed, restricted, supervised or ended (1). Following an acknowledgement of both the importance and potential of paternal involvement in children's lives and, not least, the challenges related to this, both legal scholars and support groups in Ireland argue that more needs to be done to foster and support the involvement of fathers who do not live with their children and that there is scope for improvement with regard to legislation, policy and dedicated community-based service provision (2,3).

Eight organisations, namely Treoir, Daughters of Charity Child and Family Service, Doras Buí, From Lads to Dads, Men's Development Network, One Family, SPARK, and Women's Aid, have agreed to engage in a steering group to oversee research on this topic. This research attempts to better understand parents' experience of shared parenting and, more crucially, the challenges, barriers and needs for building and maintaining a meaningful relation between fathers and children. The research involved interviews and surveys mothers and fathers, and is complemented by desktop literature and policy research. The research was undertaken by independent consultancy charity Quality Matters.

## 1.2 Aim and Objectives of Research

The research was carried out to help develop a nuanced understanding of the lived experiences of non-residential fathers, children, and mothers. These experiences are considered against the background of literature on key challenges and good practice responses, as well as an analysis of demographic trends and a legal analysis of the range of legislative and policy frameworks which inform the issue. It is hoped that it will give rise to policy and support strategies that are better tailored to the complex needs of families, with the wellbeing and needs of the children as a priority.

The purpose of the research was to:

- Examine and document the challenges in establishing and maintaining a meaningful relationship between children and their fathers who do not live with them on a day-to-day basis.
- Investigate and identify good practice which supports relationships between children and their fathers who do not live with them, where it is safe to do so.





02

**Research  
Methodology**

## 2.1 Overview

The research was undertaken using a mixed methodological approach, combining semi-structured qualitative interviews with desk-based research and an online survey.

## 2.2 Design of Research Framework and Instruments

In order to effectively agree the research framework and instruments, the following process was undertaken:

- 1) Consultation with the steering group, to identify barriers experienced by mothers, fathers and children in relation to the father-child relationship
- 2) Initial review of literature, to identify additional barriers and add nuance to discussions with the steering group
- 3) The drafting of a research framework document that reflected these discussions and findings from literature, highlighting challenges that might be experienced including personal and interpersonal factors, as well as service level and systemic barriers
- 4) Drafting of research instruments that explored each of the barriers identified through qualitative or quantitative techniques, including opportunities for identification of any additional barriers, as well as any potential solutions in relation to promoting improved relationships between children and fathers who do not live with them

## 2.3 Quantitative Research Design

### Overview

The aim of this survey was to better understand the experiences of both mothers and fathers involved in caring for their children, where there is a non-residential father. The survey was developed with a mixed-methods approach, incorporating both qualitative and quantitative items. A total of 63 parents (70% female, 30% male) completed this survey.

### Development of Survey

The survey included in this research was developed based on findings from a review of the current legal structure around family law in Ireland, and literature examining the experiences relating to parenting where there is a non-residential father. Broadly, the items included in this survey paid particular attention to the types of arrangements made and how they were organised, any sources of conflict within the parenting arrangement, the impact of the parenting arrangements on the quality of relationship with the child, and the family's experiences of accessing different types of statutory and non-statutory services. Once the survey was developed, it was distributed to parents by the supporting organisations on the steering group. The survey was hosted on the SogoSurvey platform, and participants provided informed consent before being allowed access.



## Analytic Approach

As previously mentioned, this survey used a mixed methods design, and thus several analytic methods were used. For the quantitative data, most data was summarised using a descriptive approach. This data was then incorporated into a wider synthesis and discussion. In some cases, particularly when participants were asked to rate a certain factor on a scale, statistical tests were conducted to examine if there were differences between mothers and fathers. Mann-Whitney U tests were used for this, as the purpose was to examine differences between independent groups in an ordinal domain. For the qualitative responses, all data was analysed using a narrative synthesis approach, and summarised in terms of the key findings.

## 2.4 Qualitative Research Design

### Summary of Participants and Recruitment Criteria

Number of interviews and participants	Recruitment Criteria	Interview Logistics
20 interviews in total: - 10 with fathers - 10 with mothers	<ul style="list-style-type: none"> <li>- Have child/ren under 18 who currently do not live with their fathers</li> <li>- Where the father has indicated wanting a relationship with the child/ren</li> <li>- Have experienced challenges in agreeing issues such as access, maintenance etc.</li> </ul>	<ul style="list-style-type: none"> <li>- Interviews carried out throughout August/September 2022</li> <li>- Each interview had a duration of approximately 45 minutes</li> <li>- Interviews conducted via telephone or Zoom video call</li> </ul>

### Recruitment of Interview Participants

In total, 20 participants were recruited either through direct contact from one of the organisations on the steering group, or through social media outreach. The aim was to achieve gender balance, so each organisation was allocated a number of interviewees to recruit, with specific direction regarding gender.

Participants were contacted in line with an agreed recruitment and engagement strategy. This included the steering group organisations passing on details of their recruited volunteers to the interviewer, who arranged an initial call to fully explain the research, ensuring participants had time to digest the implications of engagement, to build rapport with the researcher, and to ensure they were making a full and informed decision.

Following the agreement by the participant to take part, a time and method (e.g. phone or video call) for the interview was agreed.

## Qualitative Research Approach

The data obtained through the interviews comprises a collection of subjective, complex and interlinked stories, experiences and situations. To allow for this complexity, the qualitative research was undertaken using a phenomenological approach as methodological framework. Put simply, phenomenology can be defined as an approach to research that seeks to describe the essence of a phenomenon by exploring it from the perspective of those who have experienced it (4). As such, phenomenological research identifies and explores the content of a given human experience in a way that allows for a high level of complexity and a narrative that is not always coherent. Non-coherent narratives will often be prevalent when people are asked to talk about highly emotional experiences that are inevitably linked to a significant amount of pain and trauma (5).

The amount of sensitive and personal questions asked during interviews were likely to increase the risk of 'social desirability bias' where participants tend to respond in a way that they believe is the most acceptable (6). While social desirability is impossible to avoid completely, it can be significantly reduced when the researcher frames questions in an open, non-judgemental, explorative way, hereby indicating that there is no 'right' or 'wrong' answer. Consequently, it became the researcher's important task to allow, and sometimes ignore, the lack of a coherent storytelling while identifying patterns and shared themes, experiences and emotions across the interview, to ensure they were able to conduct a robust, valid analysis.

## Validation Method and Analytical Process

The interviews were partly transcribed for analysis, to secure accuracy in the analytical process. The findings were crystallised into themes that stand as the main insights of the research. The trustworthiness, validity and reliability of the analytical process was built by using the following techniques:

- Categorisation of raw data according to the topics and overall aim of the research. Where relevant, topics were broken down into themes in order to be responsive to the nuances and complexity of participants' lived experience
- Ongoing independent review of identified topics and themes by the other members of the research team, to reduce the risk of biases and/or losing out on relevant details that might act as 'blind spots' for the researcher



## Ethical Considerations and Confidentiality

A number of ethical concerns were identified while undertaking this research, which were considered in detail with prevention and response strategies identified for each:

Risk	Prevention/Response
<b>That highly sensitive or challenging experiences would arise, causing participants to feel triggered or retraumatised</b>	<ul style="list-style-type: none"><li>- Interviewer was trained in trauma and trauma informed research methods</li><li>- At recruitment, during the initial call and at the beginning of each interview the nature of the interviews and potential content were identified so participants would be prepared for the possibility of difficult issues arising</li><li>- Researcher was attentive and responsive to any signs of emotional distress or discomfort</li><li>- When needed, the researcher would offer the participant a break or move temporarily to more 'light' objective questions hereby giving the participants a chance to collect their thoughts</li><li>- The researcher encouraged participants to opt out of any questions that made them feel uncomfortable and/or overwhelmed</li></ul>
<b>Participants would hold back information out of fear of being identified through the research</b>	<ul style="list-style-type: none"><li>- The participants were fully informed about the aims of the project and reassured that the report would be a summary of the anonymous stories of 80+ parents who took part</li><li>- Participants were assured that their names, or any information that might render them identifiable, would not be included in any future publication</li></ul>
<b>Participants would feel that they had been too outspoken about personal issues and experiences or regret something they had said</b>	<ul style="list-style-type: none"><li>- Following each interview, the transcribed notes were sent via email to each participant to give the person the opportunity to review the notes and comment/correct/add details. This was done to ensure that the interviews truly reflected the voice of participants' and to provide a sense of ownership over personal stories among participants</li></ul>

Risk	Prevention/Response
<p><b>Participants would not feel fully informed</b></p>	<p>To ensure participants were fully informed of the research at all stages, the following points were discussed:</p> <p>Pre-interview</p> <ul style="list-style-type: none"> <li>- Confidentiality and exemptions to it</li> <li>- On-going voluntary nature of the participation, and options to withdraw/decline to answer etc.</li> <li>- Explanation of the format and duration of the interview</li> <li>- Explanation of the tools being used e.g., phone call and typing notes into MS Word or Excel, and what would be done with their information</li> <li>- Explanation that the researcher would occasionally pause and reflect when meaning was unclear or additional info was needed</li> </ul> <p>Post-interview:</p> <ul style="list-style-type: none"> <li>- Thanks for participating and explanation of next steps</li> <li>- Offer to send interview notes for review</li> <li>- Offer to send expense voucher</li> <li>- Check in to see how they were feeling and reminder that if anything was triggered, there can be a delayed reaction, and to check in with themselves again later/ seek support as appropriate</li> <li>- Offer to share final report</li> </ul>
<p><b>Participants would not feel valued</b></p>	<ul style="list-style-type: none"> <li>- In order to acknowledge the contribution of participants, all participants were offered a voucher to cover any expenses incurred</li> <li>- Researchers expressed gratitude and noted the value of the research, in terms of the importance of their contribution and the wider implications/context of this kind of report</li> </ul>

## 2.5 Limitations

A number of limitations are identified with this research:

- 1) **Voice of children:** This research did not directly engage the voices of children, but rather sought parents' perspectives on this. This was to ensure the research could be done efficiently, within budget and in line with good research ethics practice. It was considered that engagement of a proxy, such as young adults who had been through experiences of not living with their fathers while they were children, would be



challenging to engage through the existing network overseeing the research. It is recommended that additional consultation be undertaken in this regard.

- 2) **Sample size:** The research engaged 20 people in interview, and 63 people through survey. This sample size does not facilitate generalisability of results.
- 3) **Sample profile - gender balance:** While gender balance was achieved for interviews, there was a much higher rate of women who took part in the survey than men. Many attempts were made by the steering group to engage more men in the survey, however this did not result in equal numbers engaging.
- 4) **Sampling biases:**
  - a. **Higher level of challenges:** Participants were recruited from organisations designed to support those experiencing challenges such as parenting difficulties, domestic violence etc. This means that there is likely a higher level of challenges than might be found in a random sample of the general population. **Higher level of domestic violence among women:** The fact that some mothers were recruited through a domestic violence organisation may mean the prevalence of domestic violence among mothers is higher than might be found in a random sample of the general female population<sup>1</sup>. However, it is important to note that while the prevalence may be higher due to the recruiting method, international statistics indicate that there is also a high prevalence of domestic abuse among women using family courts<sup>2 3</sup> which aligns with findings in this research.
- 5) **Exploration of literature in relation to domestic abuse:**

Much literature relating to domestic abuse and good practice/interventions relating to parents as perpetrators assumes the father as the perpetrator of abuse, and predominantly relates to heterosexual relationships. This research predominantly engaged people from heterosexual relationships, but did include a number of relationships where the mother was identified as a perpetrator.

<sup>1</sup> Seven out of 10 of the interviewed women and 64% of female survey participants reported having suffered DV. This percentage is significantly higher than the number indicated in recent research conducted by Women's Aid on young women and men in Ireland which found that 1 in 5 young women and 1 in 11 young men have experienced intimate partner abuse (7)

<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/895173/assessing-risk-harm-children-parents-pl-childrens-cases-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895173/assessing-risk-harm-children-parents-pl-childrens-cases-report.pdf)

<sup>3</sup> [https://www.alrc.gov.au/wp-content/uploads/2019/08/alrc\\_report\\_135\\_final\\_report\\_web-min\\_12\\_optimized\\_1-1.pdf](https://www.alrc.gov.au/wp-content/uploads/2019/08/alrc_report_135_final_report_web-min_12_optimized_1-1.pdf)







03

**Profile in numbers of fathers  
and children who do not live  
together in Ireland<sup>4</sup>**

### 3.1 Overview

The purpose of this section is to, firstly, develop, as far as possible, a profile of fathers in Republic of Ireland and children who do not live with them, and, secondly, to summarise - from peer reviewed or grey literature - what is known in relation to this population. Developing an accurate profile of this population in Ireland poses challenges. While the Central Statistics Office offers various datasets relating to one parent families in Ireland, it does not provide specific information in relation to fathers and children who do not live together, but rather such knowledge must be inferred from data such as the number of households headed by women.

The limitations of this are manifold. For example, of these households with children headed by women, it is unclear how many fathers might be attached to one household, whether those households may be separated same-sex couples etc., so further analysis of supporting datasets in grey literature, peer reviewed literature, national studies such as the Growing Up in Ireland study, datasets relating to certain welfare payments, and data on families who may fall outside all of these cohorts, helps to create a clearer, although incomplete, picture of this population.



*“CSO 2016 estimate that 20% of children live in homes without a resident father.”*



### 3.2 One Parent Families

Developing a profile of one parent families<sup>5</sup> in Ireland provides a bird’s-eye perspective on families where parents do not live together, offering a crude estimate of the number of families where fathers do not live with their children, or the number of children and households who do not have a father living with them. As illustrated in the table below, households with one parent represent 1 in 4 households in Ireland. One parent family (OPF) households also account for almost 40% of the number of households in Ireland that are inhabited by families, and the majority of the OPF households are headed by a female parent.

Table 1 One Parent Families in Ireland (CSO, 2016)

Family Type	Total Figure	Context
1 parent family (total)	437,634	- 25% of all households - 37% of households containing families
1 parent mother with children	378,224	- 22% of all households - 32% of households containing families - 86% of single parent households
1 parent father with children	59,410	- 3.5% of all households - 5% of households containing families - 14% of single parent households

- It is estimated that there are over 350,000 children living in OPFs in Ireland; as detailed in the table above, 86% of OPFs are headed by a mother.
- CSO 2016 estimate that 20% of children live in homes without a resident father.
- The number of OPFs has increased by 1.6% from 2011 to 2016; given that this has been an increasing trend over the past eight years, it is anticipated that this will have increased again. since the last census figures, which showed that over 25% of all family units living with a child or children, of any age, were headed by a lone parent.
- While the figures demonstrate the number of children living in OPF households, it is still not straightforward to estimate the number of fathers living apart from their children; for example, in one household with three children and a single mother as head of household, there could be one father involved, or each child could have a different father.

<sup>4</sup> Developed for the research to identify and document challenges for children in establishing and maintaining meaningful involvement with their father who does not live with them.

<sup>5</sup> All data for the section taken Irish Census Data from 2016, from the Central Statistics Office



- It is also worth noting that while the number may be drastically smaller, census figures will not account for OPFs experiencing homelessness, living in direct provision, or within other institutions that census data is less likely to capture – this is explored further below.
- There are some limitations to the validity of these figures. OPF figures are drawn from census data, however some OPF may have fathers who are cohabiting with them but do not declare this, even in the census, for fear that their access to social welfare payments - dependent upon the mother's lone parent status - may be compromised.
- While OPFs make up a smaller proportion of the total number of family households, they are more likely to experience greater levels of income and educational inequality due to the composition of the household. Of the OPFs in Ireland, 34% of these are in the lower quintile (e.g., the lower 20% of the total Irish population) for income.

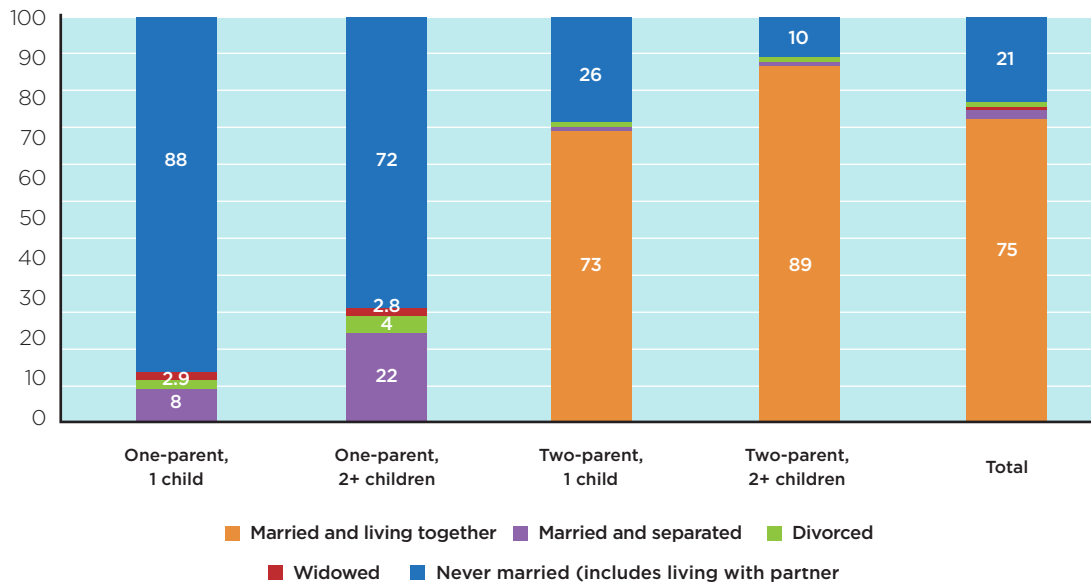
### Births Outside Marriage and Cohabiting Parents

Understanding the number of children living in households where parents are not married but cohabiting is important in the context of this research, as when there are children born outside of marriage, there are different legal protections for the father-child relationship than in the context of a marital family<sup>6</sup>. When unmarried cohabiting couples separate, without the legal clarity afforded by marital status in relation to guardianship, access and custody (and/or where the father's guardianship has not been or cannot be established), it can create challenges in realising the rights of children and fathers, and may therefore affect decisions relating to the child.

According to the census, approximately 37% of births occur outside of marriage in Ireland<sup>7</sup>, and 75,597 households are cohabiting couples with children. Further data on the composition of cohabiting households can be gleaned from various Growing Up in Ireland reports.



Figure 1 Composition of families living with children in Ireland according to Growing Up in Ireland (GUI) 2013 cohort report



The graph above shows the composition of various family types as detailed in the Growing Up in Ireland (GUI) report from 2013 (detailing the experiences of a cohort of children who were 9-years-old in 2008). Relevant to this research, the graph highlights some important features in relation to family composition:

- The majority of two parent families are married, rather than cohabiting
  - 26% of couples with one child are cohabiting, and this decreases to 10% where there are two or more children. This means that many fathers in two parent families have guardianship rights and other protections afforded by marriage, while a minority do not.
- Conversely, the vast majority of one parent families have never been married, with only 8% of those households with one child having been previously married (where fathers benefit from the protections of marriage regarding guardianship and subsequent access) and 22% of households with two parent families having been previously married.

<sup>6</sup> <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.11.944.9127&rep=rep1&type=pdf>

<sup>7</sup> [https://www.cso.ie/en/releasesandpublications/ep/p-vsar/vitalstatisticsannualreport2018/births2018/#:-:text=In%202018%2C%2037%2C920%20\(or%2062.1,percent%20higher%20than%20in%202017.](https://www.cso.ie/en/releasesandpublications/ep/p-vsar/vitalstatisticsannualreport2018/births2018/#:-:text=In%202018%2C%2037%2C920%20(or%2062.1,percent%20higher%20than%20in%202017.)

Figure 2 Composition of families in Ireland for a cohort of children at 4 different ages, GUI 2018

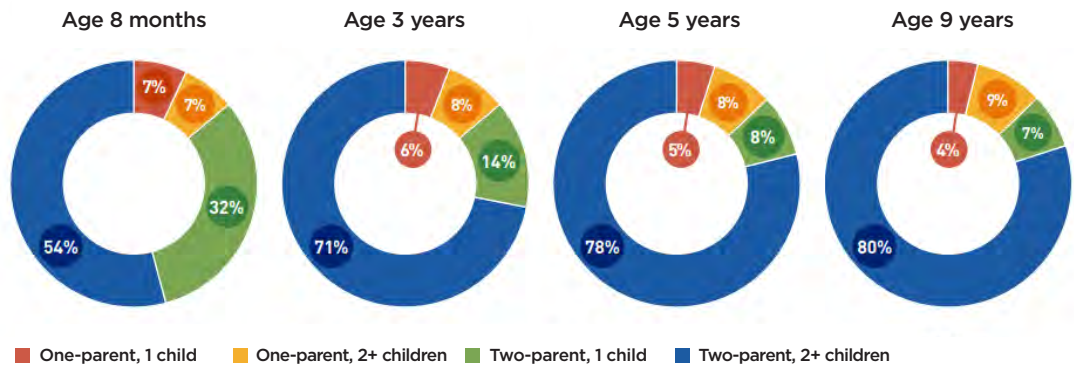


Figure 2 further demonstrates the point that where children are born into families outside of marriage; this can change across the lifespan, as cohabiting couples and parents tend to get married or separated<sup>8</sup>, therefore as children get older they are more likely to live in two-parent/two-children households.<sup>9</sup>

### Other Children/Fathers Not Previously Detailed

Other families who may fall out of the previously detailed cohorts include:

- **Children in care:** Tusla recorded that in 2020, 5,882 children were in care of the state. Of this figure, 91% of the children were in foster care, although it does not specify if the children in question lived with a grandparent or relative in foster care, which would mean they could still possibly cohabit with a parent.<sup>10</sup>
- **Children experiencing homelessness:** According to the January 2002 report by the Department of Housing, Local Government and Heritage<sup>11</sup>, there were 594 families experiencing homelessness or living in emergency accommodation. It is also estimated that of these families approx. 313 are single parent families. Some research shows that 1 in 7 single parent families experiencing homelessness are headed by a male lone parent<sup>12</sup>; which is congruent with family composition evidenced in the CSO and detailed earlier in this report, where approximately 14% of lone parent households are headed by men.
- **Children in domestic violence services:** The past two years has seen a noted increase in the number of women and children seeking support and accommodation from a domestic abuse or sexual violence service in Ireland. In a 2020 report from Safe Ireland, 288 children sought domestic violence accommodation, on average, every month, with over 500 children seeking domestic violence accommodation for the first time in that same year<sup>13</sup>. It is unclear from the data how many individual children were affected in any one year, and how many were repeat service users or applicants. It is also worth noting that over 1,300



requests for refuge were turned down in Ireland between June and August of 2020 due to lack of accommodation space, although it is unclear how many of these requests were for children.

### 3.3 Summary

This data is a compilation of sources that provide a bird's-eye view of this population, without facilitating a clear or detailed picture in terms of the number of fathers and children affected. While it would be possible to combine various data sources to create a crude estimate, there are too many limitations on the data for this to be a credible figure.

Instead, the data is presented to provide an overall picture, from a number of important angles, ranging from census data, one parent family payment data and data on smaller pockets or minority cohorts of families affected by issues such as domestic abuse, direct provision and homelessness.



<sup>8</sup> Growing Up in Ireland: The lives of 9-year-olds of cohort '08, June 2021

<sup>9</sup> <https://www.growingup.ie/pubs/Growing-Up-in-Ireland-9-Year-Olds-and-Their-Families.pdf>

<sup>10</sup> [https://www.tusla.ie/uploads/content/TUSLA\\_English\\_Annual\\_Report\\_Spreads.pdf](https://www.tusla.ie/uploads/content/TUSLA_English_Annual_Report_Spreads.pdf)

<sup>11</sup> <https://www.gov.ie/en/publication/c20c9-homeless-report-january-2022/#>

<sup>12</sup> <https://www.focusireland.ie/wp-content/uploads/2021/09/Sheridan-2016-Insights-into-Family-Homelessness-No-4-Telephone-Survey-of-Families-that-Became-Homeless-during-March-2016.pdf>

<sup>13</sup> <https://www.safeireland.ie/about/transparency/annual-review-reports/>

<sup>14</sup> <https://www.safeireland.ie/wp-content/uploads/A-Framework-Domestic-Violence-Service-Provision-Women-Children-IRL.pdf>







04

**Context in Literature**

## 4.1 Overview and Literature Methodology

This literature review has three main sections. The first section, namely fatherhood in the context of separation, looks at the impact of fathers' involvement on children's outcomes as well as the barriers to, and drivers of, positive paternal involvement. The second section details the impact that experiences of exposure to domestic violence can have on children. The third section describes good practice in relation to father-child contact in the context of domestic violence.

This literature review was conducted through four different streams of research:

- The impact of father's involvement on children's outcomes
- Barriers to, and drivers of, successful relationship building between children and non-residential fathers
- The impact of exposure to domestic violence on children
- Good practice in relation to father-child contact in the context of domestic violence

A combination of terms was used for each stream of research. The desktop search was conducted using Google and Google Scholar and included peer-reviewed academic papers, as well as grey literature. Sources were also collected through snowballing. The first 20 to 50 results of each search were revised. Most relevant sources were then selected according to the following criteria:

- Relevance: systematic reviews, meta-analysis and other literature reviews were prioritised where available. So were academic papers and grey literature produced in Ireland.
- Date: Most updated articles were prioritised. Articles published before 2000 were not included unless they were seminal research on fatherhood.

The literature review mentions most relevant findings on each area. It does not include a comprehensive list of all influencing factors playing a role in father-child relationships and/or all children outcomes that may be influenced by father involvement.

<sup>15</sup> Terms used in streams of research:

- Stream of research one: Child\* AND (impact OR effect OR outcome OR consequences) AND (Systematic OR review) AND (Father OR fathering) AND (Absent OR non residential OR non custodial OR non cohabiting OR "lone parenthood")
- Stream of research two: (Meta-analysis OR "systematic review" OR "literature review") AND (caus( OR predictors OR determin\* OR influenc\* OR contribut\* OR "critical factor" OR "decisive factor" OR inhibitor) AND father AND (nonresidential OR noncustodial) AND (involvement OR engagement OR responsible)
- Stream of research three: ("Domestic violence" OR "coercive control") AND ("systematic literature review" OR "literature review" OR "meta-analysis") AND (impact OR outcome OR effect OR influence OR consequence) AND (children OR youth or young OR adolescent)



## 4.2 Non-Custodial Paternal Involvement and Children's Outcomes

### Impact of Being a Non-resident Father on Parenting

Non-resident fathers may be at a disadvantage in their parenting role when compared to resident fathers (1). Indeed, numerous studies in Ireland have highlighted the barriers encountered in maintaining a father-child relationship in these situations (8-11), including the reduction of opportunities for paternal involvement that result from not being able to reside in the household (1). Whyte et al., (2017) in a literature review on non-resident fathers, mention some of these disadvantages, including: reduced influence in decision making relating to children upbringing, lack of familiarity of children with fathers, and increased likelihood of “non-optimal” parenting situations (12). Never married fathers are particularly affected with research reporting them to be considerably less likely to have continuous involvement in their children's lives compared both to married fathers and previously married non-resident fathers (8).

### Impact of Non-resident Fathers on Children's Outcomes

Paternal involvement has been associated with a wide range of children's outcomes including:

- Avoiding and/or reducing anti-social behaviour (8,13), particularly in low socio-economic status families (14).
- Reducing numerous negative developmental outcomes (i.e., showing internalising and externalising symptoms and emotional difficulties) (15,16).
- Positively associated with children's cognitive development (i.e., language and problem-solving skills) (13,15,17,18).
- Positively associated with children's emotional development (i.e., self-regulation skills, trust, resilience, openness to experience, self-esteem, reduced psychological problems) (14,15,19).
- Positively associated with children's social development (i.e., social competence, initiative and maturity, positive relationships with peers, prosocial behaviour) (13,15-17,20), both in childhood and adulthood (14). The influence of paternal involvement on psychosocial adjustments has been reported to be particularly noticeable in adulthood (21).
- Reducing children's experiences of difficulties at school and in education (i.e., poor school attendance, being suspended or expelled, early drop-out, decreased academic performance and achievement) (15,18). Research has also pointed at positive associations with educational attainment and higher IQ scores (14) and decreased economic disadvantage in families from a low socio-economic status (14).
- Indirect benefits of paternal involvement resulting from the financial and practical support provided by fathers (i.e., material provisions) which not only contribute to children's wellbeing but can also increase the other parent's capacity for positive parenting by reducing their stress (Osborne & Ankrum, 2015 cited in Kiely & Bolton, 2018) (1).

A number of factors influence the degree to which these outcomes will be present<sup>16</sup> including gender (14), duration of the separation (22), quality and frequency of contact (13,14,23,24) and the wellbeing of the child (25).

## Precautions in Inferring Impacts on Children

There are three important considerations in relation to the impact of paternal involvement that have been noted in literature.

**Father's and mother's influence are similar:** There is no conclusive research showing there are distinctive outcomes to paternal involvement when compared to maternal involvement, or the involvement of other caring adults in children's life (13,18). Rollé et al., (2019) in a systematic review of father's involvement and cognitive development in childhood note *"children may benefit from parental support regardless of which parent provides it, as long as it is frequent and of high quality"* (p. 14) (18).

### **Other than the level of paternal involvement there are further relational factors which have a strong influence on children's outcomes:**

- **Quality of father-mother relationship:** The quality of the father-mother relationship (20). Allen & Daly (2007) state this factor has been consistently indicated as "the most crucial mediating variable for child development outcomes for children with non-residential fathers"(p.17)(15);
- **Family, community and cultural expectations and understandings of fatherhood:** Fathers' roles have been said to be multifaceted and dependent on family, community and cultural contexts (23). Volker (2014), in a literature review on fathers' involvement and children's outcomes, mentions, for instance, that many developmental benefits of paternal involvement come through father's central role in engaging in play behaviour (13), which may differ amongst cultures (21). Shears and Robinson (2005) also found paternal parenting style to be an influential factor on children's outcomes (26). Child-focused parenting (i.e., being open to exploration, not controlling children's activities) is associated with higher cognitive skills and fewer behavioural problems than adult-centred parenting (i.e., authoritarian, traditional parenting practices) (26). Importantly, these findings suggest there is potential to influence the impact that father involvement has on children's outcomes by shaping cultural expectations from them.

<sup>16</sup> Please note the influence of domestic abuse on children's outcomes is examined extensively further in this section



## Non-residential Fathers and Children's outcomes: Summary

Assessing the impact of father's involvement on children's outcomes, far from being a straightforward task, is one of great complexity. The effect that paternal involvement has on children seems to be dependent on a wide range of factors relating to the family, community, cultural context and the type of involvement concerned. Regardless of any nuance, there is ample research showing that children who maintain positive and stable relationships with their fathers tend to fare better than those who do not, this being the case for residential fathers (27) and non-residential fathers (19). In a study on post-separation, shared care arrangements and children's outcomes conducted in Australia, for instance, it was reported that children in shared care time arrangements had higher wellbeing levels, as reported by their parents, than those children that would never see their fathers (28). The point has been made that non-resident fathers should be supported to continue engagement with children (1,8).

### **4.3 Barriers to, and Drivers of, Successful Relationship Building Between Children and Non-residential Fathers**

#### Overview

There are a wide range of personal, interpersonal and contextual factors that play a role in paternal involvement (13,18,29). An important finding in research is the ecological sensitivity of fatherhood (30). Fathers' capacity for positive parenting is greatly susceptible to systemic aspects including institutional, economic and social factors (12,31), and it is so to a greater extent than mothers (31). This suggests the great potential for service delivery to have an impact on non-residential fathers' ability to engage in positive parenting and maintain or establish healthy father-child relationships. Doherty et al., (1998), in a review of theoretical frameworks on fathering, state:

*"This point about the ecological sensitivity of fathering is a principal conclusion of this article...Fathers whose context is less supportive-for example, fathers who do not live with their children, who have strained relationships with the mother, or who are experiencing economic stress-will need more extensive and multilateral efforts to support their fathering"(p.287) (31)*

This section emphasises personal and interpersonal factors that have been associated with positive paternal involvement and that can be acted upon by service providers. Legal and policy barriers are discussed further in the legal and policy analysis section of this report.

## Personal Factors Associated with Positive Paternal Involvement

**Factors relating to fathers' psychological health:** Fathers' emotional stability and psychological wellbeing (18,21,31,32) have been associated with capacity for paternal involvement. This includes issues with drug and alcohol abuse (1). Poor physical health has also been reported to be linked to lower levels of paternal involvement (33). Research has also shown that higher levels of childhood adversity may negatively influence parenting involvement (34) and parenting style (35) in later life.

**Factors relating to fathers' beliefs in, and attitude to, fatherhood:** This includes fathers' beliefs and attitudes about parenting and the value of paternal involvement, fathers' paternal self-efficacy (1,13), and fathers' care-taking experience and/or levels of paternal responsibility for children's care (21). Increased responsibility has been reported to facilitate and lead to increased paternal responsiveness (21). Smyth & Russell (2021) found that fathers who adopted a more traditional view of their role, emphasising their financial responsibility as a father, tended to be less involved with their children and had **fewer** positive relationships with them<sup>17</sup>(27). It is key to support fathers in re-constructing paternal identities and identify other ways in which they can show their paternal commitment and create closeness in father-child relationships (36).

**Early involvement:** Early father involvement has also been associated with better father-child relationships later in life (1,37). Kiely & Bolton (2018) highlight "Prenatal involvement of the father can strengthen the fathers' commitment to co-parenting and confidence in parenting in the long term." (p.38) (1). Similar findings were reported in Ireland in residential fathers. Smyth & Russell (2021) found that early bonding between father and child was not only linked to more positive, close and less conflictual father-child relationships at later stages, but it also appears to have a protective effect on parental stress (27).

**Employment and housing:** The following socio-economic factors have been reported in literature to be associated with increased father-child contact and/or father involvement in non-residential fathers:

- Fathers having income and employment security (1,29) and being in a more financially secure situation (29). The economic factor is particularly relevant when considering that non-residential fathers are more likely to be either unemployed, underemployed or in a low income than resident fathers (38). They also face additional costs in accessing children (i.e., transport, costs of activities during visitations etc.) (12,39). Research has shown, however, workplace flexibility may be a more influential factor than employment stability in father involvement (33). Suggesting that if employment services are to be offered, they should consider the nature and conditions of employment.

<sup>17</sup> This finding was reported of fathers in two parent households



- Fathers living close to their children (i.e., living less than half an hour away or less than 10 miles away) (29,39,40), fathers being home-owners and fathers living in a home with multiple rooms (29). Research has reported fathers who have no bedrooms or only one bedroom in their households are significantly less likely to have children stay-over (29).

## Interpersonal Factors Associated with Positive Parental Involvement

**Relationship with the other parent:** The quality of the relationship with mothers is consistently cited in literature as a highly influential factor of paternal involvement (13,39,41). In addition to the interparental relationship, mothers' attitudes towards father's parenting can also have an effect (13). In the case of non-residential fathers, for instance, mothers may act as gatekeepers affecting the frequency and the nature of father-child contact (39). Importantly, the impact that the quality of the interparental relationship has in the parent-child bond has been reported to be bigger in fathers than in mothers (21). This has been echoed by research in Ireland where Smyth & Russell (2021) found that "where the mother reported more negative relations with the father, children reported more negative relations too, even over and above the frequency of their interaction." (p.50-51) (27).

**Extended family and social environment:** Both social support for positive paternal involvement (18) and fathers' families' provision of support to the child have been associated with increased father involvement (40) which suggests potential benefits from involving fathers' families in services and programmes. Jessee & Adamsons (2018), in a study looking at the intergenerational effects of paternal involvement, report that "*a positive relationship between the PGF [paternal grandfathers] and the father when he begins his own parenting journey facilitates more father involvement with his own children early on*" (p.13) (37), further recommending services to seek the engagement of grandparents in family interventions (37).

## 4.4 Good Practice

### Overview

In this section, good practice is explored in relation to potential supports and programmes outside the legal system. Overall, findings suggests that, in addition to parenting programmes, fathers could potentially benefit from accessing employment, education, housing and mental health supports, and that an integrated or holistic response that addresses men's wellbeing and health needs - together with their parenting needs - may be a more effective approach than parenting programmes alone.

## Parenting Combined with Health and Wellbeing Support

The need for men's parenting to be supported in the context of wider health and wellbeing supports has been highlighted in literature. Caldwell et al., (2019), for instance, highlight that men's substance abuse and mental health issues should not be treated in isolation from their parenting needs and that including men's health in parenting programmes is crucial to their effectiveness (42). Similarly, in Ireland Ferguson and Hogan (2004) highlight that for significant change to happen both therapeutic and support work with men, in addition to parenting skills interventions, are necessary (10).

## Provision of Supports for the Interparental Relationship

Equally relevant are programmes that consider fathers' relationships with other members of the family, particularly the mother. This includes assessing the quality of the interparental relationship and offering supports to improve it where necessary (39,43), and engaging members of the extended family (i.e., grandparents) in interventions (37).

## Age Differentiated Supports

Also important is interventions which have an age differential approach that respond to father's different life stages and/or backgrounds and to children's different developmental stages. Ferguson and Hogan (2004), for instance, highlight more intensive supports may be needed for young unmarried fathers from marginalised communities (i.e., intensive residential and day family support services) (10).

## Parenting and Fatherhood Beliefs and Attitudes

Services and programmes challenging traditional images of masculinity both within their workforce and in the fathers they work with is also crucial (36). Ways of overcoming this gender bias in family support and children services include:

- First, family support and children services making a commitment to actively reach out to, and engage with, fathers and make this part of their policies (10). Research has shown that getting fathers, particularly those from immigrant and ethnic minorities backgrounds, to engage with services can be a challenge for parenting programmes (42).
- Second, ensuring programmes do not over-emphasise fathers' role as providers by focusing on employment and child support adherence, and instead including components relating to the development of positive parenting skills and improvement of the quality of father-child relationships (42).





## Good Practice Examples

**‘Responsible Fatherhood’ Programmes:** Programmes offered throughout the United States offering services of three categories; improving employment prospects of fathers; improving parenting skills; and improving co-parenting relationships. It has shown positive outcomes on father involvement and co-parenting (36,44).

**‘Fathers and Sons’ Programmes:** A theory-based, culturally specific, and gender-sensitive community-based programme developed in the United States for non-resident African American fathers. It supports fathers in enhancing their parenting knowledge, attitudes and behaviours. It also works with fathers and children on improving communication skills, increasing awareness on racial socialisation behaviours and increasing awareness of community resources. An evaluation reported the programme to have positive outcomes (42).

## 4.5 Impact of Domestic Violence on Children’s Outcomes

### Overview

The context for this literature review is to identify barriers and challenges in relation to fathers who do not live with their children. Previous sections have been developed with the presumption that it is in the best interests of the child to have a relationship with that parent, e.g., where spending time or having a relationship with the father is not a potential threat or harm to that child. This section explores the challenges for children, and for children’s relationships with their fathers, where abuse is present.

### Impact of Exposure to Domestic Violence

Exposure to domestic violence can happen in numerous and complex ways which are not limited to directly witnessing physical violence within the household (45). The multiple ways in which children can be affected by, and involved in, domestic violence range from bearing witness to assault and its aftermath (46), being compelled to participate in abuse (46), continued abuse after separation (47,48) and being deprived of contact with mothers and/or extended family (45).

Children’s development and wellbeing can be greatly affected by domestic violence even when they are not the direct target of the physical and psychological abusive behaviour (49). Indeed, the detrimental effect that exposure to domestic violence can have on children has been extensively documented (50–54). Its effects have been said to be noticeable from pre-natal stages all the way through adulthood and its extent to be similar across countries (55).

Some scholars and professionals in the sector have advocated for domestic violence against a partner to be considered as child abuse or maltreatment (47,56) or to, at minimum, consider children as direct victims of it (47). The negative effects documented in literature are detailed in this table:

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### **Emotional related problems**

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- Poor emotional regulation (55)
- Fear of being alone (48), clinginess (48) and separation anxiety from non-abusive parent in pre-school and young children (57)
- Behavioural and psychological disengagement in young children (i.e., tuning out noise and this affecting their ability to respond in interactions) (57)
- Sense of fear and dread (48), depression and anxiety (58,59), guilt, low-self-esteem and confidence (48,57), self-harm (57), suicidal ideation (57)
- Displaying trauma symptoms (50) (i.e., hypervigilance and hyperarousal at home and school) (57)

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### **Behavioural related problems**

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- Unpredictable behaviour (57)
- Fearfulness, withdrawal and avoidant behaviours (59)
- Aggressiveness (57,59) and acceptance of, and/or use of, violence (59,60)
- Hyperactivity (57)
- Risk taking behaviour (57), antisocial behaviour (i.e., bullying) and criminal/delinquent behaviour (57,59)
- Drug misuse (50,58,59)

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### **Physical health related problems**

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- Heightened risk for premature birth and low birth weight in the case of intimate partner violence (IPV) during pregnancy (55)
- Stress related conditions such as asthma and bronchitis (57), cardiovascular disease, hypertension and diabetes (61). Allergies, gastrointestinal problems, colds and flus have also been reported in socio-economically disadvantaged children who were exposed to intimate partner violence (60)
- Eating disorders (57), changing eating patterns (59), obesity (55)
- Reports of frequent illness and somatic problems (55)
- Less physical fitness (55)
- Adrenocortical dysregulation (dysregulation in the stress-response system i.e., low cortisol reactivity) (55) and increased vagal reactivity to peer provocation (62)



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### **Developmental related problems**

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- Problems with brain's early development (50), developmental delays (60), altered structure and functioning of child's nervous system (46)
- Developmental regression (59)
- Toilet regressions (i.e., bed wetting) (55,59)

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### **Cognitive development and education related problems**

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- Decreased reading achievement (63), decreased academic performance and/or education attainment (50,57)
- Reduced memory function (55)
- Reduced executive functioning (59)
- Reduced verbal cognitive/language skills (57) and quantitative cognitive skills (60)
- Schooling disruption and reduced quality of educational experiences and outcomes (48,57,59,60)

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### **Social development related problems**

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- Lowered social competence (59,64)
- Aggression towards peers (58)
- Development of unhealthy attachment bonds (59) and development of erroneous conceptions of intimate relationships (46) (i.e., perceiving controlling and abusive behaviours as normal or acceptable, having negative views of female figures, being used to tension in relationships (46,64))
- Poor social networks (57), difficulty establishing and maintaining healthy friendships and relationships with peers (59) and difficulty with dating relationships (55)



## Continued Impact after Separation

There is a body of evidence highlighting that continued contact with an abusive parent after separation can negatively influence children. Buckley et al., (2006) - in a research study conducted in Ireland with children and mothers who were victim of domestic violence - mentions substantial literature showing post-separation contact with father-perpetrators of domestic violence pose risks for children that can outweigh the benefits of continued contact (48). Fathers may fail to recognise the presence of domestic violence (65), use parental access exchanges to continue to exert coercive control (46) and turn children into “pawns in the struggle for power and control” (Buckley et al., 2006, p.23)(48). Buckley et al., (2006) conclude that:

*“Research on the effects of post-separation contact on child outcomes is largely quite pessimistic, where the experience of an ongoing abusive relationship correlates significantly with conduct disorder, anxiety and hyperactivity in children (Stover et al, 2003); developmental delays, behavioural problems and a dramatic deterioration in psychological functioning noted through the course of visiting (McIntosh, 2002); the development of inappropriate sexual behaviour, suicidal ideation, bed-wetting and nightmares (Radford & Sayer, 1999).”(p.23) (48)*

These findings are echoed in Holt (2011) in its three-year study also conducted in Ireland with families with a previous history of domestic violence. Holt (2011) states the findings of the research;

*“Paint a largely negative picture of contact for the majority of participating mothers, fathers and children, confirming the empirical concerns for the continued abuse of women and children through contact” (p.335) (66).*

It described father-child contact experiences as “regular yet rigid visits with fathers who were angry or simply lacked the fundamental skills to interact with their children” (p. 341) (66) with children having subsequent experiences of distress, powerlessness and permanent watchfulness and fear.

## Good Practice in Relation to Father-child Relationship in the Context of Domestic Violence

### **Overview**

Literature relating to father-child relationships in the context of domestic violence is scarce, but it has been gaining increasing attention in research. There are several aspects that have been pointed to as key in providing appropriate responses to child custody and access matters in cases of domestic violence.



## **Biased practices and policies in the family law and court system**

Literature highlights that, in cases of domestic violence, family law and court systems tend to favour contact and/or shared custody with the abusive parent (50,66,67) while holding punitive approaches towards the non-abusive parent (68,69). Examples of biases within the legal system include:

- Professionals in the legal system dismissing, overlooking or minimising allegations of child abuse and/or domestic violence in their decision-making relating to custody (28,48,50,67).
- Professionals in the legal system considering the abusive behaviour of fathers different from his parenting abilities or assuming the negative effects of paternal separation worse for children than paternal abuse (48).
- Processes and procedures within the legal system that are unresponsive, not proactive or that work against women trying to report issues (50,70).

Kaspiew et al., (2006) describe how biases within the legal system can work as an incentive for women to stay with their partners. If separation is likely to result in the removal of children, or in children being placed in shared custody or the custody of the abusive parent, staying with their partner may seem to be the best alternative to ensure they will be able to continue to protect their children (28). Guidelines have strongly suggested removal of sanctions for the non-abusive parent (i.e., not equating being a victim of domestic violence with being a neglectful parent) as well as avoiding separating abused mothers from their children (45,71).

## **Develop expertise on domestic violence in the court system, child protection services and relevant social and community services**

Professionals who are well-versed in domestic violence are more likely to make decisions that will enhance families' safety (72). Increasing domestic violence expertise has been suggested for all involved sectors dealing with these cases including community and social services. Education on domestic violence can support practitioners to better understand the various ways in which it can manifest besides physical violence (i.e., coercive control and psychological and emotional abuse) (47,72), increase their ability to identify signs of abuse and violence (50,70); and define appropriate custody processes (i.e., screening processes, safety planning) (50). Literature has particularly stressed the importance of professionals further developing expertise in all aspects of domestic abuse, including the management of co-occurrence of domestic abuse and child abuse (73,74), how trauma may impact the behaviours of mothers and children within the system (70), and cultural differences in relation to domestic abuse (75).

### **Provide a coordinated and integrated response to families**

Coordination and integration of services has been acknowledged to be one of the most, if not the most, important features for effective responses to domestic violence cases (75). Turhan (2019), in a literature review on safe father-child contact in cases of domestic violence, concludes:

*“Overall, the most significant strategy for safe father-child interactions and for reducing child adjustment problems after separation is coordination and collaboration of services and the criminal justice system. Such a comprehensive and coordinated response to domestic violence after separation can provide safety for all family members.” (72) (p.864)*

The need for a coordinated response has also been acknowledged within Irish service provision<sup>18</sup> particularly in relation to children’s services (statutory and voluntary community-based child protection, welfare and health services) (48). Buckley et al., (2006), in research on children’s experiences of domestic violence conducted in Ireland, concludes Irish service provision would benefit from creating “one service to oversee and make connections between different agencies that may or may not have a direct focus on domestic violence” (p.54) (48).

### **Conduct careful and comprehensive assessments for each case and prioritise safety in decision-making**

There is no ‘one size fits all’ approach for custody and contact arrangements in cases of domestic violence. These decisions should instead be the result of careful and comprehensive assessments. A point of agreement in literature is that families’ safety should always be prioritised over father-child contact (46,48,70). However, literature also seems to suggest that being a perpetrator of domestic violence does not automatically translate to an inability for effective parenting or lack of potential to develop it (50). Assessments to ascertain risk and custody arrangements should consider a multiplicity of factors, including:

- Signs of exposure to coercive control (45) and domestic violence in children (46).
- Safety needs of children and mothers: considering safety needs in the initial stages is particularly important since the risk of violence and abusive behavior greatly increases during separation (70) (68).
- Children-specific needs and parents’ ability to meet these (70).
- The nature of the relationship between children and the abusive parent (70), the father’s parenting practices and whether they are aligned with the children’s wellbeing and needs (72).
- Father’s history of violence (i.e., nature and severity of the violent or abusive behaviour), their behaviour at present and the risk of violence in the future (50,68,76). If engaged in support programmes, and/or the progress of fathers in changing the abusive behavior (68).

<sup>18</sup> This is explored in detail in the ‘legal and policy analysis’ section of this report



- The extent and impact of the violent or abusive behaviour on mothers and children (68).
- Potential links between the abusive behavior and mental illness, whether treatment has been received and the likelihood of re-occurrence (70).
- Children's desire for continued paternal involvement (68) (48)
- Fathers' desire for continued paternal involvement
- Mothers' desire for continued paternal involvement (68)

The task of undertaking custody assessments is, however, of high technicality. A number of guidelines and models have been developed to support professionals in making thorough custody assessments in cases of domestic violence.

### **Assess the need for child protection services involvement**

Literature has suggested not to assume automatic involvement of child protection services in cases of exposure to domestic violence (68). The National Council of Juvenile and Family Court Judges guidelines highlight that in rigid approaches, "the actual risk posed by domestic violence is not assessed adequately, thus leading to arbitrary decisions about when and whether intervention is needed." (p.21) (68), further adding that "In a more flexible system, assessments of a family's risks, strengths, and protective factors would be conducted (...) families posing less danger to children could be helped through a system of community care. More dangerous cases would proceed through a child protection system or dependency system." (p.21) (68). This has been echoed in research conducted in child welfare services, which have found that, in many cases, non-investigative alternative approaches are a more appropriate response for cases of children exposed to domestic violence than child protection services (60). This should therefore be assessed on a case by case basis and through thorough assessments.

### **Engage children's voices**

Children's voices are commonly excluded or overlooked in decision-making processes relating to custody and contact arrangements (47,66). Holt (2011) in a three-year Irish study on father-child contact in cases of domestic violence, concluded there is, in the Irish system, "*an absence of a child-centred assessment process that prioritises ascertaining the child's views and wishes*" (p. 327) (66), which is maintained by a lack of systematic mechanisms for children to express their wishes and the presence of a dominant discourse that claims to know what is best for them (p. 342) (66). Importantly, Holt (2011) also observed decision-making processes can, at times, involve a 'selective approach', with children's voices being believed and considered only when expressing a preference to maintain contact (p.328)(66).

The inclusion of children's perspectives, however, is considered to be crucial if services are to provide responses that enhance their safety and wellbeing (47,77). Some research has shown that arrangements that go against their preference can put them in situations of high distress and even lead to suicidal ideation (48). These consultations, however, are to be done skilfully. Domestic violence can put children in highly complex situations that may force them to hide their true preferences (e.g., children choosing to live with their father to ensure they will be able to continue to protect their mother)(48).

### **Provide direct support to children**

Children who continue to see their father after separation may need specific supports. This may include preparation for contact (48), support re-building the relationship with fathers (48) and help reconciling conflicting images of the father figure (i.e., acknowledging their responsibility as perpetrators of domestic violence while also seeing their capacity to be a caring parent) (65). Howarth et al., (2016) specifically states the need to assist children to, "address the tension that they experienced in trying to process what had happened in their families versus the desire to maintain a positive relationship with their fathers"(65) (p.143)

### **Increase service capacity for effective engagement with parents**

Many parents feel intimidated and disempowered when engaging with social services and the court system (78). Some parents may also behave in ways that may be judged unfavourably by services (i.e., angry, suspicious, distrustful), and that may be inappropriately used to make inferences on their parenting abilities and/or capacity to be cooperative (50). It is paramount services learn how to effectively engage parents (50), endeavour to reframe uncooperative behaviours' (76), ensure parents are understood in terms of needing support and advice (78) and seek to build positive relationships with them.

Also important - in cases of domestic violence - is avoiding interventions that require simultaneous participation of parents. This includes couples counselling, joint or family therapy, mediation and family group conferencing (68). Avoiding these types of interventions is particularly important when it is against the wishes of the non-abusive parent and when the experiences of abuse are recent (68). These spaces may feel unsafe for non-abusive parents, and they may also increase risks for families (79), serving as a stage for the continuation of the power dynamics of control and abuse (68). Howarth et al.,(2016), for instance, found that in group interventions requiring the participation of both parents, fathers could use insights and knowledge gained to continue to exert control over relationships and/or frustrate attempts of change (65).





## **Offer support services and domestic-violence-specific interventions for fathers**

Service's engagement with father-perpetrators of domestic violence has been traditionally underpinned by a criminal justice approach (61) or has often concentrated efforts in supporting mothers while providing little attention to fathers (61,68,79). However, research notes that connecting and engaging with fathers, and doing so outside of the criminal justice facet, can be of utmost importance to ensuring the wellbeing of the family in the long term (79). Father-perpetrators of domestic violence should be held accountable, but they should also be provided with supports and interventions that address their needs and help them stop the abusive behaviour (61,71).

Programmes specifically tailored for father-perpetrators of domestic violence have gained increasing attention in recent years (see Table 1 for interventions samples). There is, however, a dearth of research in this field and there is not yet conclusive evidence on their effectiveness, particularly in the long term (65). However, literature has noted promising results (72). Turhan (2019) argues these programmes can assist fathers in acquiring positive parenting skills (72) and learning to model positive emotional regulation for children which, in turn, can help children manage the conflicting feelings that can result from witnessing violence (72). Key aspects of these interventions should include being part of a multi-agency, coordinated response (68), and there should be accountability built in to monitor the father's compliance with all required behaviours (68,72,79). Risk assessment should be a fundamental facet of such programmes (68). Interventions should aim to increase fathers' understanding of the impact of domestic violence on the wellbeing of children and mothers and the role of positive parenting skills and interparental cooperative behaviour in supporting these (68,72). Finally, such programmes should be culturally informed (68) and supported by evaluation (80). There is a wealth of evidence on good practice in such programmes relating to holistic approaches (68), focussing on behaviour change (79) and considering substance use disorders (79). Examples of perpetrator programmes include:

## **Examples of programmes for fathers-perpetrators of domestic violence**

**Caring Dads Safer Children:** 17-week programme involving groupwork weekly sessions. It aims to increase awareness and responsibility for neglectful and abusive behaviour and explores child-centred fathering (80). It has shown promising results in reducing fathers' levels of stress, reducing mothers' depression and anxiety and reducing fathers' abuse as reported by mothers i.e., fewer incidents of emotional abuse, isolation, violence, injury or using children to abuse mothers (80). Completion of the programme has not been enough to achieve meaningful change in some cases (80) which suggests supports may need to be more intensive or long-term (Canada, USA, Australia and Europe).

**Caledonian Model - Scotland:** Two year whole-family-approach programme which builds upon men's capacity to set personal goals for a good life. It works from an ecological model, including both individual life factors (i.e., own exposure to trauma, drug and alcohol abuse) and social and cultural context factors (i.e., patriarchy and gender inequality) that may contribute to the adoption of violent and abusive behaviour. It includes 14 one-to-one preparation and motivation sessions (pre-group stage), 26 weekly three-hour groupwork sessions, post-group one to one work (maintenance stage) and referrals to specialists (i.e., addiction, mental illness). It also has a service stream for women and a service stream for children (81). A programme evaluation reported positive outcomes for women (i.e., feeling safer, improved self-confidence, improved physical health), children (improved safety, changes in problem behaviour, increased wellbeing as reported by mothers) and men (i.e., self-reported improved ability to communicate with partners and control their behaviour; and a self-reported increase in understanding of abuse and appropriate behaviour in relationships) (81)(Scotland)

**Strong Fathers:** 20 x 2.5 hour sessions aiming to support fathers break the cycle of violence. Sessions include exploring participants' own childhood experiences, learning about child development and positive co-parenting, acquiring skills to manage thoughts and feelings, and repairing relationships (82). Programme evaluation "found statistically significant reductions in indicators of child maltreatment and domestic violence for the families" (p.11) concluding the programme is a "promising approach for promoting responsible fatherhood in situations of domestic violence" (p.12) (83) (North Carolina, USA)

**Room4Change:** 30-week programme including weekly groupwork sessions as well as one-to-one support sessions. The programme



also helps with problems that may be contributing to the violent or abusive behaviour such as drug and alcohol abuse or employment issues. Upon completion, the programme provides fathers with the opportunity to join the Caring Dads programme. The programme also engages with fathers' partners and children (84). An independent evaluation found the programme to have "successfully activated a number of key cognitive and behavioural mechanisms that serve as the foundation for change"(85) (Payne, 2021, p.7) (Canberra, Australia)

**Resources and guidelines for working with father-perpetrators of domestic violence:**

- FUTURES Without Violence and National Institute on Fatherhood and Domestic Violence Website  
<https://www.futureswithoutviolence.org/>
- Fathering After Violence: Working with Abusive Fathers in Supervised Visitation (Guidelines)  
[https://www.futureswithoutviolence.org/userfiles/file/Children\\_and\\_Families/FAV-final.pdf](https://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/FAV-final.pdf)
- Parenting by Men Who Batter: New Directions for Assessment and Intervention (Guidelines)  
<https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780195309034.001.0001/acprof-9780195309034>

**Supervise father-child contact and monitor fathers' progress**

Supervising father-child contact and monitoring fathers' behaviour and progress are important to maintain safety in cases of domestic violence. Literature points to supervised visitation as a useful alternative that allows for the continuation of the father-child relationship while ensuring the safety of the family (50,68,70,72). Research in Ireland has suggested this supervision to be provided by access centres rather than child protection services (48). Also important is to create clear and detailed guidelines for the conditions and circumstances for father-child contact (68), including date, time and places for exchanges, conditions for interparental communication (i.e., when and how parents communicate with each other) and conditions for parent-child communication (i.e., when and how parents communicate with children) (86). Supervised visitation should also be accompanied by support interventions for fathers, so they are less likely to continue to use coercive control practices in these encounters (72).

Literature also recommends monitoring father's compliance with custody arrangements (70) and with programmes and supports (68) as well as keeping track of changes in their behaviour (68). This is important in, first, increasing fathers' accountability (68) and, second, allowing services to conduct ongoing risk assessments (50,80). Bennett & Williams (2001) highlight that in cases of domestic violence "assessment and

accountability must be on-going, not something which is done only at program intake and follow-up” (p.8)(87). Efficient monitoring may require agencies across sectors finding effective ways of communicating with each other, for instance, services providing courts with regular reports on fathers’ progress in programmes (i.e., fathers’ attendance, attitude, increase in skills/knowledge and changes in behaviour) (68).

## 4.6 Summary of Literature Relating to Domestic Violence

**Impact of father-child relationship:** This literature review looked at the overall impact that the presence or absence of fathers can have on children’s development and how service delivery can support family wellbeing in households with separated partners, including those with experiences of domestic violence. Fathers’ involvement has been positively associated with a wide range of children outcomes relating to their cognitive, emotional and social development. However, this positive influence appears to be dependent on certain elements, including the quality of the father-child relationship, which suggests that (rather than the presence of fathers in children’s life per se) it is the quality, conditions and circumstances in which this presence happens that determine the type of influence that fathers exert on their children’s wellbeing.

**Factors impacting relationships:** There are a number of personal, interpersonal and contextual factors that play a role in the development of positive paternal involvement, and that service provision can act upon. These include, for instance, parenting beliefs and skills, conceptions of fatherhood, quality of the interparental relationship, and socio-economic factors (i.e., employment and housing).

**Good practice in supporting fathers:** Good practice in relation to supporting fathers has highlighted the importance of: adopting an integrated approach that considers men’s health and wellbeing, including their mental health; offering relationship supports, particularly those aiming to improve the quality of the interparental relationship; challenging traditional images of masculinity and fatherhood; and adopting an age differential approach to services that respond to fathers’ different backgrounds and life stages as well as to children’s developmental stages.

**Impact of domestic violence on children:** In cases of domestic violence, paternal involvement (where the father is the perpetrator) requires careful evaluation. Exposure to domestic violence is related to emotional, behavioural, cognitive, physical, social and developmental problems that can continue to have a detrimental effect into adulthood. Experiences of domestic violence can diminish children’s voice affecting their self-agency, empowerment and confidence and can also become internalised leading to permanent stages of fear, self-loathing and depression.



The harms of domestic violence on children have been shown to continue post-separation.

**Implementing considered, safe approaches to custody assessment in**

**cases of DV:** Research on paternal involvement - in cases of domestic violence - and on children's outcomes and wellbeing reports a need for careful assessment, on a case by case basis in considering contact. The key question for legal, social and child welfare services does not appear to be whether father-child contact should always or never be allowed, but how to build assessments that are robust and comprehensive enough to capture the specificities of each case.

**The children's voice:** Importantly, these assessments should include the children's voice and desires, which have been traditionally excluded from custody and visitation decision making processes. Placing children in custody and visitation arrangements that are contrary to their desires where there has been a history of domestic violence can put them at risk of further exposure to violence and/or re-traumatisation. Including their voice is also particularly important when considering that domestic violence experiences already have a detrimental effect on children's self-agency and empowerment.

**Good practice:** Good practice in relation to the father-child relationship in the context of domestic violence includes:

- Reviewing biased practices and policies in the family law and court system which have tended to favour contact and/or shared custody with the abusive parent, while holding punitive approaches towards the non-abusive parent.
- Developing expertise on domestic violence in the court system, child protection services and relevant social and community services.
- The court system, domestic violence and community services and child protection services working collaboratively to provide a coordinated and integrated response to families.
- Increasing services capacity to effectively engage with children, which includes; recognising children as direct victims; increasing the availability and accessibility of services for child victims of domestic violence; consulting with them and providing them with safe spaces to talk.
- Increasing services capacity to effectively engage with parents which includes: avoiding simple judgements on parents' ability (i.e., challenging assumptions on history of violence and parenting); recognising parents may experience the system as disempowering and intimidating, reframing 'uncooperative behaviours', listening to and understanding parents' needs; and actively to seeking to build positive and collaborative relationships with parents.





# 05

## **Legal and Policy Analysis of Key Issues**

## 5.1 Introduction

There are a significant number of challenges within family law, and wider society, that impact the ability of non-residential fathers to maintain positive relationships with their children. To better understand these challenges, this section of the research drew upon findings from the literature review and stakeholder guidance to identify six core areas of law, including: guardianship, social welfare, support for access, maintenance, court support, and family law court. Each section was then examined based on current legislation and policy, and the challenges that arise from this. Additionally, in each case, a comparable jurisdiction was identified to assess how these challenges are managed or mitigated in other countries, and the key factors that should be kept in mind for future direction and development of legislation and policy.

## 5.2 Guardianship

### Overview

Guardianship refers to a collection of rights and responsibilities that a person, usually a parent, may have in relation to a child. A guardian is responsible for the proper care and wellbeing of a child, and is entitled to make decisions related to major life factors such as medical treatment, education, religion, place of residence, international travel etc. The rights of guardianship are defined within Section 10 of the Guardianship of Infants Act, 1964<sup>20</sup>, which states that a guardian of an infant or child is entitled to custody of the child above any other person who is not jointly appointed a guardian of the child. In consideration of who is entitled to become a guardian, this is legislated within the Children and Family Relationships Act 2015<sup>21</sup>. These acts guarantee that all mothers and married fathers are automatically assigned as guardians of a child, and outlines who else may become a guardian, and how this may occur. These are outlined in the table below:

Guardianship	Criteria
<b>Mothers</b>	Automatic
<b>Married Couples</b>	Automatic
<b>Unmarried fathers (cohabiting)</b>	Provided parents are cohabiting for 12 consecutive months, including 3 months post birth
<b>Unmarried fathers (non-cohabiting)</b>	Obtained through joint declaration of guardianship in the correct format', or through court order, or by marriage
<b>Civil partners or cohabiting couples</b>	Through adoption, or has provided day-to-day care for the child for a prespecified period of time, or through court order
<b>Other adults</b>	Has provided day-to-day care for the child, or is a relative of the child over 18 years of age, or through court order, or has been appointed as a testamentary guardian in a will

<sup>20</sup> <https://www.irishstatutebook.ie/eli/1964/act/7/enacted/en/html>

<sup>21</sup> <https://www.oireachtas.ie/en/bills/bill/2015/14/>





## Challenges

Within the context of modern family law, there are challenges in relation to guardianship that have been identified by stakeholders such as IHREC<sup>22</sup>, the Law Society<sup>23</sup>, and the Law Reform Commission<sup>24</sup>. However, two of particular relevance in the context of this research are a father's right to guardianship and ensuring the best interest of the child. In relation to guardianship, some legal scholars criticise the lack of automatic guardianship afforded to unmarried fathers, arguing that the current system restricts active fathers from care and parenting to their children<sup>25</sup>. Additionally, other scholars have noted that the ability to obtain guardianship is highly determined by factors outside the reasonable control of the father, such as the relationship between parents, and access to legal supports and resources<sup>26</sup>. Alternatively, others argue that automatic guardianship should not be afforded to unmarried fathers, over concerns for the safety and protection of mothers and children in cases of domestic<sup>27</sup> and sexual violence, such as in cases where the pregnancy is due to rape or incest<sup>28</sup>. These arguments state that automatic guardianship would provide abusers with a legal entitlement to sustained access to people they have victimised.

One of the key challenges, in terms of legislating guardianship, is ensuring that the best interests of the child are respected and acted on. This is legislated under Section 3 of the Guardianship of Infants Act 1964 (as amended), which states:

**45.** The Act of 1964 is amended by the substitution of the following section for section 3:

**“3.** (1) Where, in any proceedings before any court, the—

- (a) guardianship, custody or upbringing of, or access to, a child, or
- (b) administration of any property belonging to or held on trust for a child or the application of the income thereof,

is in question, the court, in deciding that question, shall regard the best interests of the child as the paramount consideration.

(2) In proceedings to which subsection (1) applies, the court shall determine the best interests of the child concerned in accordance with Part V.”.

<sup>22</sup> <https://www.ihrec.ie/app/uploads/2020/12/Submission-to-UN-HR-Committee-on-the-LOIPR-on-Irelands-5th-periodic-examination.pdf>

<sup>23</sup> <https://www.lawsociety.ie/globalassets/documents/committees/family/familylawsubmission2014.pdf>

<sup>24</sup> [https://www.lawreform.ie/\\_fileupload/consultation%20papers/cp55.htm](https://www.lawreform.ie/_fileupload/consultation%20papers/cp55.htm)

<sup>25</sup> Purvis, D. E. (2019). Irish Fatherhood in the Twentieth Century. In *Ireland and Masculinities in History* (pp. 203-219). Palgrave Macmillan, Cham.

<sup>26</sup> Tobin, B. (2020). The (d) evolving nature of guardianship rights for unmarried fathers under Irish law?. *Child and Family Law Quarterly*, 32(3).

<sup>27</sup> Tobin, B. (2019). Law and Parental Rights. *Law and Gender in Modern Ireland*, 103-116.

<sup>28</sup> Yoo, Jihye, Xiaohan Mei, Craig Hemmens, and Mary K. Stohr. “Rapists’ parental rights: Adding insult to injury.” *Criminal Law Bulletin* 52, no. 1 (2015): 25-42.

Here, Part V refers to an amendment to the Guardianship of Infants Act 1964 that requires all decisions and determinations by court to “have regard to all of the factors or circumstances that it regards as relevant to the child concerned and his or her family”. This is in apparent contradiction to Ireland’s current system of child protection, which was described as risk-oriented (as opposed to centring the rights of the child) in one international comparative analysis<sup>29</sup>.

## Comparative Jurisdiction

Australia’s Family Law Act Pt VII legislates the right of a child to know and be cared for by both parents regardless of relationship status, to be protected from psychological and physical harm, and ensures parents fulfil their parental duties. This frames guardianship and custody as the responsibility of a parent to care for a child. Under the Family Law Act<sup>30</sup>, it is presumed to be in the best interest of the child for the responsibility of care to be shared between both parents. This is based on a child’s right to enjoy a ‘meaningful relationship’ with both parents. However, this presumption will not occur if there are reasonable grounds to believe that a parent of the child has engaged in the abuse or neglect of the child or another child in the person’s family. This presumption can also be challenged in court by presentation of evidence. While this legislative arrangement may present as a compromise between the current legislation in Ireland, and fully automatic guardianship, there is substantial evidence to suggest that issues related to finances, child support, access arrangements, and the relationship between parents will continue to arise without dedicated post-separation family supports. It should be noted that a number of criticisms of the presumption of shared parenting in Australia have been raised, including that it creates a climate where the shared parenting presumption diverts attention or deprioritises the best interests of the child, and that a failure to identify family violence situations at an early point means that children may be placed in unsafe custody arrangements<sup>31</sup>. A similar system of parental responsibility is used in Northern Ireland; however, this is not automatically applied to unmarried fathers. Instead, legal responsibility is attained through joint registration of the birth of the child, through making a Parental Responsibility Agreement with the mother, or by seeking a Parental Responsibility order from the courts<sup>32</sup>.

<sup>29</sup> Skivenes, Marit, and Line Marie Sørdsdal. “The child’s best interest principle across child protection jurisdictions.” In *Human rights in child protection*, pp. 59-88. Palgrave Macmillan, Cham, 2018.

<sup>30</sup> <https://www.legislation.gov.au/Details/C2019C00101>

<sup>31</sup> Womens Legal Services Australia: Submission to House of Representatives Standing Committee on Social Policy and Legal Affairs: Submission to the parliamentary inquiry into a better family law system to support and protect those affected by family violence. April 2017

<sup>32</sup> <https://www.mhfi.org/parentalresponsibility.pdf>



## Future Directions

There are significant challenges that have been highlighted. Firstly, as of August 2022, within the European Union, decisions of parental responsibility in Irish courts which have not included the voice and perspective of the child, may not be enforceable in other EU states. This has been highlighted by the Council of Europe as having potential for significant impact on family law in the future<sup>33</sup>, and that countries should seek to embed the voice of the child as a mandatory component of family law cases<sup>34</sup>. Additionally, it has been acknowledged that the current provision of family law within Ireland would benefit from expansion to include several support and welfare resource components, such as including child contact centres, parent's education and skills, specialists in child welfare, and mediation<sup>35</sup>. Another challenge, which may arise in the coming years, is the difficulties faced in enacting the Good Friday Agreement, as Ireland and Northern Ireland have different legislation related to guardianship and presumed responsibility. While this may be amended by introducing legislation which provides guardianship to fathers who are registered on a child's birth certificate<sup>37 38</sup>, this should be balanced in consideration of the voice and best interest of the child, building on lessons in this regard from other jurisdictions.

## 5.3 Social Welfare

### Overview

There are a number of financial supports that families in Ireland may be entitled to from the Department of Social Protection. These payments are to help families, especially families on lower incomes, provide adequate care and support to their children. For couples, these entitlements can include: Back to School Clothing and Footwear Allowance, Maternity Benefit, Paternity Benefit, Parent's Benefit, Child Benefit, Back to Work Family Dividend, and the Working Family Payment. For separated parents, there is an additional specific payment designed to support one parent families who are not in adequate receipt of support from a child's other parent. The requirement for this payment is outlined below.

<sup>33</sup> <https://rm.coe.int/cjenf-ise-2021-8a-feasibility-study-on-parental-separation-situations/1680a34b26>

<sup>34</sup> Regulation 2019/1111, Article 39(2)

<sup>35</sup> <https://onefamily.ie/wp-content/uploads/2019/10/OneFamily-Submission-to-the-Courts-Service-Strategic-Plan-2017.pdf>

<sup>36</sup> <https://www.treoir.ie/wp-content/uploads/2021/03/Submission-on-General-Scheme-of-the-Family-Court-Bill-1.pdf>

<sup>37</sup> [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2019/2019-10-24\\_report-on-reform-of-the-family-law-system\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2019/2019-10-24_report-on-reform-of-the-family-law-system_en.pdf)

<sup>38</sup> [https://www.academia.edu/44505337/Guardianship\\_and\\_Unmarried\\_Fathers\\_in\\_Ireland\\_One\\_Step\\_Forward\\_Two\\_Steps\\_Back](https://www.academia.edu/44505337/Guardianship_and_Unmarried_Fathers_in_Ireland_One_Step_Forward_Two_Steps_Back)

Support	Requirements
<b>One Parent Family Payment (OPF)<sup>39</sup></b>	<ul style="list-style-type: none"> <li>- Be aged under 66</li> <li>- Be a parent, legal guardian, or otherwise in <i>loco parentis</i> of a child who lives with you</li> <li>- The child is under the age of seven</li> <li>- You have custody of the child, and do not have a joint/equal custody arrangement</li> <li>- You are not living with a spouse, civil partner, or cohabiting</li> </ul> <p><i>Specific to separated parents who were married or in a civil partnership:</i></p> <ul style="list-style-type: none"> <li>- You have been living apart from the child's other parent for at least three months</li> <li>- You must not be adequately maintained by the parent of the child</li> <li>- If not in receipt of maintenance, you must have made effort to secure maintenance</li> </ul>

Once the youngest child exceeds the age limit of this payment (i.e., 7 years of age), lone parents can apply for the Jobseekers Transitional Payment. This payment has similar requirements to the OPF however, the parent will be required to seek employment during this time. In addition to this, normal Jobseekers Allowance/Benefit requirements will apply.

## Challenges

Within the current provision of social welfare support for lone/separated parents, findings from a national survey conducted by One Family have identified several key challenges in relation to financial support<sup>40</sup>. In terms of maintenance-seeking requirements, a lone parent who is not in receipt of a maintenance payment from their partner is required to “make efforts to seek maintenance from [their] former partner”<sup>41</sup>. This effort must be evidenced and may typically include evidence of a private maintenance agreement, prior court proceedings, and/or records of previous mediation sessions<sup>42</sup>. There are a number of criticisms of this. For example, this provision requires access to services which were subject to delays and/or temporary closures during the COVID-19 pandemic, essentially limiting access to the payment<sup>43</sup>. Additionally, there is evidence to suggest that in cases of domestic abuse post-separation contact enables continued abuse, including contact to seek or enforce maintenance in order to be eligible for payments<sup>44</sup>.

<sup>39</sup> <https://www.gov.ie/en/publication/1cedd4-operational-guidelines-one-parent-family-payment/>

<sup>40</sup> [https://onefamily.ie/wp-content/uploads/2017/01/One-Family\\_Shared-Parenting\\_Results-and-Recommendations\\_FINAL-REPORT\\_Online.pdf](https://onefamily.ie/wp-content/uploads/2017/01/One-Family_Shared-Parenting_Results-and-Recommendations_FINAL-REPORT_Online.pdf)

<sup>41</sup> <https://www.gov.ie/pdf/?file=https://assets.gov.ie/31668/81193305b6854ba193b98f4d48dced63.pdf#page=null>

<sup>42</sup> <https://www.gov.ie/en/publication/7e1920-operational-guidelines-liability-to-maintain-a-family/>

<sup>43</sup> One Family (2020) Family Challenges Survey <https://onefamily.ie/family-challenges-summary-slides/>

<sup>44</sup> Holt, S. (2015), Post-separation Fathering and Domestic Abuse: Challenges and Contradictions. *Child Abuse Rev.*, 24: 210-222. <https://doi.org/10.1002/car.2264>



While there are provisions in place which waive the requirement for seeking maintenance in such cases, a significant number of domestic abuse incidents go unreported<sup>45</sup>, and thus parents may feel unable to disclose this information. The Government has very recently established a Child Maintenance Review Group to examine certain issues in relation to child maintenance in Ireland, recommending the introduction of an independent agency to deal with the issues, however it is unclear at the time of publishing this report whether this recommendation will be implemented<sup>46</sup>.

The second challenge discussed refers to the difficulties which may arise during shared parenting arrangements. At present, only one parent is entitled to receive any social welfare benefits or tax reliefs associated with the care of a child. The challenges arising from this are detailed in findings from One Family's 'National Shared Parenting Survey'<sup>47</sup>:

- Parents consistently felt that eligibility for social welfare payments and tax relief credits did not recognise or account for the financial burden of parenting in a shared capacity, while living separately, with each parent providing for a child.
- Participants reported a need for revision of policy in relation to the OPF to better facilitate shared parenting arrangements.
- When asked what supports or services could help to support shared parenting, approximately 60% stated better administration of tax credits, and 44% stated a revision of OPF rules to include a better understanding of shared parenting arrangements.
- Some parents felt that current eligibility requirements for payments may disincentivise, and create a barrier to successful shared parenting arrangements. Participants of this survey gave the following examples: only one parent can receive financial supports such as child tax credits, OPF, or family income support; and child maintenance being means-tested in assessments.

<sup>45</sup> <https://www.esri.ie/system/files?file=media/file-uploads/2016-02/BKMNEXT56.pdf>

<sup>46</sup> <https://www.oireachtas.ie/en/debates/question/2022-11-09/92/>

<sup>47</sup> [https://onefamily.ie/wp-content/uploads/2017/01/One-Family\\_Shared-Parenting\\_Results-and-Recommendations\\_FINAL-REPORT\\_Online.pdf](https://onefamily.ie/wp-content/uploads/2017/01/One-Family_Shared-Parenting_Results-and-Recommendations_FINAL-REPORT_Online.pdf)

## Comparative Jurisdiction

There are similarities between social welfare supports provided to parents in Norway and Ireland. For example, both jurisdictions offer a universal child benefit payment<sup>48</sup>, both jurisdictions offer a lone parent transitional payment to support the transition to employment<sup>49</sup>, and both jurisdictions offer procedures to support parents to access childcare through cost subsidisation<sup>50 51 52</sup>. However, there are some considerable differences in terms of eligibility criteria between these jurisdictions. For example, in Ireland only one parent is permitted to apply to receive these benefits, regardless of the parenting arrangement and the distribution of care responsibilities. In Norway, however, both parents are recognised as caregivers of children, meaning that eligible payments can be divided between parents of a child<sup>53</sup>. Another example of this may be seen in eligibility requirements across jurisdictions. While the Irish system tends to operate under a general system of means assessment, in Norway, questions of eligibility are dealt with either through a universal or needs-based approach<sup>54</sup>. For instance, where childcare subsidy for infants in Ireland is assessed through household means<sup>55</sup>, eligibility for childcare subsidy in Norway is considered based on time spent in childcare per week<sup>56</sup>. Finally, in relation to lone-parent-specific payments, while applications will be assessed based on reckonable income, there is no requirement in Norway for a single parent to pursue maintenance to access the payment<sup>57</sup>.

## Future Direction

In the coming years, it is likely that social welfare entitlements and requirements will continue to be experienced as a source of stress by parents<sup>58</sup>. This issue is especially pertinent within Ireland's current socio-economic climate. While some may speculate that the country is facing an economic recession, what is certain is that lone-parent families in Ireland are especially vulnerable to experiencing poverty, social deprivation<sup>59</sup>, and homelessness<sup>60</sup>. Overall, lone-parent and shared parenting families have various complex financial needs which may not be adequately addressed through the current provision of social welfare. Specifically, research has highlighted the need to provide all parents who provide care with adequate access to social welfare and tax relief, to revise eligibility criteria requirements for OPF payments, and consider how shared parenting arrangements can be better facilitated<sup>61</sup>.

<sup>48</sup> <https://lovdata.no/nav/lov/2002-03-08-4>

<sup>49</sup> <https://lovdata.no/nav/folketrygdloven/kap15>

<sup>50</sup> <https://lovdata.no/nav/lov/1998-06-26-41>

<sup>51</sup> <https://assets.gov.ie/137025/7dfa05f7-4b6f-4bca-9891-13a4279ac79f.pdf>

<sup>52</sup> [https://www.ncs.gov.ie/NCS\\_policy\\_guidelines.pdf](https://www.ncs.gov.ie/NCS_policy_guidelines.pdf)

<sup>53</sup> <https://lovdata.no/nav/lov/1981-04-08-7?q=barnelova>

<sup>54</sup> Baran, M. L., & Jones, J. E. (2018). Family and child welfare in Norway: An analysis of the welfare state's programs and services. In *Global perspectives on family life education* (pp. 297-310). Springer, Cham.

<sup>55</sup> [https://www.ncs.gov.ie/NCS\\_policy\\_guidelines.pdf](https://www.ncs.gov.ie/NCS_policy_guidelines.pdf)

<sup>56</sup> <https://lovdata.no/nav/lov/1998-06-26-41>

<sup>57</sup> [https://lovdata.no/dokument/NL/lov/1997-02-28-19/KAPITTEL\\_6-2#KAPITTEL\\_6-2](https://lovdata.no/dokument/NL/lov/1997-02-28-19/KAPITTEL_6-2#KAPITTEL_6-2)

<sup>58</sup> <https://onefamily.ie/wp-content/uploads/2021/10/NOPFA-Budget-Priorities.pdf>

<sup>59</sup> <https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2019/>

<sup>60</sup> Russell, H., I. Privalko, F. McGinnity and S. Enright (2021). Monitoring adequate housing in Ireland, Dublin: ESRI and Irish Human Rights and Equality Commission (IHREC), <https://doi.org/10.26504/bkmnext41>

<sup>61</sup> [https://onefamily.ie/wp-content/uploads/2017/01/One-Family\\_Shared-Parenting\\_Results-and-Recommendations\\_FINAL-REPORT\\_Online.pdf](https://onefamily.ie/wp-content/uploads/2017/01/One-Family_Shared-Parenting_Results-and-Recommendations_FINAL-REPORT_Online.pdf)



## 5.4 Support for Access

### Overview

Access is a term usually used to describe the time that a child and a non-custodial parent/guardian spend together. While access is sometimes defined in terms of parental rights to visit and communicate with a child on a temporary basis, it is probably more accurate to understand access as a right of children to enable them to maintain a relationship with the non-custodial parent(88).

Access can also apply to other people in a child’s life, such as family relatives, or other qualifying persons, and this is guaranteed in the ‘Children and Family Relationships Act 2015’<sup>62</sup>. As with provisions related to rights of guardianship, this act amends previous legislation to extend the ability to apply for access to certain qualifying persons, and simplifies the process for family members and relatives of the child. The table below outlines who may apply for access through court order:

Individual	Description
<b>Guardian</b>	- Any person who has guardianship of a child
<b>Non-custodial parent</b>	- A parent who does not have guardianship of a child
<b>Family member/relative</b>	- Any family member or relative over the age of 18
<b>‘Certain persons’</b>	- A person who has lived with the child previously - A person not related to the child who has acted in <i>loco parentis</i> - Civil partner/a previously cohabiting person who provided care for the child

### Challenges

The most significant challenge in ensuring access can occur between a parent and child is the absence of contact centres to facilitate contact. For example, in many cases where domestic violence (DV) has been present, a court may decide that access between a parent and child must be supervised by another adult. This can create a significant barrier for access to occur, as there is currently no standardised public system to facilitate this contact<sup>63</sup>. While parents can still receive support from family, friends, or external public and private organisations, this may not be feasible, affordable, or accessible to them<sup>64</sup>. This is a serious concern, as within the Irish context the lack of supervised contact centres often means that women who have experienced domestic abuse are expected to supervise access themselves<sup>65</sup>.

<sup>62</sup> <https://www.irishstatutebook.ie/eli/2015/act/9/enacted/en/html>

<sup>63</sup> <https://onefamily.ie/wp-content/uploads/Contact-Centre-Full-Report-31-M-20101.pdf>

<sup>64</sup> <https://onefamily.ie/information-service-helpline/family-law/custody-and-access/supervised-access/>

<sup>65</sup> [https://www.womensaid.ie/assets/files/pdf/child\\_custody\\_and\\_access\\_in\\_the\\_context\\_of\\_domestic\\_violence.pdf](https://www.womensaid.ie/assets/files/pdf/child_custody_and_access_in_the_context_of_domestic_violence.pdf)

In cases where domestic abuse is not present, some parents may still face difficulties in maintaining safe and appropriate contact with their children in general access arrangements. For example, in cases where a parent is homeless, lack of access to structural supports such as child-friendly access spaces can have a detrimental impact on a parent's wellbeing and the child's relationship with their parent<sup>66 67</sup>. Even when considering stable accommodation, many parents, in particular fathers, report being unable to access suitable social housing due to not being considered a caregiver<sup>68</sup>, or experience difficulties due to living in shared rental accommodation<sup>69</sup>. There is clearly insufficient supports available to facilitate both supervised and unsupervised access between parents and children<sup>70 71 72</sup>, which particularly disadvantages those where there are complex challenges including domestic abuse or housing difficulties.

## Comparative Jurisdiction

One of the most significant ways in which current provision could be improved is through a standardised system of contact centre services. For example, in the United Kingdom this is achieved by the National Association of Child Contact Centres (NACCC). While the NACCC is an independent charitable body, the service receives statutory support and is affiliated with the Children and Family Court Advisory and Support Service (CAFCASS), a statutory body which provides support for families and children during the court process. NACCC is largely run on a voluntary basis, and provides oversight, guidance, and accreditation to contact centres who wish to join the network<sup>73</sup>. The service offers supervised access in cases where there is a court order, potential risk to a child, or when reintroduction between parent and child is happening after an extended period of time. The service also offers a lower threshold version of facilitation called 'supported contact', in cases where some moderate support is needed, or when a non-residential parent does not have access to a suitable space to spend time with their child<sup>74</sup>. In evaluating the efficacy of these services, there is evidence to suggest that - when embedded within a wider framework of family law - they provide a strong and practical solution to facilitate safe access between non-residential parents and children<sup>75 76</sup>. One Family highlight that CAFCASS also provides family support and risk mitigation assessments that do not exist in Ireland, meaning that the model is not directly transferable to an Irish context. However, strengths and learnings from the model can still be considered in the development of family support in Ireland.

<sup>66</sup> Rogers, T. N., & Rogers, C. R. (2019). Social services professionals' views of barriers to supporting homeless noncustodial fathers. *Family relations*, 68(1), 39-50.

<sup>67</sup> Ferguson, S., & Morley, P. (2011). Improving engagement in the role of father for homeless, noncustodial fathers: A program evaluation. *Journal of Poverty*, 15(2), 206-225.

<sup>68</sup> Clayton, C. L. (2016). The lives of young fathers: A review of selected evidence. *Social Policy and Society*, 15(1), 129-140.

<sup>69</sup> Green, S., & McCarthy, L. (2015). Is sharing the solution?: exploring the opportunities and challenges of privately rented shared accommodation for single people in housing need. *People, place and policy*, 9(3), 159-178.

<sup>70</sup> <https://onefamily.ie/wp-content/uploads/Contact-Centre-Full-Report-31-M-20101.pdf>

<sup>71</sup> [https://www.womensaid.ie/assets/files/pdf/child\\_custody\\_and\\_access\\_in\\_the\\_context\\_of\\_domestic\\_violence.pdf](https://www.womensaid.ie/assets/files/pdf/child_custody_and_access_in_the_context_of_domestic_violence.pdf)

<sup>72</sup> <https://www.barnardos.ie/media/1186/whats-the-harm-2016.pdf>

<sup>73</sup> <https://researchbriefings.files.parliament.uk/documents/LIF-2017-0009/LIF-2017-0009.pdf>

<sup>74</sup> <http://www.onefamily.ie/wp-content/uploads/Contact-Centre-Full-Report-31-M-2010.pdf>

<sup>75</sup> [https://dera.ioe.ac.uk/2704/1/Microsoft\\_Word\\_-\\_PLR0910089Durell\\_YT\\_edits\\_Final.pdf](https://dera.ioe.ac.uk/2704/1/Microsoft_Word_-_PLR0910089Durell_YT_edits_Final.pdf)

<sup>76</sup> Stephen Knox & Muriel Orr (2001) Knock child contact centre: Evolution and evaluation, *Child Care in Practice*, 7:1, 57-66, DOI: 10.1080/13575270108413234





## Future Direction

The lack of supports available to facilitate access between non-residential parents and children has been widely recognised<sup>77 78</sup>. This is reflected in the findings from an independent evaluation examining the feasibility of a child contact centre pilot service that ran for over two and a half years in Dublin. The study, published in 2014, reported substantial benefits to parent and child wellbeing, and an uptake rate which exceeded capacity, and recommended that the concept be explored further in partnership with statutory agencies<sup>79</sup>. However, this service is now closed due to lack of funding<sup>80</sup>. In consideration of the current housing crisis, it is likely that the need for supervised and unsupervised access supports will increase over the coming years, although there does not appear to be an appetite for addressing this at a policy-making level.

## 5.5 Maintenance

### Overview

Whether they are married or unmarried, guardian or non-guardian there is a legal responsibility for both parents in Ireland to provide and maintain care for their dependent children. Dependent children refers to any child up to the age of 18, any child up to the age of 23 in full-time education, and any child with a disability that prevents them from supporting themselves<sup>81</sup>. In short, maintenance refers to a financial payment made from a non-custodial parent or guardian to the primary caregiving parent, and these arrangements can be made voluntarily or by court order. Voluntary maintenance will usually be a private agreement between parents, which may or may not be derived from mediation. If an arrangement cannot be agreed upon, then an application for a maintenance order can be submitted to the district, circuit, or high court<sup>82</sup>. If a maintenance agreement is not upheld, a person may apply to the district or circuit court for an attachment of earnings order (meaning that payments be automatically deducted from the other parent's wages), or an enforcement summons, meaning the parents may be called and face the courts, and any relevant sanctions, if they continue to fail to pay.

### Challenges

Arranging and seeking maintenance can be a difficult and tumultuous process for all involved. For example, research within the Irish context has found that a significant number of parents entitled to receive maintenance payments did not reliably receive this, and less than 10% of participants felt that maintenance agreements were made based on

<sup>77</sup> <https://onefamily.ie/wp-content/uploads/Contact-Centre-Full-Report-31-M-20101.pdf>

<sup>78</sup> <https://assets.gov.ie/27444/92175b78d19a47abb4d500f8da2d90b7.pdf>

<sup>79</sup> <https://www.onefamily.ie/wp-content/uploads/Final-Child-Contact-Centre-Evaluation-December-2013.pdf>

<sup>80</sup> <https://onefamily.ie/how-we-support-families/child-contact-centres/>

<sup>81</sup> <https://www.flac.ie/assets/files/pdf/maintenance2016.pdf>

<sup>82</sup> <https://data.oireachtas.ie/ie/oireachtas/act/2011/23/eng/enacted/a2311.pdf>

the child's best interest<sup>83</sup>. Additionally, there is research to suggest that in cases where maintenance is not/cannot be paid by a non-custodial parent, punitive measures enforced by court order contribute to the further breakdown of relationships between parents and children, without reliably improving maintenance adherence<sup>84</sup>. This stress, in turn, can also have a significant detrimental impact on the wellbeing of the child, and the relationship between child and both parents<sup>85</sup>. At present, maintenance agreements are notably difficult to enforce, and there are few options for parents to seek a resolution outside of the courts<sup>86</sup>. Where domestic abuse is involved, it has been noted by advocates that this can be a way for the abuser to initiate, or continue, financial abuse, and it can be difficult for the victims to seek or enforce maintenance orders against the abuser<sup>87</sup>.

## Comparative Jurisdiction

In consideration of how improvements may be made in the current system of maintenance arrangement and enforcement, there are several benefits of New Zealand's approach which are of interest. The primary reason for this is the embedding of maintenance arrangements within the country's revenue department. For example, in cases where maintenance is not organised through private agreement, Inland Revenue is responsible for collecting and distributing payments directly, and will intervene if a suitable amount cannot be agreed upon<sup>88</sup>. If an agreement is made in either of these ways, the revenue department have the authority to enforce maintenance arrangements by the deduction of money directly from benefit payments, wages, or bank accounts<sup>89</sup>, or by bringing the non-paying parent to court<sup>90</sup>. The court may then address arrears and non-payment through the seizure of property, the freezing of assets, and/or a court summons to re-examine financial capacity<sup>91</sup>. This integrated, revenue-based approach has been commended as a highly effective and successful system for determining, facilitating, and enforcing child maintenance<sup>92</sup>.

83 One Family Ireland, (2019) Child Maintenance Survey. Available at: <https://onefamily.ie/majority-of-parents-resort-to-court-to-agree-child-maintenance-and-childrens-needs-do-not-determine-amount-paid/>

84 Henry, P. A. (2015), Child Maintenance, Father Child Relationships and Family Wellbeing, *Issues in Social Science*, 3(2), 11-27.

85 Mooney, A., Oliver, C., & Smith, M. (2009). Impact of family breakdown on children's well-being: Evidence review.

86 <https://www.lawsociety.ie/globalassets/documents/submissions/2021-submission-child-maintenance-review-group.pdf>

87 [https://www.womensaid.ie/assets/files/pdf/child\\_maintenance\\_review\\_group\\_submission\\_womens\\_aid\\_march\\_2021.pdf](https://www.womensaid.ie/assets/files/pdf/child_maintenance_review_group_submission_womens_aid_march_2021.pdf)

88 Child Support Act 1991, ss 96A, 96B, 104

89 Child Support Act 1991, s 134

90 Child Support Act 1991, ss 130-131, Part 10 (ss 153-177)

91 Child Support Act 1991, ss 183-185, 190

92 Luetjens, J., Mintrom, M., & Hart, P. (2019). *Successful public policy: lessons from Australia and New Zealand* (p. 550). ANU Press.



## Future Direction

In consideration of the challenges faced by parents in arranging, maintaining, and enforcing child maintenance payments, it is evident that further examination of the process is necessary. Overall, this is indicative of a need to move towards a dedicated, centralised agency, to oversee, manage, and enforce maintenance agreements. There is a clear consensus of support for this among noted experts and key stakeholders in the area of family law and family support, including the Law Society<sup>93</sup>, NWCI<sup>94</sup>, One Family<sup>95</sup>, St Vincent de Paul<sup>96</sup>, Treoir<sup>97</sup>, Women's Aid<sup>98</sup>, and many others.

## 5.6 Court Support

### Overview

When attending family law court, the majority of families will need to access additional information and support to help them through the process. This can range from simple resources, such as information about how court proceedings work, to more practical support, such as legal representation or legal aid. For example, this support could include:

- Legal representation
- Court accompaniment
- General childcare
- Care planning for post-separation
- Child living arrangements
- Mediation
- Emotional and mental health support
- Urgent court orders (such as domestic violence orders)
- Specialist support services for victims/survivors of domestic abuse, including screening, risk assessment and management, and referrals, as well as support in all relevant court proceedings

Within the Irish context, these services are not embedded within the courts system. Instead, they are typically provided by voluntary non-governmental organisations, or by separate statutory agencies, such as Tusla. Importantly, the ability to access some of these supports, such as statutory legal aid or advice, can be determined by your means/income and the purpose of your case in addition to a nominal contribution<sup>99</sup>.

<sup>93</sup> <https://www.lawsociety.ie/globalassets/documents/submissions/2021-submission-child-maintenance-review-group.pdf>

<sup>94</sup> [https://www.nwci.ie/images/uploads/NWCI\\_SUBMISSION\\_ChildMaintenanceReviewGrpFINAL\\_March2021.pdf](https://www.nwci.ie/images/uploads/NWCI_SUBMISSION_ChildMaintenanceReviewGrpFINAL_March2021.pdf)

<sup>95</sup> <https://onefamily.ie/wp-content/uploads/2021/03/One-Family-Submission-to-the-Child-Maintenance-Review-Group-3.21-1.pdf>

<sup>96</sup> <https://www.svp.ie/getattachment/caca597b-a389-4114-80bc-8bc0827e0f8b/SVP-Child-Maintenance-Review-March-2021.aspx>

<sup>97</sup> <https://www.treoir.ie/wp-content/uploads/2021/03/Maintenance-Submission-2021.pdf>

<sup>98</sup> [https://www.womensaid.ie/assets/files/pdf/child\\_maintenance\\_review\\_group\\_submission\\_womens\\_aid\\_march\\_2021.pdf](https://www.womensaid.ie/assets/files/pdf/child_maintenance_review_group_submission_womens_aid_march_2021.pdf)

<sup>99</sup> [https://www.citizensinformation.ie/en/justice/legal\\_aid\\_and\\_advice/civil\\_legal\\_advice\\_and\\_legal\\_aid.html](https://www.citizensinformation.ie/en/justice/legal_aid_and_advice/civil_legal_advice_and_legal_aid.html)

## Challenges

While there are several supports available to families entering family law court, one of the most significant challenges is ensuring that families can avail of these supports when there is no dedicated system in place to guide and signpost participants towards the relevant services. While these services have been collated and presented in an accessible format online<sup>100</sup>, some people may not have the capacity or ability to find this. In tandem, due to the lack of dedicated collaborative law services to support alternative dispute resolution (ADR), families are required to rely on the court service to facilitate any disputes or amendments to previous agreements, consolidating the Irish family law system as an adversarial process<sup>101</sup>.

## Comparative Jurisdiction

In considering how the current system may be improved, there are two international jurisdictions which provide a valuable frame of reference: the United Kingdom and Australia. One of the most significant advantages of the UK family law system over Ireland is the dedicated support service, CAFCASS. CAFCASS is an independent, statutory-sponsored agency which is responsible for both the wellbeing of children who are engaged in the family justice system, and the direct provision of support, guidance, and signposting to parents and families<sup>102</sup>. The service becomes involved in family law cases wherever there are difficulties or disruptions in the custody and/or residence of a child, and there are concerns of child welfare. This provides an example of how a support service may be of benefit to the current Irish system.

The second comparison of relevance in this case is with the provision of family supports in Australian family law. Major reforms were made to the family law system in Australia from 2006 onwards, with the development of Family Relationship Centres being a central part of these changes. The Family Relationship Centres were established nationwide with the purpose of providing information, advice and free (or significantly subsidised) mediation for parenting disputes. The centres are a core part of an early intervention strategy to support parents navigating the shift from parenting together to parenting post-separation with the aim of reducing post-separation parental conflicts (89).

<sup>100</sup> <https://www.courts.ie/what-supports-are-available>

<sup>101</sup> <https://www.ihrec.ie/app/uploads/2021/08/Submission-on-the-General-Scheme-of-the-Family-Court-Bill-2020-Final.pdf>

<sup>102</sup> <https://www.cafcass.gov.uk/wp-content/uploads/2017/12/Revised-PLO-Cafcass-guidance.pdf>



Significantly, there are various supports embedded within the Australian system, which are provided either free or at low cost, such as<sup>103</sup>:

- Family law counselling
- Legal advice
- Family relationship advice
- Advocacy and support for those affected by domestic and family violence
- Child contact centres
- Parent and child programmes
- ADR services
- Practical assistance in understanding and completing paperwork and recordkeeping

In addition, the system provides advice, guidance, and signposting towards other supports which may be of benefit, collaborating with other divisions and non-statutory bodies. Within the Irish context, there is a strong need for a specialised support service such as this to be developed<sup>104</sup>.

## Future Direction

In the coming years, there is a relatively clear path moving forward in ensuring children, parents, and families are better supported through the family law process<sup>105</sup>. There is a clear and strong consensus among stakeholders that the process of family law reform in Ireland must include the establishment of supports to facilitate collaborative law processes, and direct family support<sup>106 107 108 109 110</sup> while protecting the safety and welfare of children and non-abusive parents in cases where domestic abuse is present<sup>111 112</sup>.

<sup>103</sup> <https://www.ag.gov.au/sites/default/files/2021-09/family-law-services-support-fact-sheet-print.pdf>

<sup>104</sup> <https://onefamily.ie/wp-content/uploads/2021/02/FJOG-Family-Law-Justice-Reform-Submission-One-Family-Feb-2021.pdf>

<sup>105</sup> It should be noted that the publication of the Family Law Bill and the Family Justice Strategy have both, anecdotally, been critiqued as failing to address many of the challenges and gaps in the family law system identified by advocates

<sup>106</sup> <https://www.lawsociety.ie/globalassets/documents/submissions/2021-submission-family-court-bill.pdf>

<sup>107</sup> <https://onefamily.ie/wp-content/uploads/2021/02/FJOG-Family-Law-Justice-Reform-Submission-One-Family-Feb-2021.pdf>

<sup>108</sup> <https://www.treoir.ie/wp-content/uploads/2021/03/Submission-on-General-Scheme-of-the-Family-Court-Bill-1.pdf>

<sup>109</sup> <https://www.ihrec.ie/app/uploads/2021/08/Submission-on-the-General-Scheme-of-the-Family-Court-Bill-2020-Final.pdf>

<sup>110</sup> [https://www.flac.ie/assets/files/pdf/flac\\_submission\\_to\\_the\\_joint\\_committee\\_on\\_justice\\_on\\_family\\_court\\_bill\\_general\\_scheme\\_2020\\_74.pdf](https://www.flac.ie/assets/files/pdf/flac_submission_to_the_joint_committee_on_justice_on_family_court_bill_general_scheme_2020_74.pdf)

<sup>111</sup> [https://www.womensaid.ie/assets/files/pdf/family\\_justice\\_oversight\\_group\\_submission\\_womens\\_aid\\_february\\_2021.pdf](https://www.womensaid.ie/assets/files/pdf/family_justice_oversight_group_submission_womens_aid_february_2021.pdf)

<sup>112</sup> <https://www.womensaid.ie/assets/files/pdf/joint-clwdsv-sub-to-the-family-justice-og-final.pdf>

## 5.7 Family Law Court

### Overview

'Family Law' is the broad area of legislation and practice which governs matters such as divorce, custody, guardianship, adoption, separation, or any other aspect of law related to familial relationships. Contrary to many other countries, there is no dedicated family law court in Ireland. Instead, family law cases enter into, and are heard in, the district, circuit, and high courts. However, most cases will be heard at the circuit and district levels. While there is some ambiguity in how to differentiate these, the table below provides a broad outline of where case types may typically be heard.

Court	Typical Case Type
<b>District</b>	<ul style="list-style-type: none"><li>- Maintenance</li><li>- Guardianship</li><li>- Custody</li><li>- Access arrangements</li></ul>
<b>Circuit</b>	<ul style="list-style-type: none"><li>- Divorce</li><li>- Separation</li><li>- Nullification/dissolution of civil partnership</li></ul>
<b>High</b>	<ul style="list-style-type: none"><li>- Complex family circumstances</li><li>- International issues</li><li>- Separation/divorce in cases of high income/high value asset ownership</li></ul>
<b>Court of Appeal/ Supreme Court</b>	<ul style="list-style-type: none"><li>- Appeal hearings from high court</li></ul>

### Challenges

One of the key challenges presented by the current family law system in Ireland is the lack of a dedicated family law court. This system has been highly criticised by several experts and key stakeholders, and there has been a substantial amount of discussion around the challenges that arise from this. Some of these challenges include:<sup>113</sup>

- Judges hearing cases when they do not specialise in laws relating to families and children, and have no dedicated training in this context<sup>114</sup>
- Current buildings are not fit for purpose, and are not conducive to the sensitive nature of family cases<sup>115</sup>, often lacking child-friendly spaces, and being inaccessible to those with small children or disabilities<sup>116</sup>
- Cases are often heard in circuit/district courts, where criminal cases are held, causing additional stigma to be placed on families<sup>117</sup>
- The current system does not meet Council of Europe guidelines,

<sup>113</sup> It should be noted that the publication of the Family Law Bill and the Family Justice Strategy have both, anecdotally, been critiqued as failing to address many of the challenges and gaps in the family law system identified by advocates

<sup>114</sup> <https://www.treoir.ie/wp-content/uploads/2021/03/Submission-on-General-Scheme-of-the-Family-Court-Bill-1.pdf>

<sup>115</sup> <https://www.lawsociety.ie/globalassets/documents/submissions/2021-family-justice-oversight-group.pdf>

<sup>116</sup> <https://www.ihrec.ie/app/uploads/2021/08/Submission-on-the-General-Scheme-of-the-Family-Court-Bill-2020-Final.pdf>

<sup>117</sup> <https://www.lawsociety.ie/globalassets/documents/submissions/2021-submission-family-court-bill.pdf>



which require a specialised court system<sup>118</sup>

- Significant difficulties exist in ensuring the voice of the child is heard<sup>119</sup>, which is in contravention of Section 12 of The United Nations Convention on the Rights of the Child which emphasises the right of children to express their views freely in all matters affecting them and, for this purpose, children shall be provided the opportunity to be heard in any judicial and administrative proceedings affecting them<sup>120</sup>
- Difficulties in maintaining consistency in decisions, policy, and practice in family law across courts<sup>121</sup>
- Family law hearings are frequently deprioritised over criminal cases<sup>122</sup>, often leading to disruption and/or delays in hearings

The notion of a reform in family law has seen significant attention in recent years, with the establishment of the Family Courts Bill and committee<sup>123</sup>. However, it is currently unclear whether this reform will be implemented in the near future, as the need to establish a dedicated family court structure has been in discussion for several decades<sup>124</sup>. Concerns for implementation have since increased, as the government did not meet its deadline to publish the bill by the end of Q1 2022<sup>125</sup>. Furthermore, there is apprehension that the current form of policy will be ineffective in addressing the challenges, as it still relies on the already overburdened district and circuit courts to operate<sup>126</sup>.

## Comparative Jurisdiction

A useful comparison, which can be made in relation to family law court, is with the relatively recent developments in England and Wales. Following a comprehensive consultation process and subsequent review<sup>127</sup>, the Family Procedure Rules were introduced in England and Wales which provide a series of rules, procedures, and practice guidelines within family law across the high, county, and ND Magistrate's court<sup>128</sup>. This allows for a standardisation of family law practices across these courts, and creates a more effective and supportive process for families engaging in family law cases. The renewed system has created a number of opportunities for families to resolve disputes and conflict outside of court where possible, and has established supports for families who need to engage in the court service<sup>129</sup>.

<sup>118</sup> Council of Europe. *Guidelines on Child-Friendly Justice* (2010)

<sup>119</sup> Parkes, A., Shore, C., O'Mahony, C., and Burns, K. (2015) 'The right of the child to be heard? Professional experiences of child care proceedings in the Irish District Court', *Child and Family Law Quarterly* 27(4), 423-44.

<sup>120</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

<sup>121</sup> <https://www.childlawproject.ie/wp-content/uploads/2014/10/Interim-report-2-Web.pdf>

<sup>122</sup> [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/committee\\_of\\_public\\_accounts/other/2017/2017-09-21\\_briefing-note-on-waiting-times-in-the-district-courts\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/committee_of_public_accounts/other/2017/2017-09-21_briefing-note-on-waiting-times-in-the-district-courts_en.pdf)

<sup>123</sup> <https://www.justice.ie/en/JELR/Family%20Court%20Bill%20General%20Scheme.pdf/Files/Family%20Court%20Bill%20General%20Scheme.pdf>

<sup>124</sup> <https://www.oireachtas.ie/en/debates/debate/seanad/1989-03-01/4/>

<sup>125</sup> <https://www.irishlegal.com/articles/government-misses-deadline-set-days-ago-for-publication-of-family-court-bill>

<sup>126</sup> [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2019/2019-10-24\\_report-on-reform-of-the-family-law-system\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2019/2019-10-24_report-on-reform-of-the-family-law-system_en.pdf)

<sup>127</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217343/family-justice-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/217343/family-justice-review-final-report.pdf)

<sup>128</sup> <https://www.justice.gov.uk/courts/procedure-rules/family>

<sup>129</sup> <http://webjcli.org/index.php/webjcli/article/view/734/1001>



*“One of the key challenges presented by the current family law system in Ireland is the lack of a dedicated family law court.”*





While the system may still face difficulties in maintaining consistency<sup>130</sup>, the dedicated and specialised family court procedures in place presents a significant improvement over the current system in Ireland, which has been described as a “system in crisis”<sup>131</sup>.

## Future Direction

Moving forward, the planned reform of family law presents both opportunity and uncertainty for the future of family court hearings in Ireland. As many have noted, issues such as location, facilities, judge specialisation, order enforcement, and family support will be a high priority. However, as with many issues discussed in this chapter, one of the most critical factors to consider will be the requirement to centre the voice, wishes, and wellbeing of the child within rulings in family law<sup>132</sup>. As noted by several experts and stakeholders, the current system of family law in Ireland is insufficient in meeting this goal, thus, this should be considered a high priority<sup>133</sup>. Furthermore, it has been recommended that reform in Irish family law should not rely on the already overburdened circuit and district courts, but establish a dedicated specialist court within each region<sup>134</sup> and that the experiences and safety-needs of families separating in the context of domestic abuse should be a key consideration of any reform<sup>135</sup>.

## 5.8 Summary of Legal Analysis

The purpose of this analysis was to identify the key legislative and policy challenges faced by families with non-residential fathers in ensuring positive relationships with their children. In doing this, the research shows that there are substantial difficulties faced by families, particularly in relation to the current family law system. Repeatedly, this analysis found that the lack of access to out of court support, the absence of a central agency dealing with issues related to maintenance and access, and limited dedicated services to support families through the family court system created additional barriers for families, and are routinely experienced as sources of conflict. In addition to these findings, this chapter also found that many of these challenges can, and have, been mitigated in other jurisdictions, such as in Australia, the UK, and New Zealand. For instance, a central system of maintenance enforcement - as is found in New Zealand - would prevent families from needing to re-enter the court service. Australia’s system of support services, embedded within the family court process, would provide families with the necessary guidance and support. UK organisations such as NACCC and CAF/CASS

<sup>130</sup> <https://www.elgaronline.com/view/ecoll/9781788111027/9781788111027.00014.xml>

<sup>131</sup> The Law Reform Commission, Report on Family Courts (1996)  
[https://www.lawreform.ie/\\_fileupload/Reports/rFamilyCourts.htm](https://www.lawreform.ie/_fileupload/Reports/rFamilyCourts.htm) accessed 14 February, 2020.

<sup>132</sup> Regulation 2019/1111, Article 39(2)

<sup>133</sup> <https://www.ihrec.ie/app/uploads/2021/08/Submission-on-the-General-Scheme-of-the-Family-Court-Bill-2020-Final.pdf>

<sup>134</sup> [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2019/2019-10-24\\_report-on-reform-of-the-family-law-system\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2019/2019-10-24_report-on-reform-of-the-family-law-system_en.pdf)

<sup>135</sup> [https://www.womensaid.ie/assets/files/pdf/submission\\_to\\_the\\_court\\_bill\\_general\\_scheme\\_february\\_2021.pdf](https://www.womensaid.ie/assets/files/pdf/submission_to_the_court_bill_general_scheme_february_2021.pdf)

have a role to play in safeguarding and promoting the welfare of children going through the family justice system, and to ensure that access can be maintained when it is safe and in the best interest of the child. Taken together it is evident that, while these challenges cover a wide range of areas, a reform of family law within Ireland presents an opportunity to mitigate many of the challenges listed within this chapter, and should be considered essential in supporting families with non-residential fathers.



06

**Survey Findings**

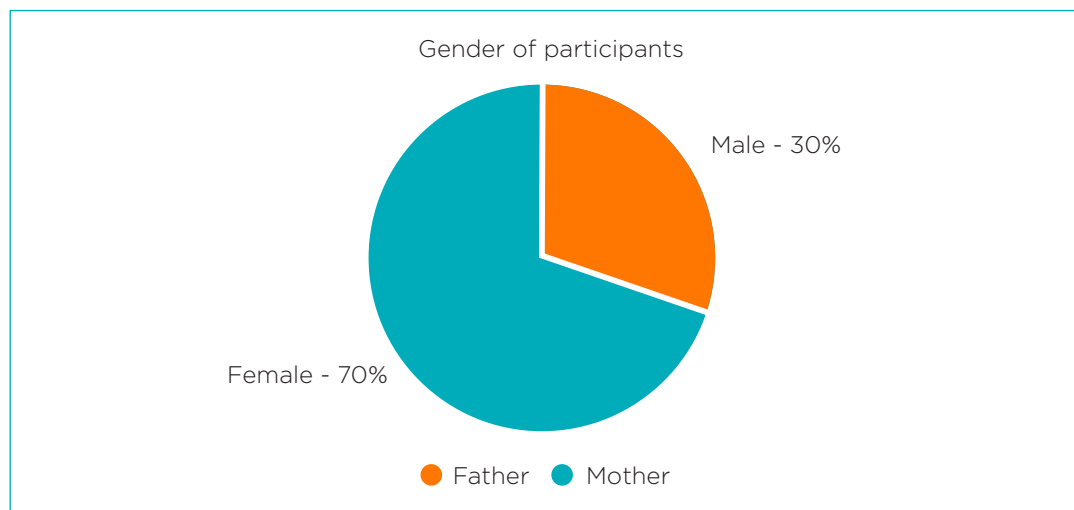
## 6.1 Profile of Survey Participants

### Methodology

The aim of the survey was to gather data related to factors that influence relationships between fathers and their children, when they do not live together. The survey, informed by findings from a literature review, a legal analysis and consultation with an expert oversight group, was developed in tandem with the qualitative component of the wider research project. Data were analysed in most cases using a descriptive approach, and in cases where equivalent data was available between male and female participants, statistical analyses were used.

### Demographics of Sample

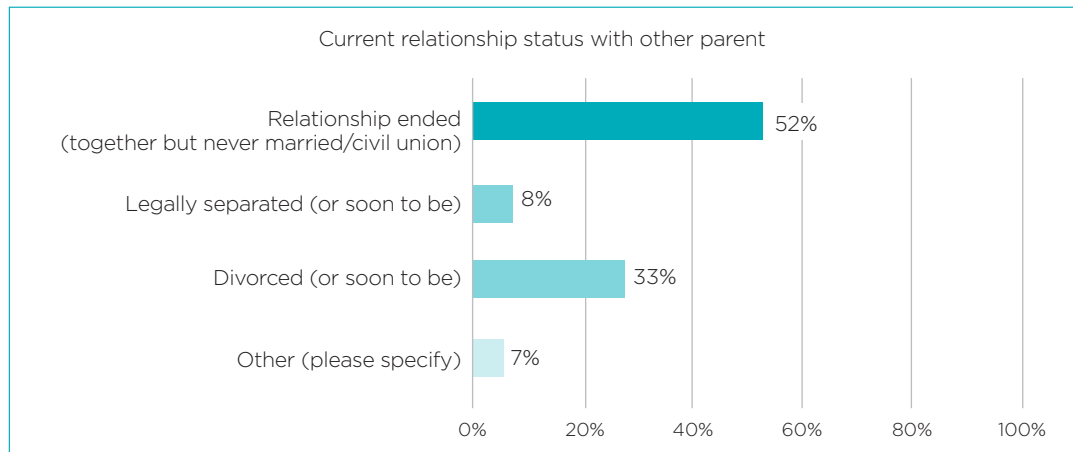
A total of 63 parents participated in this survey. Of this number 30% were fathers (n=19) and 70% were mothers (n=44). Most were aged between 30 and 50 years, with 46% (n=29) reporting to be between the ages of 40-49, and 29% reporting to be between the ages of 30-39 (n=18).



The majority of parents within this sample were heterosexual, with just one participant reporting their sexuality as LGBTQ+ at the time of the relationship.

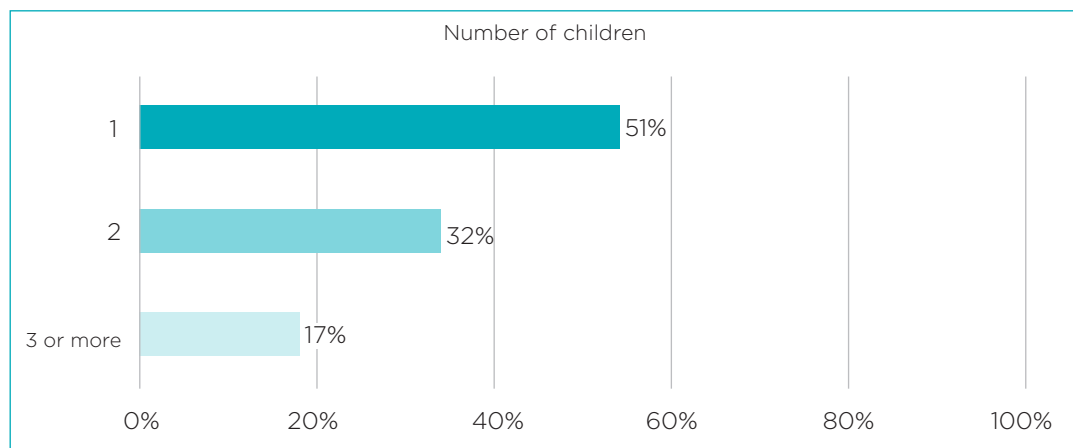
### Relationship with Other Parent / Family Structure

Of the 63 parents that completed the survey, two of these reported to never have been in a relationship with their child's other parent (3%). Of the remaining 61 participants, 52% (n=32) reported to have been in a relationship previously with the other parent but never married, 33% (n=20) reported to be currently or soon to be divorced from the other parent, and five (8%) reported to be currently or soon to be legally separated from the other parent. The remaining participants (4%) were either estranged or had no formal agreement for separation.



When asked how long the relationship with the other parent lasted for, there was a wide range of responses. The most common response selected was “over 7 years”, accounting for 40% of the sample (n=25). The remaining options were somewhat equally distributed with “1-3 years” and “5-7 years” accounting for approximately 20% respectively. Within the “other” category, three participants reported to be separated with no legal agreement.

When asked how many children they had with the other parent, 51% reported to have one child (n=32), 32% reported to have two children (n=20), and the remaining 11 reported to have three or more (17%). Parents most frequently reported their children to live within a city (43%, n=27), with the remaining split between rural and town evenly (28.5%, n=18 each, for rural and town).

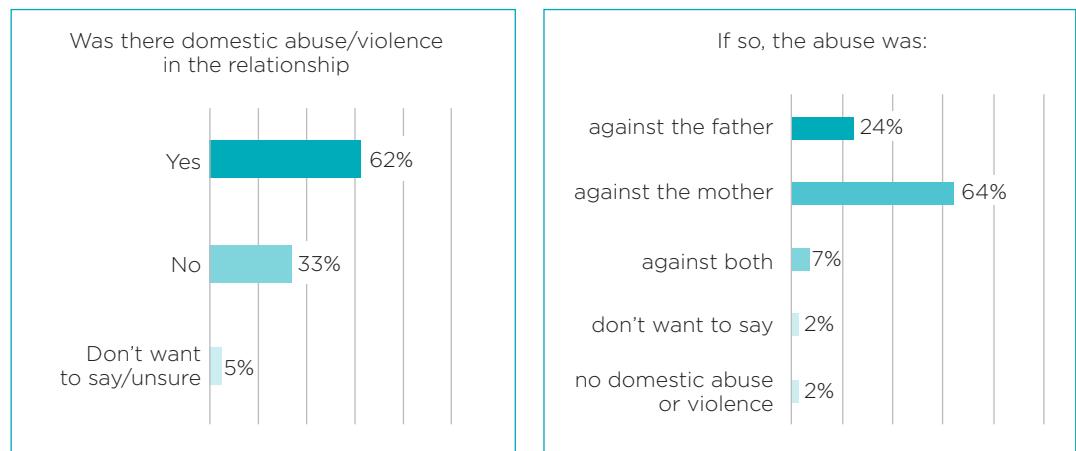


## Presence of Domestic Violence in the Relationship

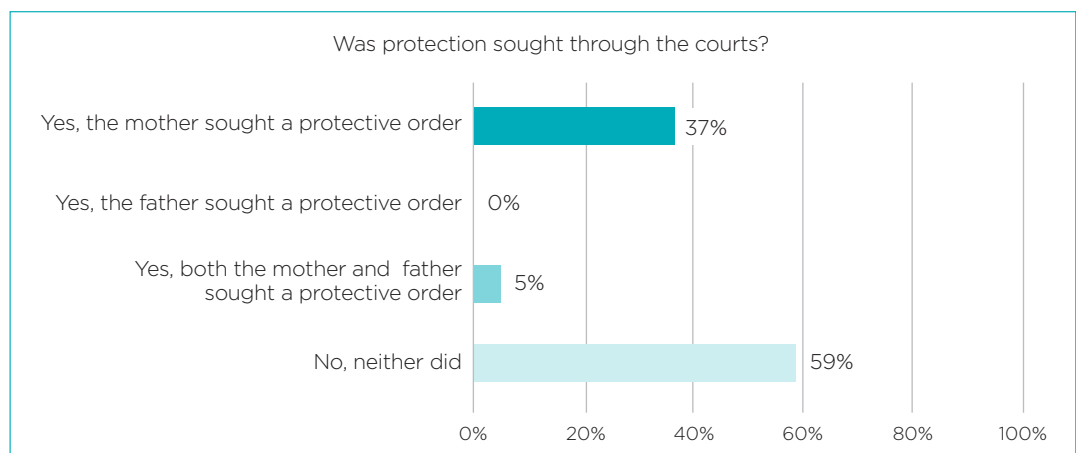
Participants were asked to share whether there had been any instances of domestic abuse in the relationship. As illustrated in the figures below, 62% of participants (n=39) reported domestic violence or abuse.<sup>136</sup> Of this number, the majority of participants reported this to be perpetrated against the mother (64% / n = 25), approximately a quarter reported abuse to be against the father (24% / n = 9), and the remainder (7%)

<sup>136</sup> As participants have been recruited through support services, including services dealing specifically with domestic abuse, data is likely to report a higher proportion of cases of domestic abuse and therefore may not be representative of the general population, where statistics report that one in four women (26%) in Ireland have experienced physical and/or sexual violence since the age of 15 (90). There are less statistics available for DV against men but data from 2005 suggests that as much as 26% of men in Ireland have suffered some kind of domestic abuse(91)

reported there to be abuse against both parents<sup>137</sup>. In all cases where domestic abuse was reported against the mother only, it was reported by the mothers. In all cases of reported violence against fathers only, this was reported by fathers. Two fathers and one mother reported mutual domestic violence.



Participants were asked whether a protection order was sought from the courts at any stage. Of the participants that reported domestic abuse/violence in the relationship, 59% reported that no protection was sought. Just over one third reported that a protective order was sought for the mother (36.5%), and just 5% reported that protective orders were sought for both parents. This highlights the low rate of reporting of domestic abuse, underscoring the fact that orders should not be relied upon as the primary indicators of domestic abuse, in the context of family court proceedings.



Participants were then asked to disclose whether abuse was ever perpetrated against the child, and most participants reported that this did not occur (70%). However, approximately a quarter (24%) reported that the child was a victim of abuse from one parent. And while the majority of parents did not report that their children were victims of domestic violence, exposure to domestic violence experiences can affect children in multiple ways and have long-term consequences (50,52). As described by research, the prevalence of children's exposure to domestic abuse can be difficult to establish due to different factors such as parents

<sup>137</sup> Readers are reminded that all participants in interviews and surveys, bar one person, were referring to heterosexual relationships



not recognising behaviours as abuse, and/or challenges as to how abuse is defined (92,93) which is why some scholars and professionals (47,56) call for children to be automatically considered victims of abuse where it is present in the parental relationships. We present an analysis from interviews with 21 children in the United Kingdom (12 girls and 9 boys, aged 8-18 years) call for children to be automatically considered victims of abuse where it is present in the parental relationships. Thus, the number reported here by parents is likely an underestimation of the number of children adversely affected by abuse in the home.

### Quality of Relationship with Child

Participants were also asked to rate their own level of satisfaction (on a scale of 1 – 5) with their relationship with their child, and the overall level of shared affection they felt they had. This is illustrated in the table below.

	Average Rating Overall	Average Rating by Mother	Average Rating by Father
<b>Shared affection with child</b>	4.43	4.7	4
<b>Happiness with the parent/child relationship</b>	4.08	4.43	3.2

To investigate whether there was any statistically significant<sup>138</sup> difference between mothers and fathers in these areas, two Mann-Whitney U<sup>139</sup> tests were conducted. Results of these tests found no significant difference in the self-reported rating of shared affection (U=365.5, z=-.957, p=0.339), and happiness in the relationship with their child between mothers and fathers (U=337.5, z=-1.358, p=0.174). This means that generally we may not expect mothers and fathers in the wider population to report different rates of happiness and affections, despite mothers in this sample reporting higher rates for both.

Participants were also asked to describe elements of the relationship between them, their child, and the other parent. Fathers commonly described their relationship as ‘distant’ or ‘alienated’, with 11 of the 19 respondents reporting these words directly, with some fathers also using terms such as ‘fractured’ or ‘damaged’. The second most frequent responses were those that described the relationship to be ‘loving’ and ‘happy’, with 7 of the 19 respondents reported these words directly. When mothers were asked to describe the relationship that the children had with their fathers, the most common response, by far (50%), was that mothers reported the fathers to be inconsistent, distant, or absent from their child. pproximately 25% reported that there was a strong and loving relationship between the father and child, using words like ‘loving’, ‘kind’, and ‘caring’. The remaining 25% either didn’t provide an answer to the question or gave answers that were not clearly negative or positive in the description of the relationship between father and children.

<sup>138</sup> Statistical significance is short-hand term to mean that this result was unlikely due to chance and is likely representative of an observable relationship between the variables. What this means in the context of this research, is that if all separated parents were to be surveyed in this country, we would expect to see similar results.

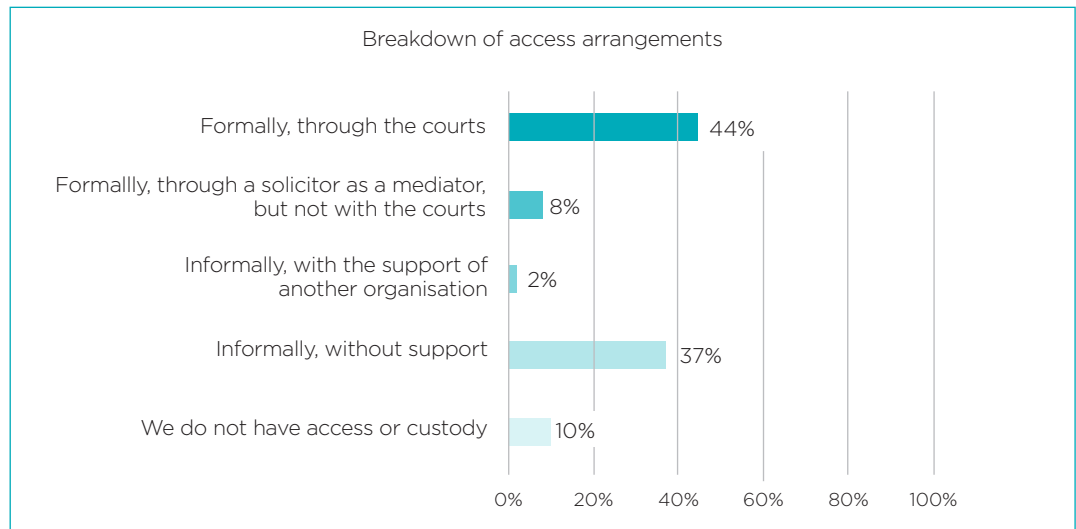
<sup>139</sup> A Mann-Whitney U test is a statistical test to determine if there is a difference in a certain measurement between two groups. In this report, it was used to test whether mothers and fathers provided different responses on the scaled (1-5) items.

## 6.2 Parenting Arrangements

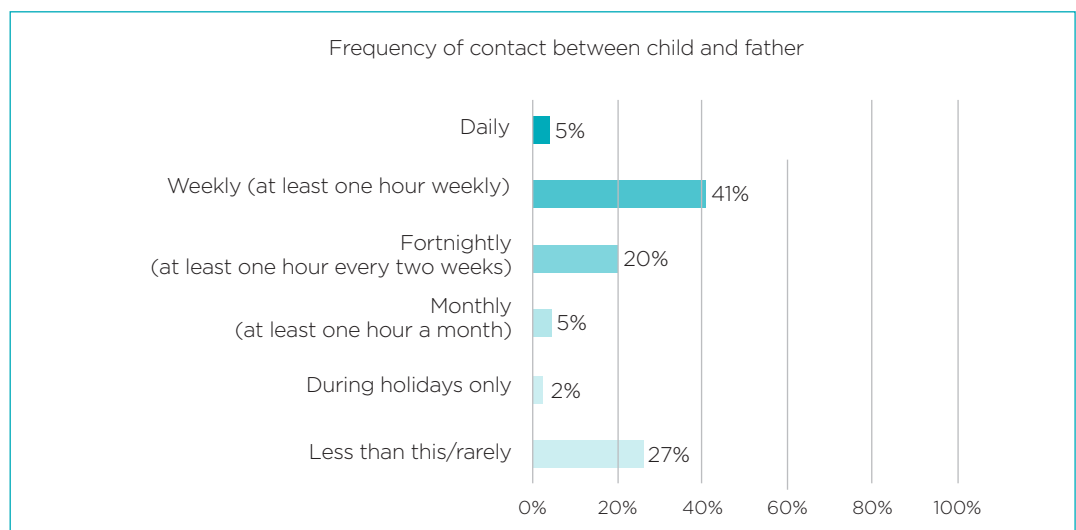
### Parenting Arrangements Summary

In the next portion of the survey, parents were asked to provide details and information on parenting arrangements, including access arrangements and how these arrangements were established.

Approximately (44%, n=27) of participants reported to have organised their access through the courts, with 37% (n=23) agreeing access through informal arrangement. The remaining parents reported to have organised access arrangements through a solicitor (8%) and other organisations (2%). Finally, 10% (n=6) reported to not share access or custody in any form. This is further outlined in the figure below:



In each case reported in the survey, children spent more time with their mother than their father, confirming that none of the children of the 63 participants had their father as the primary caregiver, as per inclusion criteria for the study. When asked about the frequency of contact between child and father, participants reported the following response:





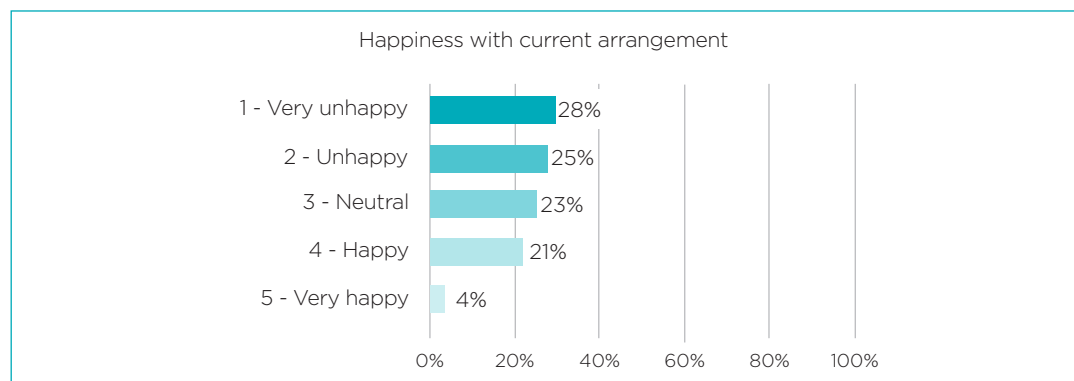


66% of participants reported the contact between father and child to occur at least once every two weeks, with 20% reporting fortnightly, 41% reporting weekly, and 5% reporting daily. Importantly, 27% of respondents reported that the frequency of contact occurred rarely, or less than a few times per year. Fathers were just as likely as mothers to report that contact occurred at this rate.

Overall, families primarily relied on informal agreements, or the court system, to organise parenting arrangements. The most common access arrangement between parents was weekly access, with almost half of the sample reporting this (41%). Almost one third of fathers saw their children less often than once per month.

## Satisfaction with Current Arrangement

In examining the level of happiness with current access arrangements, participants were asked to rate their level of happiness on a scale of 1 (very unhappy) to 5 (very happy). Results of a Mann-Whitney U test found no statistically significant difference in happiness levels between mothers and fathers ( $U=237$   $Z= -.976$ ,  $p=.329$ ); meaning their happiness with arrangements was approximately the same. A slim majority of participants (53%) were unhappy or very unhappy with their current arrangements. 25% reported to be happy or very happy (25%,  $n=13$ ) with their current access arrangements.

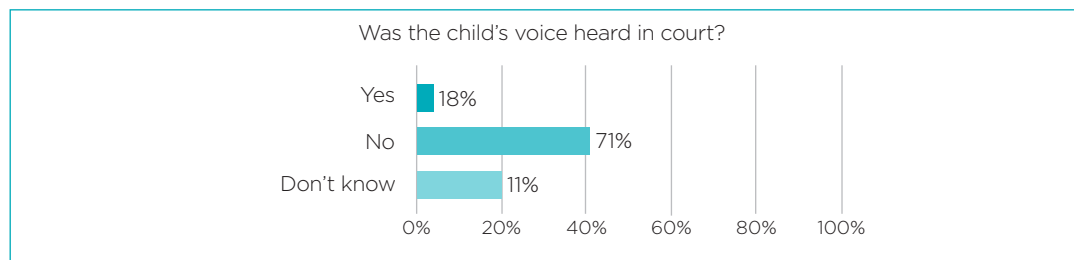


In addition to the quantitative items included above, participants were also given the opportunity to provide feedback in their own words about their experiences of access arrangements. Almost half of all participants reported that they would like the father to have more access or play a larger role in the child's life.

It is evident that access arrangements are one of the most significant sources of conflict and dissatisfaction for all parents involved in co-parenting situations. While the reasons for this conflict and satisfaction differ between fathers and mothers, each reported similar rates of unhappiness with current arrangements. These findings indicate that current provisions and assistance available to parents may be insufficient, and there is scope for additional formal supports for parents that exist outside of the family court system.

## The Child's Voice in Access Arrangements

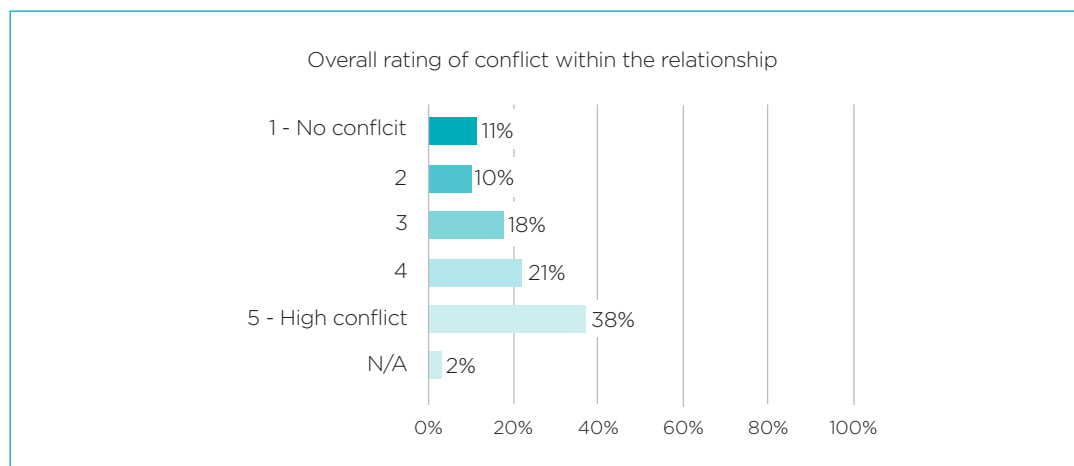
This survey also gathered data relating to the involvement of children in access and custody decisions, from the perspective of parents. When asked whether the child's voice was taken into account during the process, a total of 28 participants responded to this section. Of the 28 that reported organising access arrangements, the vast majority (71%, n=20) stated that their child was not given an opportunity to be heard during the process. Of the remaining eight responses, five stated that their child was provided with an opportunity to be heard, and three reported that they did not know. In cases where the child's voice was heard, most occurred through the child being interviewed (e.g., by a psychologist), and to a lesser extent by speaking to the judge directly.<sup>140</sup>



## 6.3 Challenges to Successful Parenting Arrangements

### Conflict in the Relationship<sup>141</sup>

Another key component of this survey was to identify specific sources of conflict within parenting arrangements. To gain a better understanding of this, parents were first asked to rate the overall level of conflict they perceive within the relationship with the other parent. An overview of these responses can be seen in the figure below:

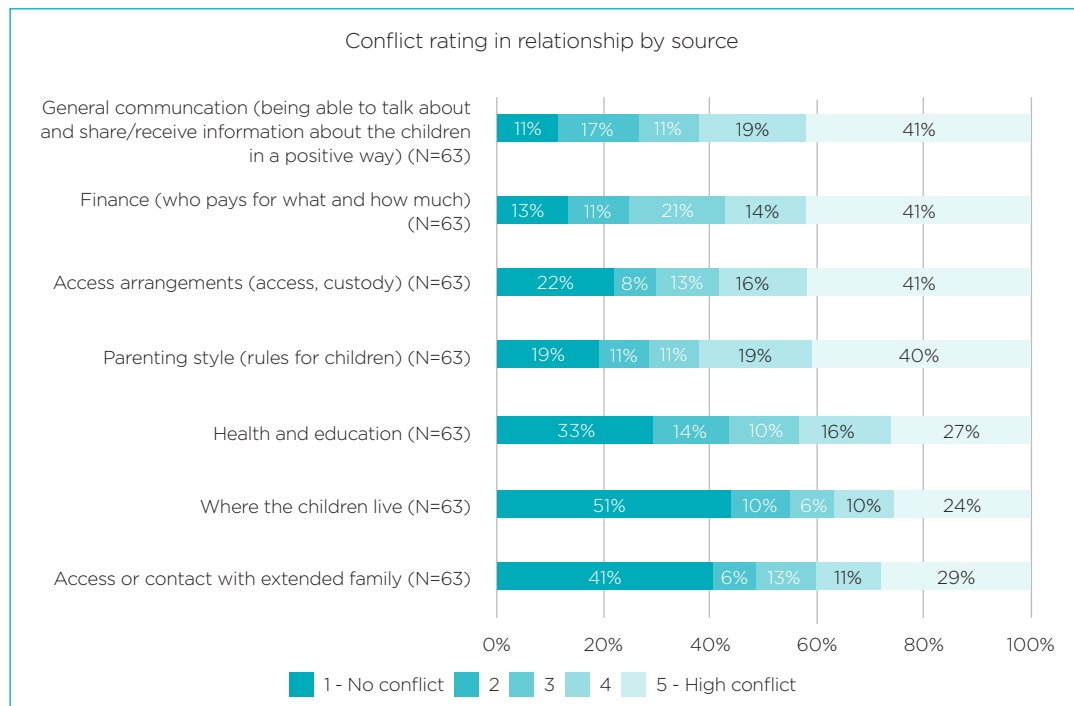


<sup>140</sup> One Family has recently launched a report and guidelines dealing with the way that the views of children are ascertained and represented as part of the access arrangement process. These can be found here: <https://onefamily.ie/wp-content/uploads/2022/12/FINAL-Research-Report-from-TCDUCC-Infant-Contact.pdf> <https://onefamily.ie/wp-content/uploads/2022/12/Best-Practice-Guidelines-for-Contact-between-Parents-and-Infants-of-Young-Children-FINAL.pdf>

<sup>141</sup> Please note that participants when completing the survey were reminded that this is separate to and distinct from domestic abuse; a definition of domestic abuse was provided for the purposes of clarification, and for each type of 'conflict' examples were provided to help ensure informed responses. However, it is also acknowledged that domestic abuse often centres around issues such as finance, communication etc. listed.



Here, most parents reported conflict in the relationship as moderate or high (77%, n=46). To investigate this further, participants were next asked to rate the level of conflict in their relationship with regards to seven key areas: communication, finances, access arrangements, parenting style, decisions over issues such as health and education, where the children live, and access for extended family. The figure below outlines the distribution of responses for each item, illustrating high levels of conflict in most areas – this corresponds with earlier findings in relation to high levels of domestic abuse in the relationships of research participants.



The table below shows the average scores out of five in relation to conflict type, for all participants, as well as broken down for fathers and mothers. Overall, and in both participant groups, the issues associated with the highest levels of conflict were: communication, finances, access arrangements, and parenting style. The table below outlines the weighted score for each variable out of five.

Conflict type	Average score all participants	Average score mothers	Average score fathers
<b>Communication</b>	3.62	3.27	4.42
<b>Finance</b>	3.60	3.50	3.84
<b>Access arrangements</b>	3.46	3.00	4.53
<b>Parenting style</b>	3.54	3.30	4.11
<b>Health and education</b>	2.89	2.50	3.79
<b>Where the children live</b>	2.46	1.91	3.74
<b>Access/contact with ext. family</b>	2.79	2.20	4.16

To better understand where differences in conflict arise, Mann-Whitney U tests were conducted on these conflict scores between parents. Statistically significant differences were found for ratings of conflict between genders for:

- Communication between the parents (U=236.5, z= -2.84, p=0.004)
- Current access and custody arrangements (U=363.5, z= -0.85, p<0.001)
- Having a say in the child’s health and education (U=230, z= -0.2.91, p=0.004)
- Where the children currently live (U=173.5, z= -3.96, p<0.001)
- Access/contact between the child and the extended family (U=156, z= -4.129, p<0.001)

In each of these cases, fathers reported significantly higher rates of conflict. While there were several non-significant results with high conflict ratings, these results indicate that fathers and mothers experience conflict in these areas to different degrees. In other words, not only do mothers and fathers experience these areas differently, but also likely do not share an understanding of how these needs differ for one another.

### Access & Maintenance Challenges

To better understand how and why challenges in relation to access and maintenance occurred, participants were asked to provide some additional information in their own words around their experience in these areas. Three open-ended questions were presented covering general challenges, other issues that caused conflict, and what kind of factors allowed a resolution to be obtained. The responses to these questions were narratively synthesized, and are presented in the table below:

Key area	Key findings
<b>Challenges related to access arrangements</b>	<ul style="list-style-type: none"> <li>- Long waiting times for family court and mediation</li> <li>- Lack of enforcement of orders, or informal arrangements</li> <li>- Informal arrangements have no security for either parent</li> <li>- Significant difficulty in changing terms of agreement amicably</li> </ul>
<b>Challenges related to maintenance arrangements</b>	<ul style="list-style-type: none"> <li>- Maintenance orders are difficult to enforce, and many mothers are left without child support</li> <li>- Conflict arises in cases where non-taxed income is not taken into account when determining maintenance</li> <li>- Difficulty getting parents to make payments of arrears within the courts</li> </ul>



Key area	Key findings
<b>Other areas of conflict</b>	<ul style="list-style-type: none"> <li>- Extended family can heighten levels of conflict between parents in relation to access</li> <li>- Parents felt that there was no tangible effort to deescalate conflict within the court services</li> <li>- Arrangements of access and maintenance in relation to special occasions (Christmas, communion, confirmation, etc.) can be particularly challenging</li> <li>- Mental health of either/both parents can ignite or intensify conflicts</li> </ul>
<b>Factors that made conflict resolution more difficult</b>	<ul style="list-style-type: none"> <li>- Feeling unsupported or alone during the separation process</li> <li>- Lack of communication, or support for better communication, between parents</li> <li>- Feeling as though the court process takes longer than necessary</li> </ul>

### Personal and Interpersonal Barriers to Meaningful Relationships

Another key component of the research was to better understand the personal and interpersonal barriers to children and fathers who do not live together having meaningful relationships. Here, participants were asked to rate on a scale of 1-5 how much of a barrier each of the factors presented in the table below caused. The higher the factor was rated, the more of a barrier it was perceived to be. Here, both mothers and fathers indicated that poor communication between the parents was the largest barrier to fathers and children having a meaningful relationship. Mothers also indicated that fathers' motivation was another substantial barrier, whereas fathers rated the mother's mental health<sup>142</sup> as the next most important factor, after communication between parents.

Impact on relationship	Average score overall	Average score mothers	Average score fathers
<b>Communication between parents</b>	3.24(1)	3.36(2)	3.68(1)
<b>Father's motivation to parent</b>	3.06(2)	3.41(1)	2.26
<b>Domestic violence/abuse</b>	2.63(3)	2.7(3-)	2.47
<b>Mental health (father)</b>	2.5	2.7(3-)	2.05
<b>Children's preference</b>	2.43	2.45	2.37
<b>Father's confidence in parenting</b>	2.32	2.41	2.11
<b>Mental health (mother)</b>	2.31	2.07	2.89(2)
<b>Father's finances</b>	2.3	2.09	2.79(3)
<b>Father living far away</b>	2.27	2.34	2.11
<b>Father's accommodation</b>	2.25	2.3	2.16

<sup>142</sup> It is important to note that while women's mental health is perceived by men as a barrier for shared parenting, negative claims about women's mental health is often used to undermine the integrity and rationale behind women's behavior. Particularly pertinent in relation to high levels of reported domestic abuse, research has documented how gender-emotion stereotypes are used to maintain existing systems of gendered power relations, for example by ascribing women's anger, and other emotions that conform to gender expectations, to mental health imbalances(94-96)

Impact on relationship	Average score overall	Average score mothers	Average score fathers
<b>Drug or alcohol difficulties (father)</b>	2.08	2.36	1.42
<b>Father not having transport</b>	2.02	2.14	1.74
<b>Physical health (mother)</b>	1.83	1.7	2.11
<b>Physical health (father)</b>	1.67	1.61	1.79
<b>Drug or alcohol difficulties (mother)</b>	1.57	1.32	2.16

Generally, mothers and fathers differ in their perceptions of what factors cause conflicts and barriers in relationships. One of the reasons why this may be the case is that parents were more likely to rate the other's behaviour or circumstances as barriers rather than their own. For instance, when asked about whether the other parents' drug and alcohol use created a barrier between parent and child, mothers and fathers were more likely to report the other parent's use as a barrier, and less likely to report their own.

Again, in addition to the quantitative questions, participants were provided with an opportunity to provide qualitative feedback on their experience of having a parenting arrangement involving the non-residential father. Participants were first asked to provide feedback on what impact they felt this had on their own relationship with their children. Responses to these questions were separated by gender, and organized using a narrative synthesis, the key findings from this synthesis can be seen in the table below.

	Mother	Father
<b>Impact on own relationship with child</b>	<ul style="list-style-type: none"> <li>- Mothers experienced a closer bond with their children, but also experienced heightened responsibility and pressure in other areas of life (e.g. social, professional, etc.)</li> <li>- Mothers often felt like they were seen as the disciplinarian, while the father was seen as the 'fun' parent</li> <li>- Separation was seen as a source of safety and protection for mothers and children, in cases where abuse was reported, creating stronger relationships with children</li> </ul>	<ul style="list-style-type: none"> <li>- The relationship between fathers and children often degraded over time, starting at the point of separation</li> <li>- Fathers felt that they often missed important events during the child's life, creating strain</li> <li>- Fathers felt that children often stopped seeing them as a parental figure when they no longer lived with them and had limited contact</li> </ul>



To gain a better understanding of how these difficulties and conflicts may occur, participants were also asked to reflect on whether there were times that the father was not able, or chose not, to be involved in the child’s life. These responses again were stratified by gender, and narratively synthesised, which is outlined in the table below.

	Mother	Father
<b>Times when the father was not able to/ chose not to be involved</b>	<ul style="list-style-type: none"> <li>- Mothers reported that oftentimes fathers would cancel visits or access without any reason or notice given</li> <li>- COVID-19 played a significant role in creating a barrier for access, especially in cases where there were vulnerable relatives in the home</li> <li>- Many reported that fathers’ issues with alcohol or drugs meant that they either chose not to be involved, or they were not safe for the children to be around</li> </ul>	<ul style="list-style-type: none"> <li>- Fathers primarily reported that they wanted to be involved, and did not chose to be absent</li> <li>- Many reported that the mother would refuse to allow access to the children without a just reason</li> </ul>

## 6.4 Structures and Services

### Summary of Supports Accessed

To gain a better understanding of the usage prevalence and experience with different services that may be needed, participants were asked a number of quantitative and qualitative questions related to their experience. Firstly, participants were asked to disclose whether they had accessed the services listed below, and if so, how many times.

Services type	Never	Once	More than once
<b>Domestic Violence</b>	44 (70%)	7 (11%)	12 (19%)
<b>Family Court</b>	24 (38%)	9 (14%)	30 (48%)
<b>Gardaí</b>	35 (56%)	8 (13%)	20 (31%)
<b>Mediator</b>	39 (62%)	12 (19%)	12 (19%)
<b>Community Organisations</b>	38 (60%)	12 (19%)	13 (21%)

As illustrated in the table above, over half of the participants had never sought support from domestic violence services (70%), mediation services (62%), community organisations (60%), or from the Gardaí (56%). When asked how many times these services were accessed, participants reported relatively equal responses in relation to the frequency of use. One important finding here is that the family court system was used at a higher rate than other support services, and at a much higher frequency. While multiple use of the other services remained at 19-30%, 48% of participants that used the family courts had done so

multiple times. Another important point to consider is that, given the high rate of prevalence of domestic abuse and the low rate of uptake of domestic abuse supports (as well as engagement with the Gardai) recommendations should consider domestic abuse screening within the context of service provision, family courts etc. Participants were then asked to evaluate their experience of these services, and reflect on whether their situation improved, or depreciated as a result of accessing them. The results can be seen in the table below.

Services type	Made things worse	No impact	Made things better
<b>Domestic Violence</b>	2 (11%)	6 (32%)	11 (57%)
<b>Family Court</b>	16 (41%)	11 (28%)	12 (31%)
<b>Gardaí</b>	4 (14%)	15 (54%)	9 (32%)
<b>Mediator</b>	2 (8%)	12 (46%)	12 (46%)
<b>Community Organisations</b>	1 (4%)	10 (40%)	14 (56%)

In all categories except family courts, participants reported to have generally neutral or positive experiences. By this, participants reported approximately similar rates for the “no impact” and “made things better” options, and with just 4-15% reporting that the service made things worse in each case.

Family court was the only option with a majority reporting a negative experience. Almost half of participants (41%) (n=16) who had attended family court reported it to have made things worse for them and their children. Of this number, nine were fathers. This is notable as this figure represents almost half of all fathers included in the study. These findings also indicate that, overall, parents are put under undue strain within the current family court system, and that families have much more positive experiences when supported to formalise arrangements through mediation or other non-court means including DV services and community organisations.

In addition to this, participants were asked to provide qualitative feedback on what they felt was positive and negative about their experience of accessing these services. Responses to these questions were narratively synthesised and are detailed in the table below.

Services type	What was positive	What was not positive
<b>Domestic Violence</b>	<ul style="list-style-type: none"> <li>- Kind, supportive presence for the victim (parent and child)</li> <li>- Offering therapeutic supports to children</li> <li>- Supporting parent to transition to safe accommodation</li> </ul>	<ul style="list-style-type: none"> <li>- Feeling like there is a lack of post-situation support</li> <li>- Lack of support for men experiencing domestic violence</li> <li>- Lack of court accompaniment</li> </ul>





Services type	What was positive	What was not positive
<b>Family Court</b>	<ul style="list-style-type: none"> <li>- Ensuring parents can see their children, and children are cared for financially</li> <li>- Creating plans and structure for parenting arrangements</li> <li>- Website for bookings was experienced as relatively easy to use</li> </ul>	<ul style="list-style-type: none"> <li>- Both mothers and fathers felt alienated and not listened to</li> <li>- Fathers felt that they were discriminated against because of their gender</li> <li>- Caused there to be additional conflict within the relationship</li> <li>- Parents felt access and maintenance orders are not enforced, so it was not useful</li> </ul>
<b>Gardaí</b>	<ul style="list-style-type: none"> <li>- Gardaí were kind and professional to parents and children</li> <li>- Parents were listened to, and felt that they were taken seriously</li> <li>- Gardaí often signposted parents to other supports</li> </ul>	<ul style="list-style-type: none"> <li>- Many Gardaí are not trained/equipped to respond to domestic violence complaints in a sensitive way</li> <li>- Some parents found it difficult to get a protective order</li> <li>- The time taken to respond to complaints can be long, which results in excess stress and conflict</li> </ul>
<b>Mediation<sup>143</sup></b>	<ul style="list-style-type: none"> <li>- Mediation can allow for the focus to be kept on the best interest of the child</li> <li>- Fathers felt they were treated as equal parents and respected/listened to</li> <li>- Mediators often helped with creating plans in case the arrangement broke down after mediation ended</li> </ul>	<ul style="list-style-type: none"> <li>- Mediation can be expensive and time consuming, without any guarantee of agreement</li> <li>- There can be long waiting lists to access mediation services, leaving families without arrangements</li> <li>- Arrangements are not enforced, and would then require entry to the family court if not maintained</li> </ul>
<b>Community Organisations</b>	<ul style="list-style-type: none"> <li>- Parents felt they were a great source of information and judgement-free advice</li> <li>- Community organisations are experienced as more helpful, and more caring, than other services</li> <li>- Peer support and meeting others in similar situations was reassuring for parents</li> </ul>	<ul style="list-style-type: none"> <li>- There can be long waiting lists to access services</li> <li>- Lack of support for the court services, e.g., court accompaniment</li> <li>- There can be difficulties accessing the services if both parents aren't in agreement/willing to seek support</li> </ul>

<sup>143</sup> Given the prevalence of domestic abuse in this research, it is important to note in relation to mediation and domestic abuse, that for mediation to be appropriate in the case of domestic abuse, that it must be highly specialised. For example, in their submission to the parliamentary inquiry into a better family law system to support and protect those affected by family violence (2017), Women's Legal Aid Australia state that "a well-supported and safe mediation process, with expert lawyers and mediators who have a sound understanding of family violence and family law, can be an empowering process for a victim".

Finally, participants were asked to reflect on what services could not, or did not, provide for them when they were seeking support. In three open-ended questions participants were also asked to describe what needs of their children were not met, and what changes could be made in the future to help families in their position. The responses to these questions were narratively synthesised, and the key findings are outlined below:

Question	Key Findings
<b>Own needs not met</b>	<ul style="list-style-type: none"> <li>- Lack of support when access or maintenance arrangements were not upheld</li> <li>- Not enough understanding and sensitivity towards victims of domestic violence from services, especially when perpetrated against mothers</li> <li>- Fathers did not feel listened to, or recognised, as a parent within the court system</li> <li>- Mental health support for parents and children during the process was not adequate</li> <li>- Absence of supervised access centres</li> <li>- Financial assistance was something participants felt they lacked</li> </ul>
<b>Child's needs not met</b>	<ul style="list-style-type: none"> <li>- A shortfall of mental health and counselling services for children, as a standard, during family separation</li> <li>- Participants did not feel supported in finding child-friendly/ appropriate housing</li> <li>- Scarcity of financial assistance for child-related/specific supports</li> </ul>
<b>What changes are needed in the future</b>	<ul style="list-style-type: none"> <li>- Support for families to reach agreements without needing to access the court system</li> <li>- Legislation around guardianship, and/or the presumed responsibility of care for a child</li> <li>- Education and training for services, Gardaí, and court staff in providing support to families undergoing separation</li> <li>- A statutory system to enforce arrangements without re-entry to family court</li> <li>- More affordable access to legal aid</li> <li>- Prioritising the wellbeing and needs of the child in the process, including ensuring they are heard and providing mental health support</li> </ul>





## 6.5 Summary of Survey Findings

There were high levels of domestic abuse among those who participated in this research, which is in line with findings in other jurisdictions showing high levels of domestic abuse among separated families using courts systems (97). The survey findings demonstrated high levels of conflict in many areas between parents. Despite this, survey participants also reported high levels of shared affection with their children, and happiness with their relationships with their children, although relationships with fathers were often characterised by distance and reported to be less positive than mothers' relationships with their children.

In addition to this, all parents reported to have experienced significant difficulty in navigating the process of organising parenting arrangements. For instance, factors such as negative experience in family court, a lack of access to mediation services, poor enforcement of access and maintenance arrangements, and a lack of emotional and mental health support for every family member contributed towards an overall view that the needs of mothers, fathers, and children, are not being met within the current statutory and non-statutory systems of service provision. The findings of this quantitative research clearly support a necessary and overdue reform in family law, as well as improvements in current services, that could potentially be ameliorated, which are explored in detail in the summary findings and recommendations section.







07

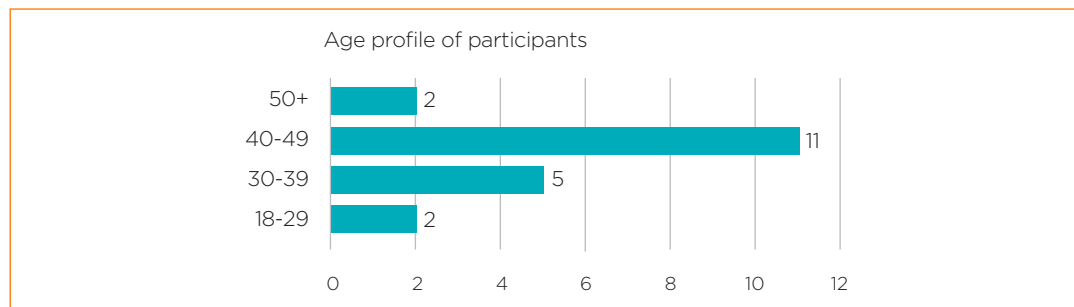
**Findings from  
Interviews**

## 7.1 Overview

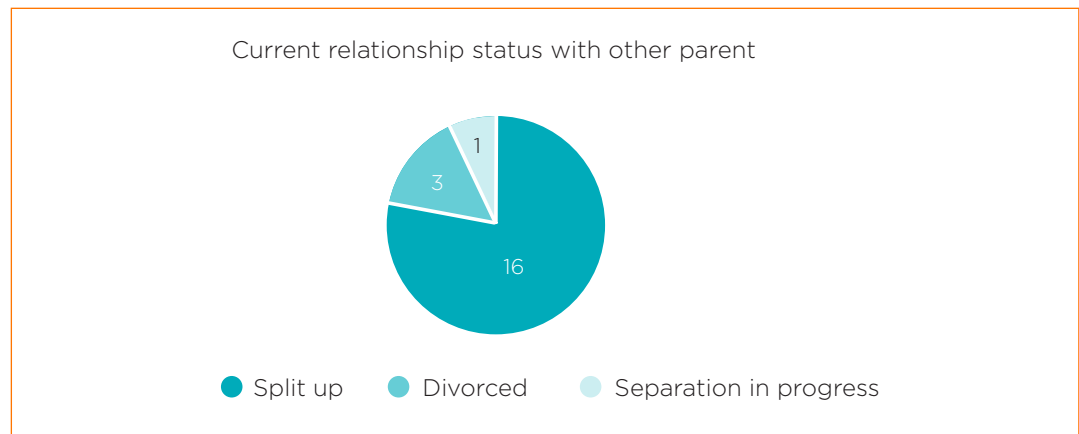
This section presents findings from interviews with twenty participants, including ten fathers and ten mothers. The section first provides a demographic overview of the participants, and then presents a thematic analysis of the data that includes findings on the hopes and helpful factors in relation to parenting arrangements, experiences in relation to access, maintenance, mediation and the legal system, barriers and challenges in relation to successful parenting arrangements, experiences relating to abuse, and the engagement of the child’s voice in relation to parenting arrangements.

## 7.2 Profile of interview participants

The following figures and graphs show demographic details on the parents that participated in the qualitative interviews. Approximately half of participants were aged between 40-49 years, with two participants reporting 18-29, five reporting 30-39, and two reporting 50+. This is outlined in the figure below:

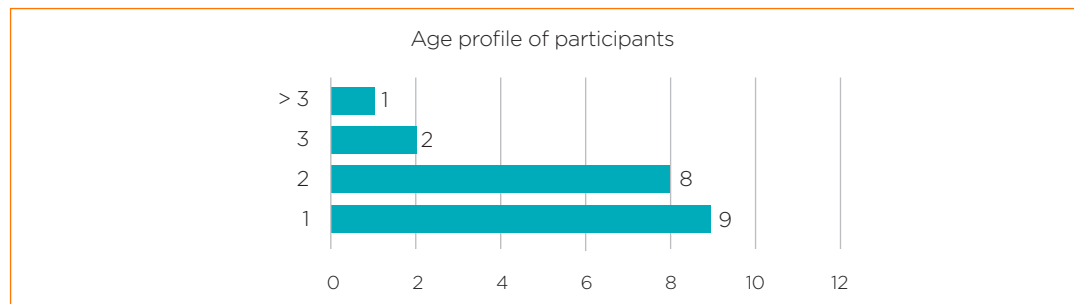


Participants were also asked to describe their current relationship status with the other parent. Here, the overwhelming majority reported to be split up (meaning they were never married, or no formal separation was granted) with 16 of the 20 participants reporting this. Of the remaining participants, three reported to be divorced, and one reported to be in the process of separation.

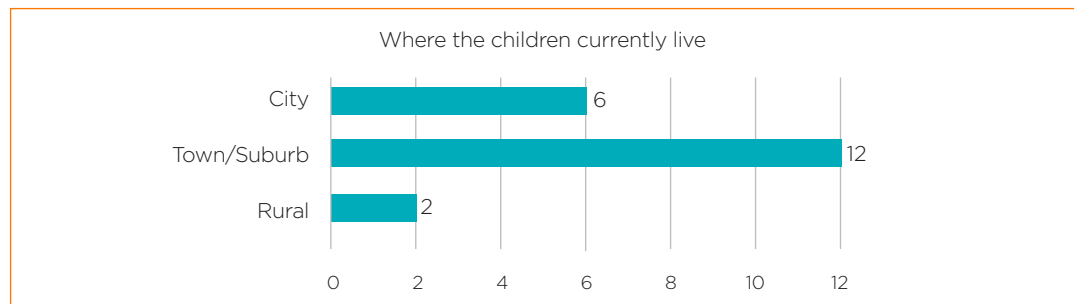




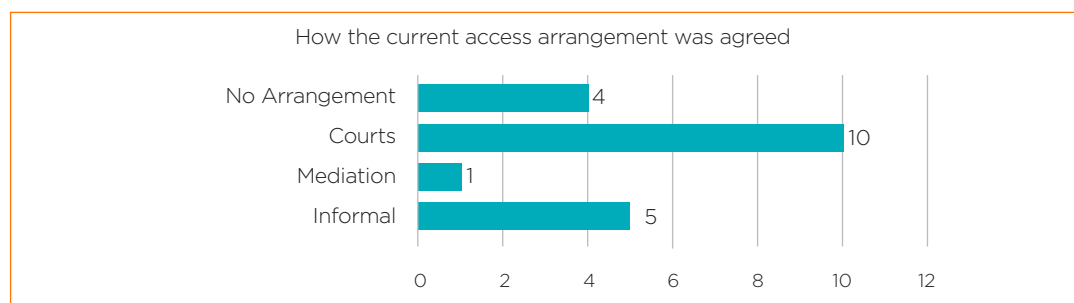
Participants were then asked to report on how many children they had. The overwhelming majority reported to have either one or two children, with nine and eight participants reporting these numbers respectively. Two participants reported to have three children, and one of 20 reported to have more than three children. This is outlined in the figure below:



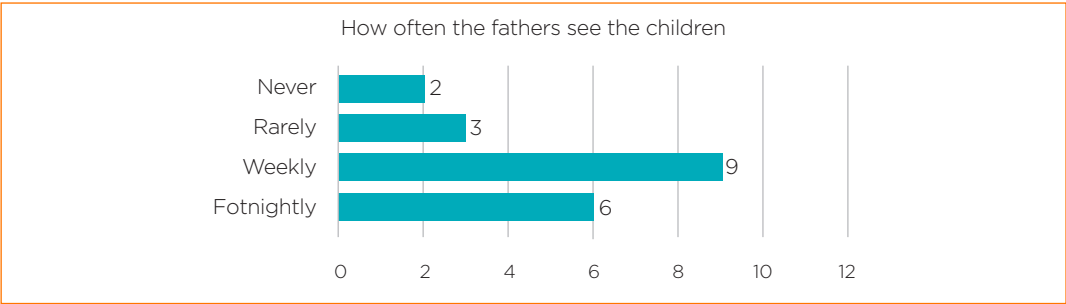
Participants were also asked to provide information on where their child currently lives. Here, most participants reported that the children lived within a town or suburb of a city, with 12 of 20 participants stating this option. Of the remaining eight, six participants reported their children to live in a city, and two reported that their children live in a rural area.



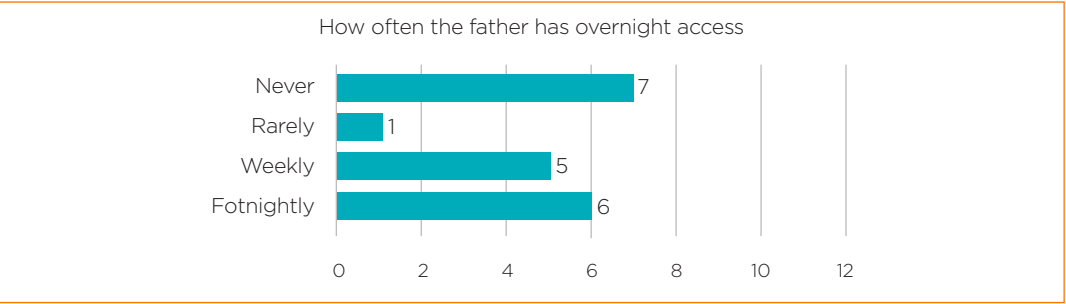
Participants were then asked to describe their current access arrangement, and how these arrangements were made. Here, half of participants reported to have arranged access agreements through the court system, The next most common arrangement between parents was informal arrangements with five of the 20 reporting to have arranged access in this way. Just one of the 20 participants arranged access through mediation services, and four did not have an access agreement.



To gain a better understanding of the current arrangements, participants were asked to state how often the father sees their children, and how often the children stay overnight with their father. In relation to general access, most parents reported that fathers saw their children either weekly or fortnightly, with nine and six reporting these options respectively. Of the remaining five, three reported the father rarely sees the children, and two reported that the father never sees the children.



When asked how often the father has overnight access, the most common answer was never, with seven reporting this option. Participants reported relatively similar rates of fortnightly and weekly overnight access, with six and five respectively reporting these options. Finally, one participant reported that overnight access happens rarely. There was no correlation between the age of children and type of contact arrangements.







## 7.3 Thematic Area One: Domestic Violence

### Overview

This section describes the prevalence of domestic violence against mothers, fathers and children and how this impacts the ability to share parenting responsibilities in a meaningful way.

### Abuse of Mothers Poses Significant Challenges for the Ability to Share Parenting

Domestic violence against mothers is present in seven out of ten of our participant cases. Of these cases, four mothers have applied for a protection or safety order; with two safety orders and one protection order obtained, and one safety order denied. Interviewees identified two primary ways in which domestic violence harms the relationship between fathers and children. Firstly, that the abusive behaviour continues after the relationship has ended and this has a negative impact on the children, and, secondly, that the children do not wish to see their father where the abusive behaviour continues.

The majority of mothers who have been victims of domestic violence describe that the abuse continues after the relationship has ended, mainly through fathers badmouthing the mother to the children, or verbally threatening behaviour from the father in the moments of collection and drop off. In some cases mothers are concerned that the father is unable to parent in a positive way due to a continuous attempt to control and hurt the mother, as illustrated by the following quote:

*“With domestic violence and access, it is not about the children, unfortunately. It is about control. There is no care or consideration. He takes the kids because he knows it will upset me, he knows me well enough to know that I will sit there and wait for my daughter to get home, worrying sick about it.” (Mother)*

In a few cases, children who have witnessed domestic violence against the mother have expressed reluctance to see the father and the mother has acted upon this wish and cancelled the access with the father. In some cases, domestic violence has created reluctance for mothers to go to court for maintenance as mothers do not wish to be confronted by their abusive ex-partner.

### Abuse Against Fathers is less Prevalent but Fathers find it Difficult to Talk About

There are three cases of domestic abuse against fathers reported. The fathers that have been abused find it difficult to talk about, as expressed by this father:

*“I was not going to bring this up and I always say no to this question but let's be honest: there was violence” - Father*

The fathers who have experienced abuse, perpetrated by the mother, do not feel it is taken seriously by the system and that the phenomenon is invisible in the public sphere. For instance, it is their impression that there is only a limited number of services caring for father who have been victims of abuse. In the cases of domestic violence against fathers, the fathers describe feeling a high level of hostility from the mother, transmitted to them through the children, and that this impacts their relationship with their children in a negative way as the children have started to withdraw from the relationship.

## Abuse of Children

There are two reported cases of abuse of children. One of these has resulted in the father having weekly access with the child, supervised by a retired social worker. Despite the difficult situation, the mother expresses that she is satisfied and feels that this solution protects the child, while allowing them to still spend time with their father, as expressed through this quote:

*“Everything is going great because it is supervised. His dad can’t overstep the mark. I have told the supervisor to not allow any playfighting as I witnessed how this can escalate. Our son is getting the best version of his dad because it is supervised, he is seeing the good side of him.” (Mother)*

## Summary

Domestic violence against mothers is present in most cases (N=7) and to a lesser extent against fathers<sup>144</sup> and children. From the perspective of participants, domestic violence poses considerable challenges for the ability to share parenting as the abuse against mothers tends to continue after the relationship has finished, which is detrimental to trust and meaningful collaboration between parents and may be harmful to the children. Both mothers and fathers report that the other parent tends to involve the children in the continuation of conflicts by verbally abusing the other parent to the children.

Additionally, although there are no more than two cases of children reported to be direct victims of abuse, it should be noted that there are several cases of domestic abuse perpetrated against parents. This is significant as it is increasingly posited that children who are not direct victims of DV are so severely impacted by the abuse, where they witness it, that it be deemed appropriate to also consider them victims of it (as mentioned elsewhere in this report).

Fathers who have been victims of domestic abuse associate this with embarrassment and describe that the lack of public focus/services addressing the phenomena reinforces the taboo associated with it.

<sup>144</sup> Three fathers report having experiences abuse/violence. While there is a lack statistics available on the prevalence of DV against men in Ireland, numbers from UK indicate that one in six-seven men will experience DV in their lifetime. Information can be found here: <https://www.mankind.org.uk/statistics/statistics-on-male-victims-of-domestic-abuse/> Assuming that these numbers are similar to Ireland, the prevalence of DV in this research is likely higher than what would be found in the general male population



## 7.4 Thematic Area Two: Access, Maintenance, Mediation and the Legal System

### Overview

This section provides an overview of the different ways parents arranged access, and the most common challenges for parents in relation to honouring agreed arrangements. This is followed by a description of parents' ways of dealing with maintenance and common issues related to maintenance. Finally, parents' experience of mediation - and the legal system in general - and fathers' experiences within the legal system - in particular - are explored.

### Access is Most Often Agreed in Court

Participants were invited to identify how they arranged access; in 11 cases the access arrangements have been settled in court, in eight cases they have been arranged informally between parents, and in one case the parents have come to an agreement through mediation. The overarching reason for arranging access through courts is a high level of conflict and disagreement between parents. In regard to cases where arrangements were reached in an informal way, the majority of relationships (N=5) are also characterised by conflicts. Settling things in court can help provide some kind of clarity around the situation when there is a high level of conflict, as expressed by one father:

*"It is troubled. I don't get along with the mother at all. When we split up she moved quite far away from where we lived. It is very difficult to cooperate and we can't agree access, so everything is court mandated." (Father)*

There are a few cases where parents describe that they managed to discuss and agree arrangements in a friendly way, making court unnecessary. These participants express relief that they managed to avoid going to court as they consider it a hostile and conflictual environment.

### Parenting Arrangements are often not Honoured

Five fathers report that the mother will stop/change access despite what has been agreed in court, or what has been agreed informally between parents, as described by this father:

*"We are supposed to be co-parenting, but that is not happening. We had to go to court because their mam was changing the rules every time. She keeps changing the access arrangements. She will just send me an email and tell me "This is the new access", there is no discussion at all, it is just take it or leave it." (Father)*

These fathers find that the changes to the access agreements are frustrating and leave them in a state of disempowerment because they do not know what to do to make the mother adhere to the agreements. They perceive that their only option to change things is to bring the mother

back to court for breached access. However, as will be described in a later section, the fathers are reluctant to enter, or reenter, the legal system as they do not expect to be treated fairly.

Five mothers report that they experience fathers not respecting the agreed access arrangements, whether agreed in court or informally. Fathers ignoring the agreed access ranges from a case where the father has court ordered access but has chosen to stop all contact with the children, to cases where the father's presence is erratic as he cancels access or shows up later than agreed.

The following quote is from a mother who has experienced this:

*"Sometimes he will show up late in the evening to pick up our daughter, after I haven't heard from him at all. He feels he can just come and go and walk into my apartment when he wants." (Mother)*

Where fathers do not respect the agreements, mothers tend to abstain from insisting on the father taking the children as they believe it should be the fathers' own wish to spend time with their children. They do not consider taking the father to court for not upholding the agreements as they do not associate the legal system with the appropriate way to solve the problem; they do not feel it is in the best interest of the children to have access with a father who has been forced by the law to do so.

### Maintenance is Often not Paid, and there is Perceived to be no Recourse where this Happens

There is a significant disparity between fathers' and mothers' reported challenges associated with maintenance. While all fathers report that they pay maintenance as agreed (although many of them find it hard to afford), the majority of mothers (N=7) experience that fathers do not adhere to the agreed maintenance agreements and that fathers use maintenance as a way to exercise control and power over the mother. The control can be expressed by withholding the funds or, as expressed through the following quote, insisting on controlling how the mother spends the money:

*"When we split up he didn't want to give me money, so instead he started dropping shopping bags on the doorstep and he would say he had given me 30 euro through shopping. It was very insulting. He didn't want to give me money because he thought I would spend it on myself and that I would live the best life" (Mother)*

A few mothers associate the lack of stable maintenance payments to fathers' personal problems such as drug/alcohol abuse, debt/bankruptcy and/or imprisonment. The majority of the mothers that report problems with maintenance are reluctant to insist on the father paying the agreed maintenance for various reasons. In cases of domestic violence or where the father has a substance use disorder, the mothers do not wish to interact with the father themselves and so they prefer to live without



financial support from him, while in other cases the mothers do not believe it will be beneficial taking the case to court as they predict the court will believe the father when he tells them that he does not have sufficient finances. Mothers generally felt that there are no clear consequences for fathers that do not pay maintenance as agreed.

## Mediation is Often Offered Too Late, and Can be Difficult to Navigate

A total of eight participants have engaged in mediation but only one participant (a father) describes the process as successful. This includes a few cases where domestic abuse has been present. The overall reason provided for unsuccessful mediation was that the level of conflict between parents was too high for them to engage collaboratively, in the way mediation requires, rather than the quality of the mediation per se. These difficulties were present both in cases where there was a history of domestic abuse, and in cases where it was reported not to be present. In some cases it was mentioned that parents were unprepared for mediation, or it came too late. In other cases the conflicts between parents escalated during mediation and parents were advised to proceed to court. A small number of fathers note that mediation did give them a needed opportunity to share their points of view but they also reported that the mother decided to not proceed with the mediation. This perspective is reflected in some of the parents recommending mandatory mediation as will be explored further in the findings and recommendations section.

## Parents Tend to Have Negative Experiences with the Legal System, with Fathers Reporting Feelings of Discrimination in the System

All participants who have used the legal system (N=11) describe the experience as painful and difficult to navigate. While the core reason for entering the legal system is associated with conflicts, the difficulties are further exacerbated by the actual experience as participants feel they are not treated in a decent, respectful way. Participants' stories about their experiences within the legal system are significantly similar, and with words such as 'unprepared', 'overwhelmed' and 'cold' repeated across interviews, as described by one mother:

*"The actual experience was very upsetting for me. It took me a few years to get over it. It's a very cold environment, it is not a nice place to be in (...) I didn't think of contacting anyone for advice before going to court so I was not prepared at all. So it was very overwhelming."*

*(Mother)*

While all participants who have experiences with the legal system describe it in negative terms it is only fathers who express that they feel they are not treated as equal parents, within the legal system, and that,

by default, the court favours the mothers' wishes regarding access:

*"I really don't understand why we can't get equal access, I was really, really involved in looking after the kids, I was minding them more than their mum. All this, and my relationship with the children, was taken away and there is nothing I can do about it." (Father)*

Furthermore, most fathers, as well as finding that the legal system reinforces stereotypical gender roles and divisions, also find that the court is inconsistent and non-punitive when dealing with mothers that do not adhere to court orders related to access.

## Parents Find that the Legal System is not Responsive to their Needs

The majority of participants that have interacted with the legal system feel that it is not responsive to their reality, in the sense that the court does not dedicate sufficient time and effort to individual cases to make parents feel heard. Thus, parents share a feeling of a cold or uncaring system that does not pay enough attention to detail, as described by a mother:

*"I got the impression that we were just numbers. They [the judges] are just reading someone else's notes, they don't know you, and there's no continuity." (Mother)*

Furthermore, participants describe that the legal system tends to fuel conflicts further rather than pave the way for resolutions, as expressed by a father in this quote:

*"We agreed everything at mediation, but as soon as we went to solicitors they created so much conflict the agreement was ripped up. Once you go to a solicitor they will always find a problem. If you are not aggressive you kind of lose out a bit, the whole court process fuels conflicts. (...) In Ireland the way the legal system works is not really ideal for sorting out family situations, which demands a little bit of flexibility." (Father)*

From the interviews emerges a picture of a legal system which is experienced as too inflexible to deal with the subtle areas of parental disagreements and that its strict focus on rights may not be the best way to deal with the nuanced problems related to parenting arrangements.

## Summary

Among participants in this research, the majority of access is agreed in court due to conflicts and disagreement between parents. The specific reasons why access had to be progressed to court were not examined on an individual basis, although the high prevalence of domestic abuse, as well as high levels of other conflict relating to maintenance, communication and other issues, is likely to have had a role in this. The majority of parents experience challenges related to access and report that, in many cases, the other parent does not honour the agreed



arrangements. In most of these cases parents do not proceed to court, to hold the other parent responsible for the breach of access agreement, as they do not wish to engage further with the legal system and/or distrust that it would be helpful. While all fathers report that they honour the agreed maintenance agreements, most mothers experience challenges with fathers not paying as agreed and/or using maintenance to exercise control and power over the mother. Most mothers choose to give up the maintenance as they do not wish to be confronted with the father, especially in cases of domestic violence. The vast majority of participants' experiences within the legal system are negative as the system is found difficult to navigate, superficial to an extent where important details are not getting the necessary attention and too rigid/inflexible to accommodate the challenges that many parents face. Fathers report that they feel discriminated within the legal system and that mothers are given primary importance, reinforcing stereotypical gender roles with the mother as primary carer.



## **7.5 Thematic Area Three: Personal and Socio-economic Barriers to the Child-father Relationship**

### Overview

This section focuses on the personal and socio-economic barriers that parents describe posing a challenge to building and maintaining a meaningful relation between father and child. It describes how fathers and mothers experience these barriers and their impact on the parenting experience.

### **In Some Cases, Substance Abuse or Mental Health Issues Pose a Barrier for Fathers to Engage in Meaningful Parenting**

In interviews addiction was uncommon, but where it was present had significant impacts. In a number of cases, the father had addiction issues

that impacted his ability to care for his children. This was reported both by mothers and fathers. In cases where fathers describe substance use as being a factor in diminished relationships with their children, this is not because they were under the influence when caring for the children, rather that the father chooses to stay away from them. Likewise, in the cases where the mothers report fathers having substance use difficulties, they express a clear preference for the father to be as little involved in the children's life as possible. In other cases, the father suffers from mental health problems to an extent where the father reported that he chose to withdraw from the family himself or the mother reported that she tried, and managed, to keep the children away from the father. No mothers report having addiction issues and only one father reported that the mother of his child had an addiction.

### Housing and Poverty can be a Barrier to the Relationship between Father and Children

In six cases, lack of sufficient housing poses, or has posed, a problem for the father-child relationship, either due to father having limited, temporary accommodation or being homeless. Problems with housing were reported equally by mothers and fathers. While the lack of sufficient housing has not, in any cases, stopped fathers from seeing their children, participants do see it as an obstacle for father and child to spend meaningful time together. In a few cases, the father has been homeless while continuing to see the children according to the agreed access arrangements, which mothers describe as very difficult to handle:

*"He [the father] was homeless for a bit and he was walking the streets with the girls in lashing rain, and I wanted to stop his access until he was sorted out but then he brought me back to court and I was threatened with jail." (Mother)*

One father also describes that, while he was homeless, it was difficult to find things to do with his child, especially in case of bad weather. In one case of supervised access, the mother mentions that the facilitation of the access poses a problem as the fathers' housing difficulties means that father and child have to meet in parks or playgrounds which is not always optimal.

Another commonly reported challenge among fathers, present in five cases, is that they find it difficult to provide financial support for their children in accordance with maintenance agreements and that the mother is often asking them for more money to help with expenses which they cannot afford. Despite these difficulties, these five fathers all report that they see it as their absolute duty to pay maintenance and that they always manage to pay what has been agreed. As detailed in Thematic Area Two on maintenance, the majority of mothers (N=7) experience that fathers do not adhere to the agreed maintenance agreements due to fathers' personal problems such as drug/alcohol abuse, personal debt/bankruptcy or imprisonment.





## Summary

In six cases, lack of stable housing and, in some cases, homelessness is experienced as a problem for building and maintaining a meaningful relation between father and children. Financial difficulties are linked to challenges between parents; fathers report that it is a struggle to honour the maintenance agreements, and that mothers tend to ask for more than agreed. Mothers, in contrast, experience that fathers' personal problems interfere with their ability to pay the agreed amount of money for maintenance. In a few cases, fathers' mental health problem or substance addiction have had a detrimental impact on the relation between father and child because the father has not been able to parent in a responsible way and has either chosen to withdraw or the mother has limited the father-child contact to protect the children.

## 7.6 Thematic Area Four: Relational Challenges between Fathers and Mothers

### Overview

This section describes the relational challenges between parents (which tend to interfere with parents' ability to collaborate in a way where the wellbeing and needs of the child have the highest priority), including conflicts about finances, parenting style and access arrangements. It describes some of the gendered<sup>145</sup> differences in how fathers and mothers experience the challenges of parenting while separated, and the specific issues mothers and fathers are faced with. To avoid conflating interparental conflicts with domestic violence, this section focuses solely on the challenges related to shared parenting other than domestic violence. Additionally, issues in relation to access and maintenance are explored in other sections of the report.

### Conflicts between Parents Inhibit collaboration for more than Half of Parents

More than half of all participants (n=11) report that the level of conflict between parents is very high and that there is ongoing hostility towards each other, which makes the communication and collaboration required for co-parenting difficult. Here, one father highlights his concern in relation to this:

*"We [father and mother] should be able to figure out what is best for our daughter, but we can't. Our daughter is a very happy, confident and smart little lady. The only conflict is between me and her mum, which I find really difficult as I don't think we can be the best parents we could be if we can't manage our own conflict." (Father)*

<sup>145</sup> As per the participant profile, all participants in this research described experiences in relation to heterosexual relationships





Specific areas of conflict discussed by research participants related to:

- **Parenting style (n=6):** This relates to parents' different approaches to discipline and ways of setting and implementing rules and boundaries for the children. This is particularly a problem when there is little communication and collaboration between parents and therefore no shared, uniform approach to parenting style, or difficulty making agreements on this. The different parenting styles can result in children preferring one parent (often the one with the looser boundaries) which the opposite parent finds unfair.
- **Access (n=12):** Problems with access tend to occur when either parent does not honour the agreed arrangement. There is a gendered difference in the experienced conflicts related to access: mothers often experiencing problems relating to fathers who show up late for access or don't show up at all; while fathers describe problems such as mothers changing the access agreements (e.g., around holidays) without consulting the father. Access is discussed in detail in Thematic Area Two.
- **Finances (n=6):** Conflicts about finances relate to both maintenance (Thematic Area Two) and dealing with expenses when external factors change but the agreed financial division of expenses does not. Examples provided by participants include: where the child spends extra days with either parent, cases of unforeseen expenses (e.g., child's dental expenses), or when one of the parents work/income changes (i.e., an expectation to pay less or more than what was originally agreed).

Many parents report that the children have been engaged, directly or indirectly, in hostility between parents. Eight fathers and most mothers - where the father is still present - describe that they experience ongoing involvement of the children in their personal conflicts as exemplified through the following two quotes from a father and a mother:

*"If I ask my kids 'What did you do last week?' they tell me: 'We don't know'. It looks like she [mother] has told them not to tell me anything, they are definitely coached not to say certain things. One of my daughters said to me: 'Mommy says that you're a very nasty person'."*  
(Father)

*"He [the father] acts like he is doing me a favour taking the kids. If the kids are sick and I have to work and I ring him, even though he is not working he'll say: 'Don't be ringing my phone, it is not my responsibility'."*(Mother)

Both fathers and mothers find it very upsetting and hard to deal with the involvement of children in conflict and believe the hostility has consequences for the children, often expressed through increased anxiety and confusion in the children. However, parents are not sure about the best way to handle the problem with the wellbeing of the children in mind and highlight the need for more help and support to navigate these situations. This is explored further in the chapter with key findings and recommendations.



## Fathers' Experiences of Joint Parenting are Associated with Feelings of Powerlessness, Guilt and Distance

The majority of fathers (n=9) report that they find it difficult to engage in meaningful parenting in the way they would like to. There are several reasons for this. Most common is fathers' reduced time with the children and a feeling of being regarded by the mother as a 'secondary' parent. Their perceived position as parents of secondary importance is further cemented by the way they feel their paternal role is positioned within the legal system (see Thematic Area Two). Fathers also describe feeling powerless and without a say in access arrangements, and that they do not feel free to be a parent in their own way and they are too little involved in decisions that concern the child. One father describes this feeling:

*"I feel rejected and undermined and that I'm not considered important enough by his mum to have a real say in decisions about our son. She wouldn't even allow me to go to the crèche on his birthday and to his first day in crèche as she said it would upset him if both of us were there. If she says no, there's nothing I can do. When I try to be proactive, I'm given ultimatums, for example, once I asked if he could spend two nights with me and I was told 'You can have one night or no nights.'" (Father)*

A negative consequence that fathers associated with this reduced time and meaningful connection is that they feel at an emotional distance to the children, which results in a feeling of guilt and a tendency to overcompensate in various ways when they do see their children. The sensation of distance between father and child(ren) seems to be further exacerbated in cases where the father only sees the children during weekends, as they are not involved in everyday life. They are therefore less familiar with the aspects, activities and people that form the scaffolding of the children's everyday lives such as teachers, school mates, homework and sports/extracurricular activities.

## Mothers' Experience of Joint Parenting is Associated with a Lack of Consistent or Reliable Paternal Presence in the Child-father Relationship

All mothers describe their relationships with their children as characterised by emotional closeness, support and love, and thus they do not experience that the quality of their relationship with their children is affected in a negative way by the challenges of joint parenting in the same way as the fathers do. Challenges reported by mothers are mainly related to fathers' consistency in parenting and in some cases the fathers' decision to completely disengage from parental responsibilities. In a number of cases, the father has chosen to cut contact completely with the children and the mother at an early stage of the children's lives, which mothers find very difficult to explain to the children in the least hurtful way, as expressed by this mother:

*"He just said he didn't want a relationship with the girls anymore. I never denied access and visits, he could always see them. The most difficult bit was to not upset the children, it was hard to explain to them that it wasn't their fault, it wasn't anything they did, it was just a decision that he had made for himself." (Mother)*

Some mothers, where contact is still in place, describe challenges with the father not showing up for access as agreed. As one mother describes, she finds it difficult to navigate in a situation where she tries to trust the father to care for the child, because she wishes for them to build and maintain a relationship, but the father is not perceived as being able to care properly for the child:

*"He would text me and say 'Can I see him [the son] tomorrow?' It's always short notice. If I can I will do it but if I can't I will say: 'No, can you give me a week's notice?' (...) I have to say that I don't trust him [the father] after the time he came back and lied about where they were." (Mother)*

When the father does not stick to the agreed access arrangements it leads to both practical and emotional difficulties for mothers and children. Practical, because it is difficult for the mothers to make plans if they don't feel they can rely on the father, and emotional distress as they feel that the father is letting down the children. The mothers do not wish to force the father to take the children as they believe that this should be voluntary. In several cases the mothers doubt the fathers' ability to care for the child and to show enough accountability and reliability, to an extent where they reported questioning (to themselves) whether the children would be better off not seeing the father at all. However, in all cases these mothers have not taken action to cease access, as they acknowledged children's needs and rights to see their fathers.

## Summary

In the majority of cases where there is a high level of conflict, parents found themselves in a situation where children were directly or indirectly involved in relational conflicts in a way that is perceived as detrimental for the children. While fathers often feel that it is difficult to parent in a meaningful way due to the limited time they have with the children, and because they do not feel that mothers acknowledge them as equal parents, the main problem for mothers is that they feel fathers do not live up to their parental responsibility in a way that satisfies the children's needs. Mothers express that they find the situation difficult to navigate as they wish for the children and father to have time together, but they feel that sometimes the father does not reach the threshold for responsible parenting.



## 7.7 Thematic Area Five: the Voice of the Child in Relation to Parenting Arrangements and the Legal System

### Overview

This section focuses on whether and how children are consulted in relation to family and parenting arrangements, regardless of whether this was pursued and organised through informal or formal channels.

### In Most cases, Children are not Involved in Parenting Arrangements

In the majority of cases the children were very young when the parents split up and therefore not perceived by the parents to be capable of being able to input into the conversation or decision about parenting arrangements. In most of these cases, the access agreements have stayed the same since the children were little, for reasons such as the child's life being centred around the home of the mother from the beginning, i.e., crèche, school, recreational activities and friends are in the area and therefore it makes sense that children stay there during weekdays and/or parents do not wish to change the routine for the child. This means that although children, as they age, may become more able to engage in conversations about access arrangements, rarely were they consulted about this once it became more age-appropriate to do so.

A few mothers describe that their children have explicitly expressed a wish to not see their fathers which has been respected by the mothers. In one of these cases the father has withheld money for the child as 'punishment'. Older children/teenagers are more likely to get a say in how they prefer the access to be arranged and there are a few cases where teenagers have had a significant say in how they would like time with the mother and father to be arranged, as described by this father:

*"Now they are older it is much more up to them, They make their own decisions. Up until last year they didn't really have a choice but now they are young adults and we can't force them to do anything."*  
(Father)

In the cases where the father has left the family - and in one case of child abuse - the children have not been involved in the decision about access arrangements.

In a number of cases, parents felt that they did not have the skills or knowledge to consult with their children in an age-appropriate way about the access arrangements and would have benefitted from support and advice from professionals, especially when the parenting arrangements have stayed the same over time but are not necessarily what they find optimal.

## The Legal System is not Perceived as Attentive to the Voice of the Children

Parents were invited to comment on whether their children had been engaged by the court where this channel was used for agreeing access arrangements. In five cases, children were interviewed for a report related to access arrangements and one child got to talk to a judge<sup>146</sup>. A few fathers, whose children were interviewed for a report, describe that the court did not take the content of the report into serious consideration when deciding on the access arrangement. One father reports that the mother wanted to reduce his access, and although the child was unhappy with this it was ignored in court:

*“In the report she said she was very happy and liked to spend time with daddy. That did not at all play a part in the process. When I told her that we were changing access to every second week she said that it wasn't fair, that she wanted to see me more, four days with mommy and three days with me and that was kind of what I suggested to the court. They didn't listen though. It was like what [my daughter] wanted didn't matter.” (Father)*

A few of the mothers perceive the legal system, and the rights-based language that characterises access arrangements, to be centred around the rights of the father in a way that potentially diminishes the needs and best interest of the child as described by a mother here:

*“It's like: ‘The father has a right to see his son’, but this feels wrong, and my son is crying and doesn't want to go with his dad. It should not really be about rights of the dad in this exact situation; it feels really, really wrong.” (Mother)*

It is a common agreement across interviews with parents who have been in court for access that children's views are not taken into account as a standard procedure by the legal system. Furthermore, the responses suggest that there is no uniform approach within the legal system to whether the child is being interviewed for a report or not.

### Summary

In several cases, children were consulted where formal access was being arranged, although it was questioned in many cases whether their opinion had any significant impact on arrangements. While the age of the child is considered a natural factor determining whether the children can voice their opinion, the data indicates that, although children are profoundly impacted by court decisions, they do not play a central role in the process. There is no systematic review of access arrangements, to consider whether they are still optimal for the needs, wellbeing and wishes of the child. In a few cases, older children/teenagers get to influence the planning of parenting arrangements informally, in collaboration with their parents.

<sup>146</sup> One of the changes within Family Law introduced by the Children and Family Relationships Act 2015 was the insertion of sections that gave the courts the power to make orders for the procurement of two types of reports, i.e. a Section 32 Report which provides the child's opinion and views to the court and a Section 47 Report where the Judge orders that a report is made which aims to bring the children's wishes and views to the attention of the court





## 7.8 Thematic Area Six: Parenting Arrangements - Hopes and Helpful Factors

### Overview

This section describes parents' hopes for parenting arrangements, lessons from parents on what contributes to well-functioning parenting arrangements, as well as areas where they identify potential for improvement, all gleaned from their own experiences.

### Both Parents Wish for Better and Closer Relationships Between Fathers and Children

The majority of fathers (n=8) share a wish to have more time with their children and be more than what is often referred to as 'weekend dads'. This includes having time with children during the week, as there is a shared perspective among the interviewed parents that building a strong child-father bond requires sharing meaningful everyday experiences such as meal-sharing, getting ready for school, homework and other non-recreational activities. As one father describes, he would like to have his daughter 50% of the time and do more everyday things with her, for instance homework which he currently helps her with over the phone:

*"I'd be happy with 50/50 but there's no way the mum would agree to that. I would like to see her more, do homework, take her to football (...) I met her teacher some months ago, she told me her [the daughter's] reading and maths could be better, so I wanted to help her with that. I went and got her books and I help her with her reading and her maths on the phone." (Father)*

In the majority of cases where the father is still present, mothers would like fathers to be more involved. A few mothers wish the father to have more 'quality time' with children, again highlighting that weekend parenting is often focussed on recreational activities, rather than more challenging tasks such as homework, getting up in time for school and extra-curricular activities. The following quote is from a mother who has her daughter from Sunday to Friday while the father has the daughter every weekend, from Friday to Sunday:

*"I would like to rotate it a little bit so I could also have weekends with her, I don't get to do the fun things with her (...) I think it's also very stereotypical in a way: I do all the 'mommy things' such as everyday things during the week, like getting her ready for school and then he gets the fun things in the weekend." (Mother)*

There are several reasons for this 'stereotypical' access arrangement (which will be considered in more details in the chapter on access) but many participants described that parenting arrangements tend to stay the way they were originally arranged and that in most cases the original arrangement is that the children stay with the mother for the majority of time and usually during weekdays. It is important to note

that the interviewed fathers and mothers come from different families, thus bringing into the picture a whole range of issues that characterise each individual family situation. This means that, in practise, there are many different factors that complicate the ability to share parenting in a well-functioning way where the father has more time with the children. For instance, in a few other cases, mothers wish for the father to change for the better, so he could become more involved. In these cases, the mothers perceive the fathers' personal problems to be so substantial that they do not believe he is able to care properly for the children and therefore do not wish for father and child(ren) to spend more time together. When there is high conflict between parents and/or when the father is perceived to have severe personal problems, mothers are less likely to wish for strengthened paternal involvement. Thematic Area Four, on relational conflicts between parents, deals specifically with the cases where mothers wish for the father to be less involved, for the safety and well-being of the children.

### There are a Number of Factors that Positively Influence the Experience of Successful Parenting Arrangements

A number of factors were positively associated with the experience of successful parenting arrangements. Five participants identified factors that had influenced their ability to share parenting in a positive way. Some of these factors are interpersonal, where others have to do with structure, agreements and logistics. The factors, which are listed here, and discussed further in this section, include:

- Ability to separate interpersonal conflicts between parents, from parental roles and responsibilities
- Trust between parents
- Shared decision making among parents
- Support and flexibility between parents
- Well-managed maintenance arrangements
- Clear and respected parenting arrangements
- Housing proximity

While many of the factors are interlinked in various ways, the five participants noted that the ability to separate relational conflicts from parental roles and responsibilities was of primary importance, for the experience of successful parenting arrangements. As eloquently described through the following quote, one father recalls how conflict between him and the mother was high following their breakup, but they managed to engage in a shared commitment to parent in the best possible way, detached from their conflictual relationship:

*"We went through the courts because when we broke up it was all very angry and bitter, like most breakups. But then we realised that we were going to be connected for the rest of our lives through the children, and we made it work." (Father)*



The participants that experienced some positive aspects of successful parenting arrangements agree that an important parameter is trust between parents and shared decision making. These participants illustrated that this is the foundation for parents to feel equal, respected and mutually safe in their parenting arrangements. One mother, who describes the collaboration between her and the father as very smooth and supportive, summarises the importance of trust and shared decision making between parents:

*"I think he trusts me and he adores our daughter, and really wants what is best for her. We always discuss things that are related to her before deciding anything out of respect for each other, for instance what camp she should go to, or if she wants to try a new sport. I do this out of respect although I know that he would trust me taking these decisions. She loves her father so much and I never had any doubt that he would look after her." (Mother)*

Other important relational factors described by these participants are support and flexibility between parents. Support and flexibility includes examples of behaviours where parents help each other out when needed, for instance when one parent asks to change access arrangements for one week or in case of financial help when unforeseen expenses occur. The parents that manage to arrange parenting in a less conflictual way describe how support and flexibility are linked with trust and separation of conflicts and parenting roles. In practice this means that those parents who trust each other, and manage their conflicts, find it easier to provide or access support or flexibility from the other parent, as described by one father here:

*"We help each other out. If I'm stuck or if she is stuck one month we help each other out. The money goes there for the kids - why would I stop that because of a conflict with her?" (Father)*

The relationship between the various factors is dynamic, in the sense that they have the potential to reinforce each other positively or negatively. One example is the need for well-managed maintenance arrangements and clear and respected parenting arrangements; both of these, when present, support trust between parents. The absence of reliability and trust between parents is perceived to be detrimental to successful parenting arrangements. In regard to housing proximity between parents, this is not decisive in itself for the experience of successful parenting arrangements. However, among participants where there



is a low level of relation conflicts, housing proximity is experienced as beneficial factor for the ability to share parenting positively.

## Summary

In the interviews, parents emphasise the importance of a child having sufficient quality time with their father. As such, the majority of fathers wish for more time with their children and just under half of mothers wish for the father to be more involved, especially during the weekdays. The information gathered across interviews with both fathers and mothers draws a clear pattern of what characterises successful parenting arrangements. The most crucial factors for determining how well parents cope with the multiple challenges of arranging parenting between them is their ability to separate interpersonal conflicts from parenting in a way that prioritises the wellbeing of the children, the level of trust between the parents, and their ability to engage in shared decision making.

## 7.9 Summary of Interview Findings

As with the survey findings, there were high levels of domestic abuse reported among participants in interviews, with domestic abuse overall being present in 50% of cases; 70% of mothers reported being victims of domestic abuse and 30% of fathers. Despite this, almost all parents wish for fathers to play a more active role in parenting, in the interests of the wellbeing of their children. Fathers wish to be more than 'weekend dads' and mothers wish for fathers to be more engaged. However, most arrangements see the primary caregiving responsibilities lie with the mother, and these arrangements, that are established at the point of parental separation, do not change later. There is significant dissatisfaction among fathers about their levels of contact with children.

Important factors for successful parenting arrangements noted by participants included the ability for parents to separate interpersonal conflicts from parenting, the presence of a substantial level of trust between parents and an ability to engage in shared decision making. However, the interviews describe a reality where these factors are seldom present and the level of conflicts between parents remains high. Families lack support in the initial phases after their relationship finishes that would enable them to focus on the needs of the children.

Most parents experience challenges related to access where the other parent does not honour the agreed arrangements, with fathers described as unreliable and mothers as likely to breach the agreed arrangements. It is a shared perception among parents that there is a lack of support for parents when access is not adhered to. Conflicts related to finances is a common problem too, with most mothers experiencing challenges with fathers not paying as agreed and/or using maintenance to exercise control and power over the mother. In some cases, lack of stable



housing and, in some cases, homelessness is experienced as a problem for building and maintaining a meaningful relation between father and child(ren).

In addition, parents experience that courts fuel problems and affect individuals' wellbeing negatively. There is a general sense of frustration and discomfort in relation to the judicial system and that it does not consider the complexities of parenting arrangements. Fathers report unanimously that they feel discriminated within the legal system and that mothers are given primary importance which is believed to reinforce stereotypical gender roles with the mother as primary carer. Although children, in a number of cases, were consulted where formal access was being arranged, the data indicates that children do not play a central role in the process. For instance, there is no systematic review of access arrangements and if these have remained optimal for the needs, wellbeing and wishes of the child over time. It is a shared perception that the primary focus in the legal system is on equality concerned with rights of parents rather than the actual care and wellbeing of children.





08

**Key Findings  
Synthesised from  
Interviews and Surveys**



## Finding One: The Voice of the Child is Rarely Heard in Relation to Parenting Arrangements

The overall data indicates that, although children are profoundly impacted by court decisions, they do not play a central role in the process. There is no systematic review of access arrangements and if these are still optimal for the needs, wellbeing and wishes of the child. When survey participants were asked whether the child's voice was considered during the process, a total of 28 participants responded to this question, with the vast majority (71%, n=20) stating that their child was not given an opportunity to be heard during the process. In cases where the child's voice was heard, most occurred through the child being interviewed (e.g., by a psychologist), and to a lesser extent by speaking to the judge directly. The qualitative data indicates that although the number of parents reporting that their children were interviewed for a report is slightly higher (25%), the perception among fathers, is that the court did not take the content of the report into serious consideration when deciding on the access arrangement. It is important to note that most interview participants explain the absence of children's involvement in the parenting arrangement by the fact that they were too young to have a say, but that parents have not considered consulting children as they grow older.

## Finding Two: Fathers Perceive their Relationships with their Children to be Negatively Impacted by Parental Conflicts and the Limited Time Spent between Father and Children

Fathers in the qualitative and quantitative groups reported a high level of affection for their children but report a lower level of happiness with the relationship with their children than mothers, with an average score of 3.2/5, compared to an average score of 4.43/5 for mothers. The vast majority of fathers (n=9) who were interviewed report that they find it difficult to engage in meaningful parenting in the way they would like to. They mainly associate these difficulties with their reduced time with the children and a feeling of being regarded by the mother as a 'secondary' parent. When fathers in the quantitative survey were asked to describe elements of the relationship between them, their child, and their other parent, fathers most commonly described their relationship as distant or



alienated, with 11 of the 19 respondents who commented reporting these words exactly. Overall, the findings from both the qualitative and the quantitative data indicate that parental separation puts a strain on the father/child relation and that the relation between father and child deteriorates over time and in particular when the level of parental conflict is high.

### Finding Three: There is Dissatisfaction with Existing Arrangements, and Half of Parents Want Fathers to Play a More Active Role

It is a significant finding across both the qualitative and the quantitative research that both fathers and mothers are dissatisfied with the current parenting arrangements. The qualitative finding resembles the quantitative data which reveals that the majority of participants reported to be neutral or unhappy with their current arrangement (75%, n=40) where 53% of these were unhappy or very unhappy. Almost half of all participants reported that they would like the father to have more access or play a larger role in the child's life. The majority of fathers in interviews (n=8) share a wish to have more time with their children and be more than what is often referred to as 'weekend dads', the majority of mothers in the qualitative interviews also wish for the father to become more involved and be more present in the children's life. However, in some cases, the wish for increased paternal involvement included strong caveats on the part of mothers, for example in cases where there has been domestic abuse, or when the father has personal problems such as addiction or mental health challenges, where it was perceived that a strengthened involvement would require changes to father's behaviour.

### Finding Four: Access Arrangements are Often Associated with Conflict and Characterised by a Lack of Adherence, and of Appropriate Enforcement Supports,

Half of parents in the qualitative interviews and 41% of participants in the quantitative survey report that access arrangements are associated with a very high level of conflict, often characterised by a lack of adherence and significant difficulty in changing terms of agreements amicably. For both fathers and mothers, the most common reported problem relating to access arrangements is a





lack of adherence and lack of enforcement. For mothers, this includes where fathers do not show up or otherwise stick to agreed arrangements. For fathers, this includes where mothers do not facilitate their access or otherwise honour agreements. These difficulties were experienced by parents regardless of whether arrangements were agreed formally or informally. Although it was not specifically discussed in the context of domestic violence, the high prevalence of this issue among participants can be presumed to have had a negative influence on the success of access arrangements. In the cases of enforcing or renegotiating formal agreements, parents do not find appropriate support in the legal system due to long waiting times, situations where domestic violence victims are forced to be in the same space as their abuser, a lack of faith in the fairness of the system, or because they have had other negative experiences with it and do not wish to re-engage with it.

### Five: Most Mothers are Negatively Affected by a Lack of Enforcement around Maintenance

Parents experience a high level of conflict related to finances, with maintenance noted as the most significant source of disagreement. Most participants in the qualitative interviews refer to maintenance as a highly conflictual area and the quantitative data shows that the weighted score for all participants for conflicts related to finances is 3.60 out of 5. The data indicates, however, that there is a significant disparity between fathers' and mothers' reported challenges associated with maintenance. As illustrated through the qualitative data; all fathers report that they pay maintenance as agreed (although many of them find it hard to afford it), while the majority of mothers (N=7) experience that fathers do not adhere to the agreed maintenance agreements and that, in some cases, fathers use maintenance as a way to exercise control and power over the mother. In cases of DV mothers are reluctant to insist on the father paying maintenance. The narrative synthesis of the quantitative data and the qualitative data indicates that maintenance orders are difficult to enforce and there are difficulties in getting parents to make payments of arrears within the courts.

## Finding Six: There are High levels of Conflicts between Parents, often Related to Parenting style, Lack of Trust, Finances and Poor Communication.

The overall conflict level across data is substantial with 59% of survey participants rating conflict in the relationship generally as high or very high and most interview participants describing a very high level of conflict. Across both datasets and genders, the specific issues associated with the highest levels of conflict were communication, finances, access arrangements, and parenting style. The quantitative data shows a gendered difference in perceived conflict levels with fathers reporting higher rates of conflict in all areas than mothers. This difference is particularly prevalent when it comes to rating conflicts about where the children live; the average score among fathers is 3.74/5 compared to mothers' average score of 2/5. In most of the qualitative interviews parents describe unresolved conflicts as making parental collaboration difficult and rigid. Parents describe finding it hard to avoid involving the children in their hostility toward each other which is experienced as a leading stressor for the children, often expressed through increased anxiety and confusion in the children.

## Finding Seven: Families Lack Support in Successfully Navigating Separation and Developing and Sustaining Child-centred Parenting Arrangements

Access agreements in most cases have been settled in court (reported by 68% of the survey participants and in 60% of the interviews). The main reason for choosing the courts is an ongoing high level of conflicts between parents. Consequently, parents do not find that the parenting arrangements have been made in a setting where the wellbeing of the child is in focus, but rather in an environment fueled by interpersonal parental conflicts and with a language centered around parental rights. Both datasets indicate that there is a lack of support for families to reach agreements without needing to access the court system. Furthermore, the majority of parents in the qualitative interviews describe that the parenting arrangements established at the point of parental separation tend to remain unchanged over time, even if needs and circumstances change, as there is no systematic review of parenting arrangements provided.





## Finding Eight: Families have Poor Experiences with the Court System and it is a Common Perception that the Legal System Fuels Conflicts

Across both datasets, there is consistent agreement that the courts fuel problems and affects individuals' wellbeing negatively, with parents sharing a sense of frustration and discomfort in relation to the judicial system and the fact that it is perceived to not consider the complexities of parenting arrangements. The dissatisfaction with the legal system in successfully navigating parental arrangements is reflected in the quantitative data with 41% reporting that the family court made things worse. Indeed, in most cases where parenting arrangements are not adhered to parents do not proceed to court to hold the other parent responsible for the breach of access agreement as they do not wish to engage further with the legal system and/or distrust that it would be helpful. Parents' experience with support organisations, on the other hand, is much more positive with 56% of the survey participants who had used community services, and most interview participants, sharing the opinion that support organisations have helped to improve things.

## Finding Nine: Fathers Report Feeling Discriminated and Treated as Secondary Parents by the Legal System

All fathers who participated in a qualitative interview - and who engaged with the legal system - described negative experiences with the system and a perception of bias and discrimination is common. Fathers feel they are considered secondary parents by the legal system and that they are considered a risk for the mother and children solely due to their gender. Fathers' perception of feeling discriminated within the legal system was also reflected in the survey data to a lesser degree. In both interviews and surveys, fathers reported more positive experiences with mediation services.

## Finding Ten: There is a High Prevalence of Domestic Violence Between Separated Parents Participating in this Study

Findings across data documents a high level of domestic violence between parents, in particular against the mother.

Most mothers (n=7 / 70%) in the qualitative interviews are victims of domestic violence which is reported by a similar number (64% / n = 39) of survey participants. Around half of these cases have resulted in the mother seeking a protection order. Mothers from the qualitative interviews identified two primary ways in which domestic violence harms the relationship between fathers and children, firstly, that the abusive behaviour continues after the relationship has ended and this has a negative impact on the children, and, secondly, that the children do not wish to see their father where the abusive behaviour continues. Regarding violence perpetrated against the father, the qualitative and quantitative information corresponds to each other again, with qualitative interviews indicating three cases of domestic violence against fathers and survey data reporting 24% (n=9) of fathers having been victims of domestic violence. The number of protection orders sought by fathers is very low.

### Finding Eleven: Mediation is Used Often, but Rarely Results in a Longer-term Successful Parenting Arrangement

Just under half of the qualitative research participants have engaged in mediation but the success rate is poor in the longer-term. According to interview participants' feedback, the frequent failure of mediation is linked to the high level of parental conflict, making mediation an insubstantial stand-alone initiative to restore collaboration between parents. While no mothers report positive feedback on the mediation a small number of fathers note that mediation did give them a needed opportunity to share their points of view, but report that the mother decided to not proceed with the mediation. In regard to survey participants a total of 38% have attended mediation, half of these have gone one time and the other half more than once. The feedback on mediation from the quantitative data is more positive, with almost half of participants reporting that mediation made things better while 46% report it had no impact and 8% that it made things worse. The quantitative narratives resembles the qualitative feedback with fathers describing mediation as a needed neutral space.







09

**Recommendations**

## 9.1 Overview

These recommendations were developed based on information from the following sources:

- Participants in interviews and surveys
- Legal analysis
- Literature review
- Expert opinion provided by members of the advisory group

The recommendations are presented with implications, where relevant, for:

1. **Service Level Recommendations:** those that could be implemented by a front-line service providing organisation or group of organisations
2. **Systems Level Recommendations:** these recommendations would require implementation by the Courts Service, other public bodies or government departments, and may be useful in existing or new advocacy initiatives in relation to these matters

## 9.2 Provide Early Intervention Support Programmes for Families where Parents will not Live Together

**Rationale:** There was a clearly articulated need both among participants and in literature for the development of tailored early-intervention supports for families, to support them to navigate separation and co-parenting arrangements.

**Service Level Recommendation:** As previously indicated, a number of programmes already exist in this regard in Ireland and internationally. It is recommended that services who are working with families in this situation, but not providing tailored supports for shared parenting, may consider doing so. This may involve identifying an existing model, or developing a model in partnership with children, parents and experts so that their staff can support parents at the earliest point in planning successful co-parenting arrangements, with the aim of supporting parents who will/may not live together to:

- Plan for co-parenting arrangements that consider roles, division of responsibilities, communication and other important issues
- Anticipate and plan for common challenges
- Communicate with and involve children in planning for and reviewing parenting arrangements
- Understand and navigate essential services such as mediation, the courts, etc.
- Understand domestic abuse in relation to signs, symptoms, and available supports, as well as guidance on staying safe and supporting children in such situations<sup>147</sup>

<sup>147</sup> The Daughters of Charity Child and Family Service's Dublin Safer Families is an evaluated and evidence informed model of practice in this regard and has been evaluated as having statistically significant positive impacts on psychological well-being of mothers and fathers, as well as reductions in experiences of violence (victim or perpetrator). This report can be found here: [https://static.wixstatic.com/ugd/b10095\\_854fa59d65234997807de029f37e8493.pdf](https://static.wixstatic.com/ugd/b10095_854fa59d65234997807de029f37e8493.pdf)





Such supports may include practical resources such as co-parenting agreements, templates, and sign-posting to specialised services including support for children. These supports may also be extended to provide on-going support to those engaged in shared parenting where fathers and children do not live together.

**System Level Recommendation:** the provision of a funding stream for the roll-out of successful evidence-informed and evaluated models for early intervention, and continued support for successful shared parenting in front-line community services.

### 9.3 Develop Collaborative Working Pilot with Mediation Services

**Rationale:** Mediation is perceived to be a potentially effective support for parents, but challenges were identified in relation to the fact that participants are ill-prepared for mediation, that there is a lack of understanding on the role and function of mediation, and that it is often introduced 'too late'. It should also be noted that where assessments or screening identify domestic violence as present, that only appropriately trained, specialised mediation may be implemented.

**Service Level Recommendation:** This recommendation is to develop a collaborative approach between mediation and family support services. This should incorporate learning from existing similar initiatives, where relevant, and may involve the development of:

- Detailed guidance for parents and staff to support effective engagement with mediation
- A 'pre-mediation' support intervention that can be delivered by community-based services to support parents to prepare for and effectively engage with mediation services
- Screening to ensure that domestic violence is not a factor as this would preclude general, non-specialised mediation as an appropriate intervention

This may require:

- Brief consultation with all partners, as well as parents, to clarify gaps and challenges initially identified through this research, as well as potential solutions
- Piloting a partnership, and collaboratively developed, intervention between one or a group of family support and mediation services
- Evaluation, review and roll-out of this service

### 9.4 Support Access and Child Contact

**Rationale:** Fathers reported difficulty in having access with their children, particularly in cases where fathers experienced housing precarity. The literature review and, the legal and the policy analysis also identified a

need for child contact centres to be established to promote safe contact between fathers and children in higher conflict situations.

**Service Level Recommendation:** This recommendation is that organisations should seek funding and explore provision of access support at a local community level, which may include the provision of space for father's access for families where suitable housing is an issue, where access is safe and this approach is appropriate (e.g., there are low levels of interparental conflict, no domestic abuse, or supervised access is not required or mandated).

**Advocacy Recommendation:** For funding to be provided for services to roll-out a successful model for community-based child-contact centres, such as the evaluated Barnardos/One Family model<sup>148</sup> for families where supervised access or higher levels of support is required.

## 9.5 Map Service Provision for Families where Fathers and Children do not Live Together

**Rationale:** Families in this research presented with a range of partially met, or unmet, support needs ranging from parenting support, fatherhood support, childhood development support, support with successful co-parenting at early points and in later points (e.g., post-separation), domestic abuse, access support, navigating court and mediation supports and many others. Despite, in most cases, parents taking part in the research due to their contact with support services, they still noted such unmet needs.

**Recommendation:** Map available programmes and supports for fathers, mothers, children and families where fathers do not live with their children. This information can be used to:

- Identify evidence-informed models of good practice that have been implemented and evaluated in an Irish context, and (where piloted in a local area) can be rolled out in other communities
- Identify gaps in service provision, in relation to particular needs or geographic gaps
- Where gaps exist in the Irish service provision context, identify international models that could be incorporated (a number have been identified in the literature review of this programme)
- Create a resource for community services looking to roll-out successful pilot programmes or to refer on to specialised services
- Provide data for services seeking to advocate for additional funding for roll-out of relevant programmes

**Level:** This could be led at a service or systems level.

<sup>148</sup> <https://www.onefamily.ie/wp-content/uploads/Final-Child-Contact-Centre-Evaluation-December-2013.pdf>



## 9.6 Provide Fathers' Support Programmes

**Rationale:** Literature clearly highlights the ecological sensitivity of fatherhood, meaning that it is highly influenced by environmental factors and that there is significant potential for service delivery to have an impact on non-residential fathers' ability to engage in positive parenting, and to maintain or establish healthy father-child relationships. In this research, a number of factors that could affect quality of the father-child relationship were identified, including lack of confidence, self-efficacy, gendered notions of parenting and shame, among others. Literature highlights a significant number of factors associated with positive paternal involvement that could be considered in the development of a holistic fatherhood support programme including: psychological health, attitudes to fatherhood, employment and housing, relationship with the other parent, and engagement of the father's extended family. A number of programmes have been identified in the literature review of this report.

**Service Level Recommendation:** Service providers working with families should consider, based on need and potential uptake, providing a fathers-specific support programme where they are not already doing so. This may either be an established model, such as those detailed in this literature, or could be one developed in partnership with, for examples, fathers and those with expertise in this area. Resources, funding and capacity will influence the capacity of services to deliver this recommendation.

**Systems Recommendation:** The continued and extended funding of programmes and initiatives that specifically seek to work with this group in an evidence-informed way<sup>149</sup>.

## 9.7 Undertake Domestic Abuse Screening and Risk Assessments

**Rationale:** Although domestic violence was not a primary research objective for this project, the research revealed a high prevalence of domestic violence in some of the families who participated in this research where fathers do not live with their children. The literature review revealed that very often domestic abuse can remain undetected even where families are in the courts system and arranging access.

**Service Level Recommendation:** All services encountering families should be trained to undertake screening and risk assessments for domestic abuse. A number of evidence-informed models have been identified in the literature review which may prove a useful starting point for research into appropriate models, depending on the professional role or service context.

<sup>149</sup> E.g. members of the expert advisory group, the Mens Development Network and From Lads to Dads, provide peer-lead fatherhood programmes

**System Level Recommendation:** That action 1.4.3 of the National Strategy on Domestic, Sexual and Gender-based violence is resourced, and models and training are made available to all front-line practitioners to undertake screening and risk assessments for domestic abuse.

## 9.8 Further Advocacy Recommendations

There have been a number of developments that emerged as this research was completed, in terms of the publication of the Family Law Bill and the Family Justice Strategy, that will impact on the advocacy activities of front-line service providers. This section is written in cognisance of this changeable and changing advocacy environment, where community and voluntary services engaging in advocacy initiatives will need to be astute to on-going developments and seek collaborative opportunities to improve family law and affiliated systems.

Advocacy recommendations arising from this research, which should be considered for appropriate advocacy efforts to relevant government departments and bodies, include:

- a) The need for out-of-court solutions to be augmented across the country
- b) The need for the establishment of an independent maintenance agency to support the enforcement of maintenance agreements, the need for which has been confirmed by the governments Child Maintenance Review Group<sup>150</sup>
- c) The need for the establishment of processes, structures and supports to ensure the voice of the child is heard in cases of family separation, and ensure that their voice and preferences meaningfully inform decisions relating to them
- d) The need for a wraparound support service within the family courts system, that includes interagency collaboration with community-based services, that supports parents to navigate the system, and provides continued supports after decisions are made to ensure adherence and successful navigation
- e) The national roll-out of specialist domestic abuse support services for parents accessing family courts (e.g., such as the Domestic Abuse Information and Support service in Dolphin House)
- f) The need for a range of contact centres to provide for supervised and unsupervised access at appropriate locations around the country
- g) The need for a range of other reforms to the family law system including:
  - i) The inclusion of timeframes for review of access arrangements, to ensure continued suitability, parity and cognisance of the wellbeing of the child
  - ii) A trauma-informed review of current arrangements in order to ensure the physical and psychological safety of all court users, particularly the safety of non-abusive parents and children
  - iii) Family law issues being clearly demarcated from criminal hearings in the district and circuit courts, in terms of the location and time of hearings

<sup>150</sup> <https://www.gov.ie/en/publication/f01cd-report-of-the-child-maintenance-review-group/>



- iv) Courts staff (including judges) trained in child centred family law, domestic violence, and other related issues

Systems reform beyond the family courts:

- a. Social welfare and housing:
  - i) The need for parents without primary care of their children to receive housing supports in order to develop and maintain a parenting relationship
  - ii) The need for the Single Parents Child Carer Credit to be available to both parents sharing parenting, and to be linked to child benefit
  
- b. Increasing understanding of families where parents do not live together – establishing population data:
  - i) Questions in relation to shared parenting to be included in Central Statistics Office data collection systems including the census
  - ii) The inclusion of relevant detailed questions in flagship research initiatives such as Growing Up in Ireland
  - iii) Specific national representative research to be undertaken with people engaging in shared parenting, to understand barriers and success factors to sharing parenting well for children, and for these findings to inform all relevant strategies and statutory service provision





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