

Child Support Arrangements and Non-Resident Fathers in Ireland

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PhD Submission

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Abstract

Non-resident fathers are considered by the Irish State to be fulfilling their financial responsibility to their children by paying child support. However, previous Irish evidence would suggest that men make low levels of provision and that compliance rates are poor. This had led to the view that many separated men are “feckless” and care little for their children’s welfare.

The aim of this qualitative study is to explore the experiences and views of non-resident fathers in Ireland with regard to child support and to establish the implications for Irish child support policy.

Men’s accounts reveal how different factors influence the type of child support arrangement put into place. It is argued that it is useful to consider child support arrangements as coming about as a result of the interaction of a number of elements including the socio-legal environment in which such arrangements get decided.

Attention is also paid to examining what happens to child support arrangements after men are legally separated. It was observed that changing post-separation circumstances may or may not affect whether child support is paid. This is because men can consider a range of issues before child support decisions are taken.

The experiences of men are also examined in respect of a number of specific factors that other researchers have considered in relation to child support compliance. These factors are: men’s ability to pay child support; the strength of family ties; the economic needs of mothers and their children; men’s willingness to pay child support; and the enforcement system in place.

Non-resident fathers’ accounts of the operation of Irish child support regime are also reviewed. Thereafter, the implications for Irish child support policy are discussed in light of current policy aims and possible wider public policy goals.

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Abbreviations

ESRI	Economic and Social Research Institute
DO	Determination Order
DSCFA	Department of Social, Community and Family Affairs
OFP	One-Parent Family Payment
Yr(s)	Year(s)
Mth(s)	Month(s)

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CHAPTER 1 – INTRODUCTION

Child support policies in many Western countries are focusing on ways to ensure that non-resident fathers assume financial responsibility for their children. Recent initiatives have included highlighting men's financial duties and strengthening child support enforcement procedures. However, the perspectives of those affected have not always informed such developments. This has resulted in policies being imposed on men who were not prepared to consent to them (Bradshaw et al., 1999).

Although Ireland has not experienced anything like the policy changes that have taken place in the UK, Australia and the USA, there is a concern about how Irish child support policy will develop. As Jackson (1993: 72) suggests, there is a "tendency for Irish welfare policy to be founded on reactions to British welfare policy often long after those same policies have been reformed or abandoned in the UK". There is also little evidence to date to indicate that Irish child support policy has been informed by the accounts of non-resident fathers.

The purpose of this study is to explore the experiences and views of Irish non-resident fathers¹ in relation to child support and to ascertain the implications for Irish child support policy.

The intention of this chapter is to introduce the study. The first section examines the social policy background to why there is a need to look at men's child support accounts. How the Irish child support regime works will then be examined. Possible factors associated with child support compliance will thereafter be highlighted before attention is paid to wider theoretical considerations, which may offer insight into men's child support actions. Subsequently, Irish policy issues will then be considered. The chapter concludes by highlighting the structure of the rest of the study.

¹ A non-resident father is understood to be a father who no longer primarily resides with his children and who no longer is in (or who is in the process of not being in) a married or cohabiting relationship with the mother of these children. The Family Law Act 1995 (Section 2(1)) notes that children are defined as being dependant if they are under 18 years, or under 23 years and in full-time education, or if they are physically or mentally disabled to such an extent that they cannot maintain themselves. This study uses these criteria in terms of defining dependant children.

1.1 Background to Study

Social policy attention in economically advanced English-speaking countries is increasingly focused on the role of non-resident fathers in terms of their financial obligations towards their ex-partners and their children. This section considers why this focus has occurred by examining a number of features including

- Demographic shifts in family formation and dissolution;
- The incidence of higher poverty levels within lone parent family units;
- Exchequer concerns;
- Moral concerns.

Demographic Shifts In Family Formation And Dissolution

Families at the turn of the millennium exist in many different shapes and forms. Today the "family" is no longer automatically assumed to be a husband, wife and their children living together under the same roof. Ireland, like many other western countries has seen a rise in the number of lone parent families over the past twenty-five years. Nearly all of these families are female-headed. There has also been a significant increase in the proportion of all family units that are constituted by lone parent families². Census³ data revealed that lone parent families in Ireland in 1981 constituted 7.1% of all family units. The corresponding share in 1991 was 10.7%⁴. Lone parent families in 2000 accounted for approximately 12% of children aged less than 15 years and about 14% of families with children of that age (Fahey & Russell, 2001). Households⁵ consisting of lone parents with children increased by 25,800 (24.5%) between 1996 and 2002 whilst the number of private households increased by 164,700 or 14.7 %.

This growth can be primarily accounted for by examining three trends. First, an increasing percentage of all Irish births are taking place outside of marriage. In 1973, 3.2% of all births occurred outside of marriage; the corresponding percentages for 1992 and 2000 were 18% and 32%⁶, respectively. The growth in the non-marital birth rate over this period has also been accompanied by a rapid decline in the number of adoptions, suggesting that children born outside of marriage are more likely today than 25 years ago to live with their birth mother.

² Both in the Census of Population and the Labour Force Survey dependent children are defined as those aged less than 15 years. Hence, dependent children of 15 years or over are not readily identifiable in the official statistics. Therefore, the statistics presented in this section – if not otherwise stated- refer to dependent children aged less than 15 years.

³ Source: Census of Population 1981, Vol. 3.

⁴ Source: Census of Population 1991, Vol. 3.

⁵ Source: Census 2002, Principal Demographic Results.

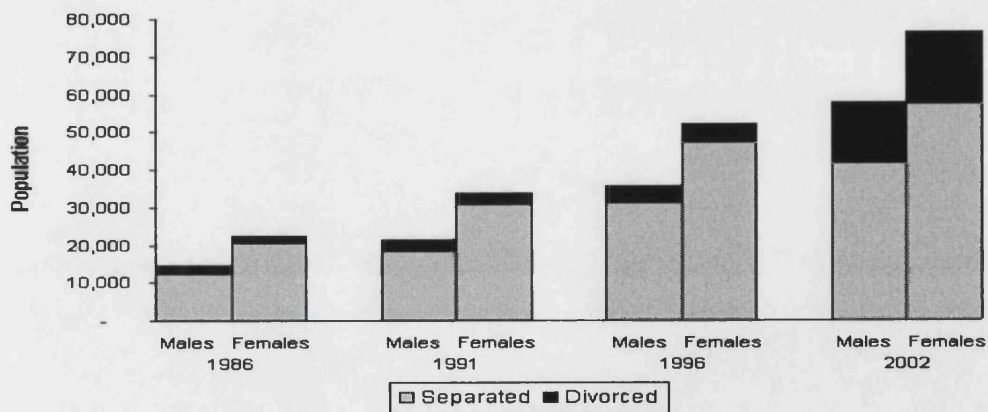
⁶ Source: Reports on Vital Statistics 2000, Central Statistics Office (CSO).

Second, the growth in the proportion of lone parent family units in Ireland is also reflected by an increase in the number of marital breakdowns. Fahey & Russell (2001) noted that the 1980s and 1990s witnessed a marked increase in the number of marital breakdowns. Census of Population data⁷ indicates a rapid rise in the total number of separated persons, with the number of separated persons per 1000 married persons increasing from 11.5 in 1981 to 41.4 in 1991, to 67.7 in 2001.

The Central Statistics Office (CSO) report (2003)⁸ noted that the number of separated persons (including divorced) increased by over 50% between 1996 and 2002. This represents an average annual increase of 7.3% between 1996 and 2002 compared with 8.1% in 1991-1996. Within the overall separated category the number of persons recorded as divorced more than trebled, from 9,800 to 35,100, between 1996 and 2002. This is mainly accounted for by the legalisation of divorce in the Republic of Ireland in 1997.

Figure 1.1⁹ distinguishes separated and divorced males and females from 1986 to 2002. Females accounted for 58 % of separated persons and 53.9 % of divorced persons in 2002.

Figure 1.1 Separated and divorced by sex, 1986-2002



Source: Census 2002, Principal Demographic Results

⁷ Source: Censuses of Population, 1981, 1991; Census of Population, 2002, Preliminary Findings.

⁸ Source: Census 2002, Principal Demographic Results.

⁹ Source: Census 2002, Principal Demographic Results.

The relative extent of marital breakdown can be indicated by expressing the number of separated and divorced persons as a percentage of the total number of ever-married persons. In 2002 this proportion stood at 7.5% compared with 5.4% in 1996.

Third, in the past lone parenthood in Ireland was predominantly generated through widowhood. Widow-headed families were treated more sympathetically in Irish social policy compared to other lone parent families (Millar et al., 1992). In 2000 widowhood accounted for less than one in ten lone parents¹⁰.

Such trends are putting the focus on non-resident fathers. Compared to the past they are around in greater numbers and more identifiable as a group. The attention paid to the position of non-resident fathers has also been reinforced by concerns about poverty levels within lone parent households and the State's role in funding these households.

The Incidence Of Higher Poverty Levels Within Lone Parent Family Units

Lone parent families in Ireland are likely to have low incomes and to experience a higher risk of poverty. Millar et al. (1992) note that on average, lone parents in Ireland tend to have lower incomes than other families with children and that single mothers have the lowest incomes. In addition, lone parent households have a higher than average risk of poverty than other households. Nolan & Callan (1989) note that taking a poverty line of income of less than 50% of mean disposable income, 18% of all households were estimated to be in poverty but 29% of lone parent family households were estimated to be in poverty. The Economic and Social Research Institute (ESRI) (1996) using information from the Household Budget Survey compared the relative income levels of different family unit categories between the years 1987 and 1994 and found an increased risk of poverty in lone parent households.

Although State income support provisions have increased above the rate of inflation in recent years and there has been increased labour market participation by lone parents¹¹, relative poverty levels for many low-income families would appear to have largely remained unchanged. The Department of Social, Community and Family Affairs (DSCFA) (2000) noted that 29.3% of lone parent families in 1997 were below the 50% poverty line.

¹⁰ Source: Fahey & Russell (2001).

¹¹ The Community Employment (CE) -a type of a Back to Work Scheme- largely accounted for the rise in lone parent labour force participation rates since 1994 (Fahey & Russell, 2001). As yet it is unknown whether it has led to a reduction over the past 5 years in the level of poverty in lone parent families.

Drawing from the limited available information, the financial support from non-resident Irish fathers for lone parent families would appear to be derisory. Few lone parent families receive adequate and regular maintenance. Ward's (1990) analysis of Irish District Court files and the DSCFA records indicated that that the size of maintenance awards was relatively modest and that rates of default and arrears were high.

McCashin (1996) in a non-representative sample of lone mothers in north Dublin found that three-quarters of them had never received any maintenance payments. In the week before the interviews were conducted, 84% of them had not received any maintenance payment from the father of their children.

Hence, traditionally low labour force participation rates from lone parents, poor maintenance provision and a reliance on state benefits have been associated with a high proportion of lone parent families living in poverty. This social problem has been reinforced by the growth in the number of lone parent families over time. Again the question is being asked can non-resident fathers play more of a financial role in supporting their children and reduce poverty.

Exchequer Concerns

The question has also arisen concerning the role of the State in supporting lone parent families. This has to be seen in the context of the rise in the number of welfare dependant lone parent families and the cost to taxpayers. Although there are no precise statistics on the proportion of all lone parent families who are social welfare recipients, it is likely to be significant. Irish census data (1991) suggests that 6-8% of all children in the State live in lone parent families. However, 17% of all children in Irish families receiving State income support payments were from lone parent families in 1999. Similarly, the number of recipients¹² of OFP was 4,574 in 1979. The number of recipients of one-parent family payment¹³ was 70,387 in 1999. This represents a fifteen-fold rise and a cost to the Exchequer. Given this trend public policy makers need to ask whether there is a role for other stakeholders – such as the non-resident father – is sharing this cost. There is also a fear that State support spawns both long-term welfare dependency and underclass characteristics.

¹² Source: The Department of Social, Community and Family Affairs (2000).

¹³ Lone Parent's Allowance was discontinued for new claimants from the end of December 1996. A new unified payment (OFP) was thereafter introduced for all parents who are bringing up children on their own.

Moral Concerns

Welfare dependency and underclass (Murray (1984), Auletta (1982)) fears emerged during the 1980's, the basis of which was that certain groups of people repeat a cycle of disadvantage and poverty. It was felt that state welfare payments do not act as an incentive to work but instead are a means of fostering negative behaviour. Other consequences include children from underclass families absorbing basic values and attitudes of their subculture, resulting in them becoming marginalised. Welfare payments discourage children from having access to paternal role models leading to some young males growing up without understanding the obligations of being a responsible father. In addition, there is a fear that young men fail to become socialised into the world of work. Underclass theorists would see the growth in the number of welfare dependant lone parent families as the natural consequence of having a benefit system.

Whilst there has been little evidence to date to support these theses, the fears of an emergent underclass have led to the role of non-resident fathers coming under the spotlight. Non-resident fathers- particularly those with little contact with their children and who do not pay child support – have been perceived negatively by some commentators in the media and politics and have been labelled "deadbeat dads". Consequently, more stringent child support compliance measures have been suggested to encourage fathers to support their children in order to reduce the number of welfare dependant lone parent families and their length of time on welfare.

In conclusion, a number of issues have lead to a re-evaluation of the best way to meet the cost of supporting lone parent families. The financial role of non-resident fathers has received particular attention. Whilst Ireland has been a laggard in terms of recent child support policy developments, at the same time there has been a historical tendency for the country to adopt "empirical solutions to social problems from abroad" (Jackson, 1993:72). However, non-resident fathers in other countries have not always welcomed these policy initiatives. Hence it would be beneficial to understand Irish men's perspectives on child support in order to develop a realistic policy framework.

Currently, the way that non-resident fathers are seen by the Irish State to fulfil their financial role is by means of the child support regime. The next section explains and reviews how the regime works.

1.2 The Irish Child Support Regime

Parents in Ireland who are no longer married to each other or living in a co-habiting relationship are legally obliged¹⁴ to support their children. The fulfilment of this responsibility takes place through the child support regime. However, child support regimes differ in their structure and in how the responsibilities of various stakeholders are constructed and executed.

Corden & Meyer (2000: 75) note that two different approaches have evolved and come together to form European and US child support policy regimes. One strand has developed within the framework of family law proceedings, focusing on the re-configuration of resources following an adult relationship breakdown. The other strand has arisen as a result of the State's involvement in financially supporting lone parent families, usually with the focus on preventing or reducing poverty levels. This dual approach forms the basis of the Irish child support regime. This section outlines and reviews how this regime works.

1.2(a) The Family Law System Approach To Child Support

It is usual for a couple to legally separate following a relationship breakdown. Legalising a separation results in either a separation agreement (i.e. deed of separation) or a decree of judicial separation. It can occur through mediation¹⁵, the involvement of lawyers or the intervention of the Court because the process of separating usually involves establishing an arrangement that details the reconfiguration of resources and sets out the on-going rights and duties of the parties. Child support arrangements can form part of the terms of the separation settlement.

Pre-Legal Separation Child Support Arrangements

There are times after a relationship breakdown when couples do not legally separate or there is a significant time period before they do so. In such circumstances although there may not be a separation settlement in place, a child support arrangement may still have been established. Such an arrangement may have been voluntarily put in place by the separating couple or it may have been arrived at through mediation, lawyer involvement or court adjudication.

¹⁴ Family Law (Maintenance Of Spouses And Children) Act 1976(Section 5) notes parental responsibilities for married children; Status Of Children Act 1987 (Section 18) notes parental responsibilities for unmarried children.

¹⁵ Mediation can establish a mediated separation agreement. This agreement may be used to form the basis of a legal separation agreement by a solicitor.

Insofar as pre-separation child support arrangements are concerned, the basic legislation dealing with maintenance applications simpliciter (i.e. only maintenance relief is being sought) is the Family Law (Maintenance of Spouses and Children) Act 1976. This Act enables the Court to issue a maintenance order so that a spouse is compelled to make periodic payments for the benefit of the other spouse and/or dependant children of the family, of such amount and at such times as the Court directs. Section 7 of the Act allows for an interim order to be made prior to the Court's determination of a maintenance application.

The Court will normally be responsible for setting child maintenance awards if financial support arrangements cannot be amicably agreed. The maximum maintenance awards that the District Court can set are IRL£60 per week per child and IRL£200 per week per spouse. The District Court does not normally consider separation arrangements and does not normally adjudicate on the re-distribution of other family assets (e.g. pensions, private property). In the Family Law Circuit Court there are no minimum or maximum awards for child maintenance.

Child Support Arrangements Put In Place At Legal Separation Through Judicial Proceedings

If a couple cannot amicably reach a separation agreement one or both of the parties can apply to a Family Law Circuit Court for a judicial separation. For this to happen the Court has to be satisfied that couples are eligible – in particular the issue of the welfare of the children has to be addressed - to apply for a judicial separation under the Judicial Separation And Family Law Reform Act 1989. Maintenance can then be ordered as ancillary relief (i.e. an order for periodic payments) subsequent to judicial separation, under the Family Law Act 1995. In such circumstances it will usually form part of an overall settlement between the couple.

Shannon (2001) notes that the Court takes a similar approach to applications for periodic payment orders as to maintenance applications simpliciter, although the former can be part of an overall property settlement between the couple which may introduce additional factors into the deliberation.

The basis criteria governing the granting of a maintenance order are set down in Section 5(4) of the 1976 Act which suggests that the resources (e.g. income, earning capacity, property and other financial resources) of the spouses and the dependent children, the financial responsibilities of the spouses towards each other and towards

the dependent children and the conduct of each of the spouses, are factors which require consideration.

In terms of how Irish legislation is to be approached the Supreme Court¹⁶ set out five governing principles that the Court needs to consider in making a maintenance order.

These are:

- Have regard to the fact that after separation there are two households, which raises expenses and lowers the couple's living standard
- The court must find the minimum reasonable requirements of the dependent spouse and children
- The court must then ascertain the income and/or earning capacity of the dependent spouse
- The court must ascertain the net income of the respondent
- The court must ascertain the respondent's minimum requirements for living.

In addition, O'Connor (1988) suggests that there are two tenets underlying the family law approach to child maintenance. First, Article 41 of the 1937 Irish Constitution emphasises the role of the mother in the matrimonial home and states clearly that she should not be forced to work if at all possible because of economic necessity. Second, children have the right to the provision of religious, moral, intellectual, physical and social welfare, but as Walls & Bergin (1997:109) dryly comment: "all this costs money".

The consequence is that it customary for non-resident fathers to financially support their children in the lone parent family unit. As Walls & Bergin (1997: 46) suggest:

"there is no doubt, however, that it is still generally the view of many courts that the mother is a more suitable person to have custody of children than the father, unless there is very good reason to the contrary"

Despite regarding the child's future welfare¹⁷ as the determining factor in the dispute resolution process there are no clear guidelines concerning what level of child support is to be awarded even though the Court has a duty to make provision "as is proper in

¹⁶ See R.H. v N.H. [1986] 6 ILRM 352 (SC).

¹⁷ "Welfare" comprises the religious and moral, intellectual, physical and social welfare of the children concerned", (Section 3(2b), Judicial Separation And Family Law Reform Act 1989).

the circumstances¹⁸". Walls & Bergin (1997) note that detailed judicial guidelines have still not emerged from decided cases describing the manner in which awards of maintenance are to be calculated or determining the weight that is to be attached to all the factors the court is to have regard to prior to making a maintenance order. For example, although the court is obliged to apportion maintenance between the applicant spouse and the children of the marriage, there are no specific guidelines regarding those matters which are relevant in deciding whether a maintenance order should be made in favour of a spouse, or a spouse and child, or just a child.

As Shatter (1997:665) suggests:

"in practice, judicial application of the statutory criteria applicable to determining maintenance applications has produced varied and inconsistent results, different members of the judiciary possessing different views as to what is a "proper" sum of maintenance to order in particular financial circumstances".

Shannon (2001) suggests that Irish family law is concerned with private law; it reflects the nature of the support obligation in that this obligation is considered to be an essentially private duty. The Irish family law approach is based on the principle that child support arrangements can be put in place, varied or discharged at any time following a adult relationship breakdown until such a time that a child is no longer considered to be legally dependant.

Under Irish legislation there is no possibility of a complete and final break from a future application to the Court for maintenance, even if lump sum provision has been made. At the same time there is no provision in the Family Law (Maintenance of Spouses and Children) Act 1976 or the Family Law Act 1995 to empower the Court when making a maintenance order, to order the payment level to be increased on a regular basis. If the separating party does not agree as part of a deed of separation to do so, an application will have to be made for variation.

Walls & Bergin (1997) note that there are four methods of enforcing a maintenance order. First, imprisonment can be used when the non-payer is employed or self-employed. He can receive up to three months in prison. It is a practice seldom used unless the failure to pay "is clearly contemptuous and deliberate" (Walls & Bergin, 1997:139). Second, the Court can make an attachment of earnings order with the onus being placed on the paying spouse to show the court why such an order should not be made. Third, it is possible for a non-complier to be sued by way of a contract debt.

¹⁸ Section 3(2) of the Judicial Separation And Family Law Reform Act 1989, Section 45 of the Family Law (Divorce) Act 1996

Judgement against the debtor can be obtained and registered as a charge against property. Fourth, the Court can use the method of distraint - again rarely used - in that it can order the seizing of goods belonging to the debtor in order for them to be sold to discharge maintenance arrears.

Child Support Arrangements Put In Place At Legal Separation Through Non-Judicial Proceedings

When a couple decides to separate their solicitors are legally obliged to discuss with the separating parties the “possibility of engaging in mediation to help effect a separation on an agreed basis with an estranged spouse and give to him the names and addresses of persons and organisations qualified to provide a mediation service¹⁹”. Mediation is a process that helps separating couples to negotiate their own agreement on issues such as parenting, the family home, financial support, division of family assets and any other issues relating to their separation²⁰. In addition to there being mediators privately operating, the State has established a nationwide Family Mediation Service. The service is not affiliated to the court. It is free and voluntary. It is comprehensive rather than child-focused. When a separating couple reaches agreement the terms of the agreement are incorporated into a deed of separation by a solicitor.

Where mediation is not possible a separating couple can negotiate the terms of a separation agreement with the assistance of their lawyers – usually solicitors, who independently represent each spouse. The extent of the lawyers’ involvement depends upon the complexity of the issues to resolve as well as the degree to which the separating parties are willing to participate and co-operate in the proceedings. When a separating couple reaches agreement the terms of the agreement are incorporated into a deed of separation.

Section 8 of the 1976 Act allows for a separation agreement to be made a rule of court. The main reason for this is to enable the use of enforcement mechanisms under the Act for non-compliance of maintenance agreements.

The process of putting in place separation agreements with the assistance of mediators or solicitors is less divisive than court action. It is more likely to encourage co-operation

¹⁹ Section 5(1)(b) of the Judicial Separation and Family Law Reform Act 1989

²⁰ O’Halloran & McAuley, 1999

between separating couples²¹. However, decisions made are influenced by the family law legislation in place; in other words, child support decisions take place “in the shadow of the law”(Mnookin & Kornhauser, 1979).

Previous Research on the Irish Family Law System Approach to Child Support

There have been few Irish studies to show how the family law system works in practice in relation to child maintenance. One frequently cited study was conducted over ten years ago and it appeared that the financial sums involved in a maintenance order were very little. Ward (1990) in an analysis of just over 1000 court records covering 10 years between 1976 and 1986 found that 45% of the awards for children were less than the State supplementary welfare allowance rate for child dependants (i.e. a means-tested, non-insurance based social welfare scheme).

Fahey & Lyons (1995) suggest that Ward’s data from the District Court understates the overall level of maintenance payments emerging from settlements. In terms of their data they note that median maintenance awards in the Circuit Court and out-of-court settlements are more than double those of the District Court.

Ward (1990) also noted that rates of default were high. Of the orders payable through the courts, 28% had never been paid, 49% were more than six months in arrears, 10% were in arrears for less than six months and only 13% were fully paid. McCashin (1996) in a non-representative study of lone parents from north Dublin reported that three-quarters of lone parents never received maintenance payments. He concluded “maintenance has a very limited role in the finances of these women (p79)”. On the other hand, Fahey & Lyons (1995) in turn commented that the vast majority (78%) of cases in their study were reported to be up to date with payments. However, the sample was based on recently concluded cases.

Millar et al. (1992) note that the responsibility in Ireland for bringing enforcement procedures into effect is with the person who is meant to be receiving the benefit of the maintenance order. If it is a mother she must return to the court to seek enforcement if payments are not made. However, Ward (1990) notes that these procedures appear to be somewhat ineffective. In his study he found that about a tenth of the women had obtained an attachment of earnings order (i.e. money directly deducted from the man’s wages). Of these cases 76% were nevertheless in arrears. About 8% of the women had sought a committal order and in these cases 82% were in arrears.

²¹ Aim Family Services, 1999

Ward (1990:46) notes that his study of maintenance orders was "dominated by two outstanding findings: the low amounts awarded; and the high rate of default... Clearly, a large majority of wives granted maintenance orders cannot be assured of either an adequate or a secure income. Many of them and their children will end up dependent on social welfare eking out a minimal existence". However, Ward's research did not reveal the extent to which non-resident fathers had the capacity to pay child support.

In terms of a review of the Family Mediation Service, Conneely (2000) found that 11.5% of non-resident fathers paid no maintenance at all "but it was agreed that it would be paid in three quarters of cases to children (p21)". However, the results have to be treated with caution because the data gathering exercise broke down. Conneely notes that while 13.5% of wives received support for themselves, many of the mediators confused the concept of payment to the wife with payment for her benefit. It was unclear whether money paid was for lone parent family unit or just for the children's support.

In conclusion, the weaknesses associated with the family law approach to child maintenance are not unique to Ireland. Millar (1989:145) notes that "...it seems that maintenance (decided in such court settings) raises the same problems almost everywhere. There is little agreement as to how the levels of awards should be determined and judicial discretion means that there may be a great deal of variability and inconsistency."

1.2(b) The Social Welfare Approach to Child Support

The other main strand of a child support regime can arise from the State's involvement in the support of lone parent families. Millar et al. (1992) note that this can take two forms. One approach (which has not been adopted in Ireland) has resulted in the development of universally applied, non-court based, and administratively run child support schemes. These have occurred in the UK, Australia and the USA where attempts have been made to introduce clearer guidelines both for setting of child maintenance levels and for more rigorous procedures for enforcement. Broadly speaking these schemes usually use a formula to determine the level of child support to be paid and they primarily focus on child support rather than ex-spousal financial support obligations. The latter usually remains in the domain of the court.

Instead Ireland has adopted a form of a guaranteed maintenance benefit scheme. Guaranteed benefits mean that advanced maintenance payments to lone parent families are made through the benefit system and, where possible, the cost is recouped from the other partner. This Irish Social Welfare Act 1989 established the liability of a spouse or partner to contribute to the Department of Social, Community and Family Affairs (DSCFA) to offset the State's financial support of lone parent families. The legislation describes those people who are liable to maintain as "liable relatives".

As a result of the legislation a liable relatives scheme was introduced in 1990. According to the DSCFA, if "lone parents require social welfare support as a result of desertion, separation or unmarried parenthood, and because of no or inadequate maintenance from their partner, then the State is entitled to recover some at least of this cost from the liable relatives"²². It can also be argued that the Department also sees a direct link between the liable relatives scheme and social welfare payments (i.e. One-Parent Family Payment (OFP)) made to lone parent families; in other words OFP can be seen as a form of a guaranteed²³ maintenance provision for lone parent families.

How the Liable Relatives Scheme Operates

In terms of how the scheme operates, an OFP seeking or dependent lone parent in receipt of maintenance, either transfers this financial support to the State and/or receives reduced OFP. If no maintenance is being paid a lone parent is obliged to make efforts to seek maintenance (e.g. Court summons) from the non-resident parent. The weekly contribution due by the liable relative is the lower amount of:

"The weekly rate of benefit/allowance in payment to the spouse, offset by any Maintenance Payments made by the liable relative to the spouse in compliance with an Order of Court or the amount of income assessable for contribution" (DSCFA Guidelines, October 1999).

²² DSCFA (1996), Personal correspondence

²³ The DSCFA's position could be clearer. The Department suggested (personal correspondence, (1996)) that "the social welfare system guarantees the lone parent a regular weekly benefit/allowance payment - in effect the Department carries the risk of maintenance default by spouses". In addition, partly as a result of the Freedom of Information Act (1997), detailed guidelines and interpretations for the operation of all of the State's social welfare schemes have been published. Consequently, the Department notes that "the payment of One-Parent Family Payment ... guarantees the person concerned a regular weekly income which he / she might not otherwise enjoy if solely dependent on maintenance payments"(Liability to Maintain Family Guidelines, Freedom of Information Index, 2000). Interestingly however, the Department's recently published *Review of the One-Parent Family Payment(2000)* – especially Chapter 10 on the role of maintenance - makes no reference, one way or another, to whether the State sees itself as operating a guaranteed child support benefit scheme.

In determining the contribution to be made (i.e. the "determination order") the situation of each liable relative is first assessed in detail usually at the same time that the OFP claim is being investigated. The basis for this assessment is the net income of the liable relative with allowances (e.g. rent/mortgage payments, child dependants, etc.) being taken into account.

The DSCFA has the powers to enforce payments of the contributions due by a liable relative through the civil debt process in the courts, and also to reduce or terminate the payment of OFP where the lone parent refuses to comply with a request to seek and transfer maintenance. The State has been slow to use these measures. There are specific provisions in the legislation for attachment of earnings orders, etc. but these have not been used to date.

Coverage of the Scheme

Since the provisions of the 1989 Act came into force in 1990, 28,387 cases have been examined (up to 31 December 1999) to determine the liability on the part of a spouse to make contributions to the Department. 12,153(43%) of liable relatives were themselves receiving social welfare payments. There was no trace for 6497(23%) of cases; 9737(34%) of liable relatives were working.

It is in relation to this latter figure (i.e. 9737 liable relatives) that the Department has pursued maintenance recovery. The Department notes that 1341 were unable to pay (no reasons given), 1221 are under investigation, 5741 are awaiting decision and 1434 determination orders have been issued. Of these 1434 determination orders 537 people are paying, 702 people are not paying and 195 liable relatives have had changed circumstances, which has removed their liability.

The small number of cases in payment is indicative of the level of difficulty associated with the collection process. One problem is that in addition to only having 34% of liable relatives who are traceable and working, many of these liable relatives are "resisting investigation and subsequent payment"²⁴. Moreover, the DSCFA (2000) noted that 20% of new OFP claimants were receiving maintenance at an average of almost £30 per week but the overall proportion of claimants who receive maintenance is much lower.

DSCFA (2000) note that whilst it is difficult to assess the number of OFP claimants who are receiving maintenance from the non-resident parent, as "accurate figures are not

²⁴ DSCFA (1996), Personal correspondence

available (p.107)", it appears that the number of claimants receiving maintenance has increased over time. O'Grady (1991) found that 3% of unmarried claimants receiving OFP were paid maintenance in 1990. Swinburne (1999) examined a sample of unmarried claims from 1988 and 1998 and found that maintenance was being paid in 1% and 13% of cases respectively. The DSCFA (2000) in a survey of 1000 new claims showed that 21% of claimants said that they were receiving maintenance. In terms of claimants who had been married this figure rose to 30%.

Policy Concerns

A number of comments can be made about the liable relatives scheme in terms of its policy claims and its operations. The one-parent family payment scheme does not operate in the true sense of a guaranteed benefit scheme. It is not universally applied to all children from lone parent families but instead selectively targeted to lone parent family units who meet eligibility criteria, especially means-testing. In addition, OFP payment levels are linked to general social welfare payment rates and are not a "guaranteed" replacement for the non-payment of potential levels of child maintenance.

Until 2001²⁵ lone parents receiving OFP has little incentive to seek maintenance. Excluding maintenance provision set against housing costs, any maintenance paid was assessed as means in the determination of one-parent family payment. Unlike other factors (e.g. access to work, training), the availability of maintenance was insignificant in terms of generating additional resources for one-parent family payment recipients. In fact, the main beneficiary from the introduction of the liable relatives scheme had been the State.

Unlike Scandinavian countries, Ireland is operating a "guaranteed" scheme with the lone parent family unit primarily in mind rather than dependant children from lone parent families. Although the DSCFA distinguishes between adults and children in terms of social welfare payment categories, the liable relatives scheme primarily assesses the liability of non-resident parents in relation to the aggregate social welfare expenditure on lone parent family unit. However, owing to wider government policy in recent years to substantially increase child benefit rates at the expense of social welfare child dependant rates, which have remained frozen, the child dependant proportion of the one-parent family payment rate has significantly decreased. In other words, it could be argued that the actual level to which the State "guarantees" child

²⁵ In 2001 the Department implemented the recommendation allowing one-parent family payment recipients to retain 50% of any maintenance received both in order to improve their income levels and their motivation to seek maintenance (Section 10.22 in *Review of the One-parent family payment (2000)*, The Department of Social, Community and Family Affairs).

support has remained frozen for some time and constitutes a decreasing proportion of the determination orders paid by non-resident parents. Conversely, this means that non-resident parents are financially liable to increasingly maintain their welfare dependant ex-partners after separation or divorce. It is unknown how non-resident fathers in Ireland feel about this.

In terms of equity between different types of non-resident fathers, it is fair to say to date that only a certain type of "father" has been pursued. These have been separated and employed/self-employed men pursued on the basis that this group is the only one with the ability to make a contribution to the Department²⁶. In addition, the Department expects separated OFP claimants to seek maintenance from non-resident fathers to support the lone parent family unit; for single OFP claimants the maintenance expectation extends only as far as the children.

Although the maintenance assessment format may be transparent, it may not be flexible enough to respond to real life parenting situations. This may lead to unfair outcomes, particularly from the perspective of non-resident parents. For example, in many situations children will alternate their time between both parents but the State will only consider one parent eligible to receive one-parent family payment. This is usually decided by ascertaining with which parent the children spend the most time (i.e. 51%). Thus one-parent family payments cannot be split between both parents leading to the effect that the non-resident parent - even if the children spent up to 49% of their time with him - is seen as the liable relative.

In addition, although the maintenance assessment format disregards a number of the liable relatives' expenditures, there are still a number of problems with the formula. Maintenance assessment procedures do not adequately take into consideration the existence of second families. Although there are child dependant allowances, there is no allowance made for the liable relative's new partner. In addition, irrespective of what arrangement the couple have entered into regarding maintenance, if one-parent family payment is claimed by the lone parent, then the non-resident parent will be assessed for maintenance. For example, the maintenance assessment format does not adequately cater for situations where the liable relative signed over the house in lieu of on-going maintenance responsibilities. Non-resident fathers are also liable if their ex-partners cease work subsequent to separation and apply for OFP.

²⁶ The Department notes that little "liable relative action" has been possible where the liable relative is a welfare recipient or his/her whereabouts are not known (Section 10.36 in *Review of the One-parent family payment (2000)*, The Department of Social, Community and Family Affairs).

The effect that existing informal arrangements have on the formal maintenance recovery process is not taken into account by the Department. Direct expenditure by the non-resident parent on the child is not considered an allowance (e.g. when the child may be visiting or staying over with the non-resident parent) for maintenance assessment purposes. This expenditure may actually be an important factor from the perspective of non-resident parents in supporting parent-child relationships, not least in terms of how they define their child support responsibilities.

In summary, the liable relatives scheme was created with a view to reclaim from non-resident parents social welfare payments spent on lone parent families. The Minister for Social Welfare (i.e. equivalent to Secretary of State) said at the time the Dail (i.e. Irish Parliament) was debating The Social Welfare Act of 1989 that “too many spouses are just walking away from their responsibilities towards their families and leaving it to the taxpayer – through the State – to pick up the burden²⁷”. A brief review of the scheme reveals some of its anomalies. What is also unknown are non-resident fathers’ views and experiences of it.

To conclude, at one level both the private family law and public social welfare approaches to maintenance do differentiate to some extent in terms of financial support for the lone parent and the dependent child. There is an obligation in family law to distinguish between on-going maintenance for the spouse and the dependent child. In social welfare regulations adequate maintenance is defined as being equivalent to the rate of OFP appropriate for the lone parent family in question. The OFP consists of adult and child dependant segments.

At another level it appears that maintenance decisions are made in respect of the lone parent family unit – both in terms of supporting its financial viability [private family law] and in terms of providing “guaranteed” maintenance [social welfare policy]. However, in the family law approach there are no specific guidelines regarding how child support payment levels are to be determined. The social welfare approach has obfuscated men’s liability to support their children by fusing this liability with an obligation to support the lone parent. Reducing the proportion of OFP deemed to be supporting dependent children may have confused matters further.

Although there has not been a wealth of research in this area of social policy, the research there has been suggests that Irish child support policy is unsuccessful when it

²⁷ Dail debate col.2493, 7th March 1989

comes to non-resident fathers providing adequate financial support for children on a regular basis. However, Irish child support policy is not unique in this regard. It is a problem common to other countries. To find out why this may be the case, researchers have examined the relationship between child support compliance and a number of issues.

1.3 Child Support Compliance

Whilst there is a need to have more information on non-resident fathers' financial perspectives, at the same time the relationship between various factors and child support compliance has been investigated in previous research. The purpose of this section is to review this literature, predominantly by drawing on studies from Australia, UK and the USA.

The literature review is structured under several headings. These headings were mainly taken from Meyer & Bartfeld's (1996) approach, which explored the association between a number of variables and US child support compliance rates. These variables were:

- The enforcement system in place;
- Men's ability to pay child support;
- The strength of family ties;
- The economic needs of mothers and children.

Recently, child support research has taken a different tack. More emphasis has been paid on examining the willingness of non-resident fathers to make provision. This area of literature will be reviewed under the heading:

- Men's willingness to pay child support.

1.3 (a) Enforcement System in Place

There has been widespread public support for the view that non-resident parents should support their children and that mechanisms should be developed to ensure that they continue to meet their child support responsibilities²⁸. For example, Kiernan (1992)

²⁸ Burgess & Ruxton (1996: 76) note public opinion in the UK; Teachman & Paasch (1993:73) note opinion in the US.

in a review of the British Social Attitudes 9th Report notes that over 90% of men and 95% of women are in favour of the State enforcing these obligations.

Walters and Chapman (1991) in a US study suggest that viewed only from the perspective of those who cope with the non-payment of child support, the problem is with fathers. Non-payment has led to action. Krause (1983) notes that US federal involvement in child support enforcement was due to the failure of the US states to accept responsibility for enforcing support. This trend in developing more efficient ways of pursuing fathers who do not pay has also taken off in other countries.

In practice, child support enforcement policies can denote a range of activities. These include immediate withholding of child support deductions from incomes; advertisement of child support services; collection of support through a public agency; criminal penalties; tax intercepts; and the ability to place liens against property.

In terms of the effectiveness of these enforcement policies the evidence can be evaluated from a number of perspectives. In a national US study Garfinkel & Robbins (1994) identified several state-level policy variables including immediate withholding, advertisement of child support services, collection of support through a public agency and higher public expenditures on child support enforcement that foster child support compliance. In another US study Beller & Graham (1993) found that immediate withholding, criminal penalties, tax intercepts, and the ability to place liens against property all increased the level of support paid. Corden & Meyer (2000) in a comparative review of international child support regimes argue that US child support compliance is related to the ability of the non-resident parent to pay and to the kind of enforcement regime in place.

Sorensen & Halpern (1999) examined 21 years of data from the US Current Population Survey, supplemented with detailed information on state-level child support policies and found that several tools of the child support enforcement system—the \$50 pass-through, the tax intercept program, and presumptive guidelines—had a significantly positive effect on child support receipt among both never-married and previously married single mothers. As well, immediate wage withholding had a significantly positive impact on child support among previously married mothers receiving social security. They also noted that the expansion of the child support enforcement program during this time period had a significant impact on increasing child support receipt among both never-married and previously married mothers.

Meyer & Bartfeld(1996) indicate the use of specific enforcement techniques, primarily the immediate withholding of child support from income(rather than waiting for the parent to refrain from paying before withholding occurs), is linked to increased compliance of child support orders. Garfinkel and Klawitter(1990) in a local US study estimated that immediate income withholding increased the compliance rate by 11%-30% in Wisconsin, USA.

Burgess and Ruxton (1996) note in relation to the Australian Child Support Agency that for men who genuinely cannot pay child support, debt counselling, extending payment periods, reducing the level of payment, and identifying defaulters before arrears build up have been found to be successful redress options. They argue that for wilful non-payers, community service and the withholding of driving licences rather than committal sanctions are likely to result in greater compliance.

Burgoyne & Millar (1994) in a UK study suggest that child support payments are associated with stricter enforcement. They found that men paid regularly in response to court orders, especially where payments were collected through direct deductions and standing orders. Bradshaw et al. (1999:210) in another UK study suggest that legal and enforcement tools are contingent factors related to the willingness of payers to pay child support. In the 1980s there were lower compliance rates and enforcement procedures were less used because they were cumbersome and because the Department of Social Security was less active in pursuing liable relatives due to other higher priorities. Sorensen & Zibman (2000) using data from the National Survey of America's Families (NSAF) found that children with a child support order were nearly twice as likely to receive financial support from their non-resident parent as children without an order.

However, enforcement measures are not always wholly effective. Burgess and Ruxton (1996) in a review of international evidence note that deducting child support at source from wages is not effective if a non-resident father frequently changes jobs, is self-employed, cannot find work or does not want to work. In response, Louv(1994) notes that several US states now require fathers to join job search programmes with the result that child support payments increase once fathers start working. Meyer & Bartfeld(1992) suggest that the effect of immediate withholding decreases over time, and speculated that this may be due to an inability of the courts to track employment changes. Bradshaw et al. (1999:179) described how men may use coercive tactics to avoid increased child support demands or public demands that are out of step with how

they see their financial responsibilities. As a result they suggest that mothers and children may suffer financially.

In terms of work disincentive effects, Freeman & Waldfogel (1998) drawing from a nationally representative US data set conclude that child support enforcement policies have a relatively modest effect on both child support payments and labour supply. They suggest that child support enforcement policies alter the form by which child support is paid rather than increasing the total amount paid. There is a negligible effect on labour supply which is consistent with the general finding in male labour supply studies that male labour supply is relatively unresponsive to variations in wages due, for example, to taxes.

Research findings are inconsistent on the effect of enforcement procedures on the quality of post-separation relationships. Haskins (1988) drawing from interviews with non-resident fathers in the US suggests that child support enforcement mechanisms will result in greater amounts of child support being paid without an increase in bitterness or hostility towards the children or their mothers. McLanahan et al. (1994) in a review of US child support reforms suggest that a stricter enforcement system based on more universally applied criteria may not lead to more parental conflict. Stricter enforcement would not necessarily generate bad feelings among fathers if award levels were viewed as fair. They argue that commitment is a characteristic that is socially constructed and can be created in fathers. If this is true, they suggest that re-enforcing norms about parental responsibility will create better fathers in spirit as well as behaviour. Alternatively, Bloom et al. (1998) found that a tougher child support enforcement policy reduces the likelihood of a father's remarriage, which may in turn be a factor promoting compliance.

However, McLanahan et al. (1994) note that although stricter enforcement mechanisms lead to an increase in compliance rates for children born to unmarried parents, they may also lead to increased parental conflict and reduced children's well-being. This is in contrast to children born inside of marriage where a uniformly applied system of child support appears to increase child support compliance rates, reduce parental conflict, increase parent-child contact, raise children's school achievement and reduce school problems. Seltzer et al. (1998) drawing on US cross-sectional and longitudinal samples found that requiring fathers to pay at least some child support increases their involvement with their children; at the same time "paying any child support increases the incidence of conflict between parents" (p181).

Bradshaw et al. (1999:204) in their second qualitative study observed a number of conditions associated with enforced and non-payers of child maintenance. They note that the majority have no contact with their children and exhibit a sense of victimisation. They believe that that they usually do not accept that there is a justifiable need for formal maintenance. In doing so payers either select others to pay for their children or believe that they have more pressing priorities elsewhere.

In conclusion, one measure of the success of a child support regime has been seen in terms of the level of non-resident fathers compliance with child support arrangements. Enforcement measures have been developed to foster compliance. Even with a tightening of these measures non-compliance rates in different countries have remained high (Corden, 1999).

The fact is that compliance rates depend on the actions of non-resident fathers with the result that some commentators suggest that tougher enforcement measures are required if the situation does not change. For example, in relation to the British Child Support Agency, Millar(1995) argues that unless very draconian measures of enforcement are accepted, it is important that separated fathers do accept an obligation to pay child support and are thus willing to co-operate in making payments. Similarly, Ros Hepplewhite²⁹ (1992) a former head of the UK Child Support Agency argued that the payment of child support requires a major cultural change. She suggested that many people in the past have not seen the payment of child support as an ordinary financial obligation, but as some external option.

However, it is unclear whether non-resident fathers share these views, not least whether they feel that the child support regime provides the best way in which to meet a financial duty to their children.

1.3(b) The Ability To Pay

The ability of non-resident fathers to pay child support has received a significant amount of research attention. It has been primarily understood in terms of the level of a man's resources – usually denoted by his income. Researchers have also used other signifiers such as men's employment status, educational attainment, and the percentage of income owed in support.

Meyer and Barfeld(1996) note that researchers have mostly operationalized the ability to pay child support in terms of the income of the father and have found that higher paternal incomes are associated with higher compliance rates. For example, Garfinkel

²⁹ The *Guardian*, 30 December 1992

and Klawitter(1990) using data from Wisconsin State(USA) court records found that higher paternal incomes at the time of a child support order were associated with higher compliance rates which continued for a number of years. Barfeld and Meyer(1994) suggested that the level of fathers' income as reported on state tax returns was a significant predictor of whether child support was paid. They found that only about one-fifth of divorced fathers in Wisconsin in the US with annual incomes below \$10,000 paid their full child support order compared to two-third of those with incomes over \$30,000.

On the other hand, Dowd (2000) suggests that poor³⁰ fathers in the US pay as much as two and a half times more support, expressed as a percentage of their incomes, than do richer fathers. Knitzer et al. (1997:35) note that poor fathers pay about as often as richer fathers do. However, it should be noted that the assessment of men's incomes has not always been reliable³¹.

Millar(1995) suggests that whether non-payment of child support in the UK stems from the lack of capacity or from the lack of willingness of fathers to pay is not clear. Bradshaw & Millar (1991) in a study for the UK Department of Social Security found that non-resident parents are more likely than men in general to be unemployed and to have lower earnings than average in work; 20% of non-resident fathers are unemployed or sick and that their incomes on average are lower than the general population. The socio-economic circumstances of non-resident fathers differed from those of resident fathers. The former were less likely to have stayed at school after age 16 years, only two-thirds were employed (compared with over 80% of resident fathers), and they were more likely to be low paid.

Turner & Sorensen (1998) analysing data collected from the 1990 Survey of Income and Program Participation (SIPP), a nationally representative sample of approximately 22,000 US households, found that the number of weeks a non-resident father worked in a year was the strongest predictor of paying child support. Their analysis also showed that when men are not working, they tend to pay no child support rather than reduce the amount they pay.

Bradshaw et al. (1999) in a large UK survey evaluated the paying potential of non-payers of child support and found that only 9% of them could be classified as having

³⁰ Dowd (2000: 143) "A poor person" is defined as someone having an annual income of less than \$5,000.

³¹ Meyer (1999) notes that income measures have frequently been from a time not corresponding to when compliance is measured or have been based on reports from the resident parent.

“certain paying potential”(p144). They believe that their results suggest that there is little scope for a more effective maintenance regime in terms of increasing the proportion of non-resident fathers who pay child support. Their results also indicate that there are not large numbers of non-resident fathers in the UK financially able to pay support but who are deliberately avoiding their obligations. Bradshaw et al. (1999:144) from their sample survey data note that the main reason given by fathers not paying child support was that they were unemployed or could not afford to pay. The main reason for past payers for having stopped paying was that the father had become unemployed. They also suggest that one of the contingent factors related to men’s capacity to pay is the level of their income.

There appears to be ambiguous findings concerning whether men have the capacity to pay more child support. On one hand, Burgoyne and Millar(1994) put forward the view that fathers who pay the full assessment for child support are left with an unacceptably low income and they may seek to try and reduce their liabilities by withholding information, by taking a lower-paid job or even giving up work entirely. Bradshaw and Millar(1991) noted that even from the perspective of lone parents where they had some knowledge of their former partners' circumstances, most thought that these men could not afford to pay or to increase their child support payments. On the other hand, studies from the Australia (McDonald, 1986) and USA (Goode, 1993) point to a contrasting situation suggesting that men in post-divorce situations see their incomes rise and that many of these men could definitely pay more than they were paying in child support.

In terms of non-income variables, compliance has been found to be higher among employed fathers (Nichols-Casebolt & Danziger, 1989) and those with higher education(Peters et al., 1993). Bradshaw et al. (1999:129) from their sample survey note that in comparing payers and non-payers, men in the former group were “better educated, were economically active, and were more likely to live in owner occupier accommodation, to describe themselves as being financially better off and to have savings”. However, this does not necessarily mean that low income or unemployed fathers do not contribute anything³².

The size of the order affects compliance. Bartfeld and Meyer (1994) using US State data suggest that fathers of non-marital children who owe more than 20% of their income and divorced fathers who owe more than 35% of their income have lower

³² For example, Edin (1995:209) interviewed mothers in four US cities and found that 20% received some informal financial support from low-income fathers and that another 30% received non-monetary support.

compliance rates. In a subsequent study using Wisconsin data, Meyer (1999) found that child support orders between 1% and 30% of the father's income have similar compliance rates among divorce cases. He suggests that support guidelines up to the top of this range may not have a negative effect on compliance rates. More recently, Hu & Meyer (2003) have observed in a Wisconsin study that child support orders above 35% of men's income are associated with lower compliance than those where orders are less than 15% of income.

In conclusion, the ability of men to pay child support has been researched in a number of different ways. Despite income measurement difficulties and the fact that findings are somewhat contradictory and not easy to summarise, it appears that the larger a non-resident father's income, the more likely it is that he has the *capacity* if not the willingness to pay child support.

1.3(c) Strength Of Family Ties

Research on the association between the strength of family ties and child support compliance has been from a number of perspectives. The focus has been on the association between various relationship dimensions (e.g. parent-child contact, parent-parent relationship, distance people live apart, length of time since breakdown, impact of new relationships) and child support provision.

There appears to be strong evidence to suggest that there is an association between father-child contact and child support provision. Koball & Principe (2002) using data from the 1997 and 1999 National Survey of America's Families found that non-resident fathers who comply with child support orders are more likely to visit their children. Seltzer (2000; 1991) found a significant correlation between child support payments and visitation by non-custodial fathers even after controlling for demographic variables. Cancian et al. (2003), Peters et al. (1993) note that greater amounts of post-divorce contact appear to be linked to greater child support compliance rates. Non-custodial fathers who have contact with their children are more likely to pay at least some child support (Teachman, 1991). Maccoby and Mnookin(1992) suggest that there are clear links between child support and contact in terms of the men who see their children the most pay the most.

In contrast, Seltzer et al. (1998) suggest in a US cross-sectional and longitudinal study that although child support payments may increase the frequency of contact between fathers and children, at the same time they found no relationship between the level of support paid and the extent of the father's involvement in their children's lives.

In addition, although the payment of child support appears to increase contact it is unclear whether contact and the payment of child support are causally related or whether both actions can be explained by some other characteristic such as the father's commitment to his children (Furstenberg et al., 1983). From their sample survey data, Bradshaw et al. (1999) suggest that father-child contact is much more likely to be regular if there is an amicable relationship between the parents and if child support is being paid. However, they say that "it is impossible to assess in which direction these relationships go" (p98). Interestingly, from their qualitative data, Bradshaw et al. (1999:221) indicate that child support payments can be used "to ease", persuade or even coerce mothers into agreeing to contact arrangements".

McLanahan et al. (1994) suggest that there is ambiguity about the relationship between child support and parent-child contact. On the one hand, fathers who pay support may have an interest in monitoring how their money is spent, making more contact an attractive option. The resident parent might not welcome this attitude. Burgess (1997) suggests that a substantial minority of mothers say that they don't want or need money from their ex-partners, and can even be keen to avoid payments in case he "wants something for his money (p204)".

The direction of influence in the relationship between the non-payment of child support and the reduction or lack of paternal-child contact requires close scrutiny. On the one hand, Parke (1996) suggests that men who are unable to pay may decrease their contact with their children and ex-spouses either because it is too hard to face them or because they fear that their child support position will come under negative scrutiny. Braver et al. (1993) in a review of literature conclude that a non-resident father who experiences difficulty paying child support is more likely to terminate both child support payment and the visiting relationship with the child.

On the other hand, a reason cited for non-payment of child support is that it is a *response* to visitation problems. For example, McCant (1987) argues that denying US fathers access to their children can be a factor in determining whether child support is paid³³. Similarly, Bradshaw et al. (1999: 227) found that some British fathers who were denied contact by their ex-partners developed the attitude "that there was no point in paying maintenance because the children would not know their fathers were supporting

³³ The denial of access may be reinforced by lax family support policies; the US structure for recovering child support payments is much more efficient than the structure for enforcing visitation and shared custody orders (Seltzer & Meyer, 1995).

them, there was no guarantee that the money would be spent for the children's benefit and fathers were "paying for a child they were not seeing".

In contrast, Weitzman (1988) in another American study suggests that men with no visitation problems are just as likely to not pay child support as they are likely to pay. The Canadian Institute of Law Research and Reform (1981) report the lack of a statistically significant relationship between visitation and compliance.

The on-going and changing nature of the quality of the relationship between the separated couple may affect child support compliance. Burgoyne and Millar (1994) note that men who feel the break-up of the relationship was their fault are more likely to make child support payments. Garfinkel and Robbins (1994) found that having a contested divorce is associated with lower compliance suggesting that a positive relationship between the parents, as well as between the father and children may be important.

Teachman(1991) found that in cases where the divorced parents remained in conflict, fathers were less likely to pay child support. Wright and Price (1986) found that compliance was higher when parents reported having a good post-divorce relationship. Seltzer (1990) found that conflict is actually lower in families where the non-resident father pays child support. However, a more recent longitudinal study by her and her colleagues (Seltzer et al., 1998) found that despite controlling for how well parents got along before separation, "paying any child support increases the incidence of conflict (p181)" between them. Similarly, McLanahan et al. (1994) suggested that non-resident fathers who do not get along with their former spouses may stop paying child support. Bradshaw et al. (1999) from their sample survey data suggest that UK payers tend to have had longer-term relationships with the mothers of their non-resident children and to have had amicable relationships with them. They also suggest that contingent factors related to willingness to pay include the history of the relationship with the mother and children, post-separation parental relations and relations with children post-separation. However, Arendell (1995) found that non-compliance was independent of the character of the interpersonal interactions between former spouses.

The geographical distance between where fathers and their children live may also be a factor in determining child support provision. Non-custodial fathers' lack of proximity to their children is associated with both lower child support compliance rates (Peters et al., 1993) and with lower probability of paying any support (Teachman, 1991).

In terms of the length of time since a separation Garfinkel and Robbins (1994) found that compliance is higher among fathers who have been divorced for a shorter time. Seltzer and Meyer (1995) note that fathers who live apart from their children enjoy fewer of the benefits of being a father and that the longer parents are separated, the less child support fathers pay and the less likely they are to pay any support at all. However, Peters et al. (1993) found that when actual contact is controlled, the time since divorce was not statistically significant.

Parke (1996) notes that the type of custody arrangement is also important. When joint custody rather than other types of custody is involved, fathers' rates of payment are higher. On the other hand, a number of studies (Sonenstein and Calhoun (1990)); Seltzer (1991)) found that fathers with joint legal custody do not have higher compliance or higher payments, net of other factors. Similarly, Seltzer & Maralani (2000) using Wisconsin (USA) Court data, found no evidence for either a short or long term effect of joint legal custody on child support payments in families where children lived mainly with their mother.

Men who re-marry and have second families to support may not see child support obligations as a primary concern. Burgoyne and Millar (1994) found that some men who had re-married hinted that second families should take priority: " I'd got another two children and another woman to keep (p101)". On the other hand, Teachman (1991) found that fathers who remarried were more likely to pay child support than other fathers. He believed that this finding appeared consistent with Hill's (1984) suggestion that remarried fathers were more "family orientated" and were more motivated to pay. Sonenstein and Calhoun (1990) concluded that remarried fathers continued to pay child support over time compared to other fathers. However, Peters et al. (1993) found that remarried fathers had the same compliance rates as fathers who did not remarry.

Beller and Graham (1995) examined the possibility of reverse causation (i.e. a mother's remarriage may affect men's motivation to pay child support) by examining the relationship between child support awards and remarriage. They found that having an award does not affect remarriage. However, the size to be paid does; women with larger than average awards are less likely to remarry. Hu (1999) found similar evidence.

Fathers with higher pre-divorce involvement have higher child support compliance rates (Peters et al., 1993). On the other hand, Seltzer and Meyer (1995) say that there

is inconsistent evidence to suggest that men who took an active role in taking care of children before a divorce are more likely to pay child support afterwards. Fathers may in the short-term be likely to pay but as time passes men may enter new relationships, relocate and drift away from their children.

To conclude, there is evidence to suggest that the strength of family ties after separation may be linked to on-going child support provision. However, it is difficult to easily summarise how various aspects of these ties affect compliance not least because some of the findings from research have been inconsistent. In addition, what is understood by the strength of association may also be difficult to define and measure. For example, at one level it may be relatively easy to delineate the frequency of contact between people; at another level, it may be more difficult to classify the quality of relationships based on men's subjective evaluations.

What the research on family ties does imply is that some men expect a return (e.g. increased access; meeting their parenting needs; reduced conflict with ex-partner) for paying child support. This would suggest that the payment of child support is not only about the fulfilment of child support responsibilities.

1.3(d) Economic Needs Of Mothers And Children

Bartfeld (1998) in a review of US studies, reports that mothers and children fare dramatically worse after divorce than men, and that these differences are more pronounced in the absence of child support. Similarly, Cancian & Meyer (2002) note that when child support is paid, it can make a significant difference to the lone parent family income.

However, in contrast to the three previous areas there have been fewer research studies that have examined the relationship between the economic needs of lone parent families and child support compliance rates. Higher custodial income has been linked to both lower compliance and lower probability of payment (Peterson & Nord, 1990) and higher compliance (Bartfeld and Meyer, 1994). Meyer and Bartfeld (1996) in a US study found that compliance was marginally lower when mothers' incomes exceeded \$30,000 but they also found low compliance when mothers had extremely low incomes. Their analysis also revealed no significant difference in compliance rates when the mother and children received AFDC.

Cancian et al. (2003) analysing data from Wisconsin Works (W-2) project, note that more educated mothers were more likely to receive some child support, though the relationship between education and support levels was tenuous.

The economic needs of mothers and children have also been analysed in relation to different types of lone parent family units. Divorced mothers are more likely to have child support orders than mothers who have never been married (Beller & Graham, 1986). When there is an order, Meyer and Bartfeld (1994) suggest that divorced fathers are twice as likely to pay support as fathers of children born outside of marriage. However, much of this difference may be due to non-marital fathers having lower incomes (Teachman & Paasch, 1993).

Fahey & Lyons (1995) in an Irish study noted that while maintenance amounts were quite strongly correlated with the income of husbands (correlation coefficient of 0.67), at the same time "maintenance arrangements are more likely to be present when the man has a paid job but the woman does not (p87)". Cancian & Meyer (1996) noted in a US cross-sectional study that mothers with higher incomes tended to have lower child support orders.

There has been some research on what effect social welfare support for lone parent families has on child support compliance rates. US ethnographic research (Edin, 1995; Johnson & Doolittle, 1998) suggests that some non-resident fathers whose children are poor support them informally, rather than through the formal child support system, particularly if they are receiving cash welfare. Meyer (1999) notes that this may occur because most US child support collected on behalf of welfare recipients goes to offset Exchequer costs rather than to the resident parent.

Cancian et al. (2003) reviewing data from Wisconsin Works (W-2) project, observed that mothers with longer welfare histories were more likely to receive child support. However, they noted that women who had received welfare in the two years before the undertaking of a wider US survey³⁴ were less likely to receive support. Bradshaw et al. (1999) using logical regression suggested that mothers in receipt of income support was one of number of factors associated with lower compliance. In addition, they suggest that contingent factors related to capacity to pay include mothers' socio-economic circumstances and children's need for support.

³⁴ National Survey of America's Families.

The remarriage of lone parents would appear to have inconsistent effects on child support compliance rates. Beller & Graham (1993) suggest that there is not a significant difference between pre and post remarriage compliance rates. However, Sonenstein & Calhoun (1990) found that men were more likely to halt, reduce or make inconsistent child support payments after their ex-partners remarry.

Such actions may occur when men perceive the lone parent's household income to be greater than their own. Bradshaw et al. (1999:197) from their qualitative study note that the "guideline" of financial equity across the two post-separation households may inform men's thinking about their financial responsibilities. They suggest that when there is inequity some men can feel it is the lone parent and her partner's responsibility to meet the financial needs of children. At the same time Bradshaw et al. (1999:137) from their sample survey note that current payers of maintenance were likely to have partners who were working full-time and to have no children or fewer children in their homes making demands on their finances.

Closely associated with the level of compliance is the level of child support paid. In most circumstances two households cannot achieve the same standard of living as experienced in an intact family household unit (Garrison, 1991; Kay, 1991). The total income of the two parents must rise between 10 and 24 percent, to keep the standard of living of each member unchanged (Giampetro, 1986).

But as Dowd (2000) suggests, the most serious problem with child support is its inadequacy. She argues that even when child support is fully paid many children still remain insufficiently supported and given widespread non-payment and partial payment, the inadequacy problem is magnified. In a review of US findings she argues that the support level is commonly no higher than the poverty standard and represents no more than one-third of the estimated normal expenses for children. In two Irish studies it has been argued that the median levels of child maintenance paid each week were inadequate to support a family household ((Fahey & Lyons, 1995); Ward (1990)).

In summary, the relationship between the economic needs of lone parent families and child support compliance has not been extensively analysed nor have the findings been consistent. There is some evidence to suggest that the economic needs of lone parent families can be a factor influencing child support payment levels and affecting compliance rates, but at the same time other factors need also to be considered (e.g. men's ability to pay, strength of family ties, enforcement measures in place).

1.3(e) Men's Willingness to Pay

Men's willingness to pay child support may be a possible factor affecting compliance rates. Willingness to pay goes beyond ability to pay, which can be understood in terms of the income capacity of men. Willingness to pay suggests the innate driving force behind men's actions. Men's willingness to pay child support may be affected by the influence of factors already considered (e.g. men's view on the enforcement system in place). However, there may also be other factors not already considered which may have an impact on men's motivation.

What child support means for men may have to be considered. Non-resident fathers may vary in terms of how they construct, reason and discharge their financial support responsibilities to their children and thus what they expect in return for the provision of child support. On one level a feeling of honourably meeting a financial duty to underpin a child's development may satisfy a non-resident father. At another level this may not be enough; in order for the child to receive financial support the father may need to feel that he has some say in how the money is spent and has some control over continued access to the child.

McLanahan et al. (1994) suggests that in role theory, rights and obligations go hand in hand and non-resident fathers who fulfil their economic obligations will attempt to exercise their authority and visitation rights, since they feel better about themselves and their relationship with their children. However, assertiveness on the part of the non-resident father may increase parental conflict since conflicts can arise from disagreements over how money is spent and how children are raised.

Burgoyne and Millar (1994) in a qualitative study of UK non-resident fathers argue that paying for children may not necessarily be seen as an entirely unconditional obligation. They suggest that the assumption of unconditional responsibility towards the support of children may not be entirely realistic even when families are together and is conditional on men's ability to pay, their contact with the child and the way the relationship with the mother had ended. They suggest that men were willing to pay child support as long as they did not have to pay too high an amount. Men apparently felt that they were meeting their responsibilities by making payments at quite modest levels whether measured against their incomes or against the actual costs of supporting children.

Davis, Cretney and Collins (1994) highlight the way in which perceptions of fairness (who contributed what to the marriage, who was to blame for what happened) and

ownership (who earned the money) affected how people felt about their obligations and rights. They suggest that fathers may want to see a return on making child support provision. This may be in terms of contact with the children, control over how the money is spent, etc.

Lin (2000, 1997) analysed compliance data in which there was information on the extent to which the non-resident father thought the child support order was fair. Using a study of 392 nonresident fathers who filed for divorce between 1986 and 1988 in the US state of Wisconsin found that fathers who thought their order was fair tend to have higher compliance rates in cases where there was no routine holding.

Cheal (2002) suggests perceptions of fairness are influenced by whether the day-to-day care arrangements for a child change after divorce. He says that when such arrangements significantly alter, parents often revise the level of child support payments, *without* seeking legal approval. Similarly, Coleman et al. (1999) observed in a US study that both men and women are prepared to agree to child support amounts that are below official guidelines, particularly when the man's economic status changed or his ex-wife remarried. They suggest that the guiding principle behind such child support changes centre around the concept of fairness, for the particular individuals involved in their unique circumstances.

However, this may be out of synch with the premise of family policy. Lewis (2000) argues that the UK child support regime perpetuates the traditional gender roles of fathers and mothers. He suggests that men are required to maintain the role of breadwinner but no longer receive parenting benefits. This leads to "responsibility without power or status (p4)" and might be a factor accounting for the link between child support and contact that many men make.

It may also help to account for, as Bradshaw et al. (1999:219) observed, that in addition to sustaining children within lone parent family units, paying child support offers other uses³⁵ to men. Braver et al. (1993) have similarly noted that the provision of child support has both material and symbolic costs and benefits for men, factors³⁶ that can reinforce or undermine child support commitments.

³⁵ These are (1999: 219): A symbol of their love and affection; a compensation for past failings in relations with mothers and children; a substituted for "not being there" for their children; a guarantee for contact by easing relations with the mother; a recognition of a child's entitlement; a recognition of the mother's entitlement as primary carer.

³⁶ The symbolic costs are: perceived child support abuse; child support obligation considered unfair; the divorce or settlement system considered unfair; lack of control over how resources are spent. The symbolic rewards are: symbolic commitment to the parent role; guilt about

There also appears to be a line of thinking which promotes the view that irrespective of any mediating factors, non-resident fathers have a moral duty to support their children. Haskins (1988) noted that the fathers' performance in paying child support is entirely consistent with their attitudes about child support, their children, and their children's mothers. He suggests "it is certainly not an overstatement to claim that these fathers (i.e. non-resident fathers in his study) accepted their responsibility for paying child support, and denied the legitimacy of most reasons typically cited to justify poor payment performance by non-resident fathers (p325)".

However, men's willingness to pay may be affected if they judge there has been a misuse³⁷ of child support expenditure. They may perceive abuses of child support payments insofar as the needs of the lone parent rather than the child are being met. Haskins (1988) found that a belief that the resident parent would spend child support on themselves rather than on their children is a common justification for non-payment.

Weitzman (1988) noted that the overwhelming majority of divorced men in her study felt they were responsible for the support of their children. She suggests that since the US law seemed to have widespread moral legitimacy, men who do not pay child support need to rationalise their non-payment by offering excuses or justification for non-payment.

In contrast, Bradshaw & Skinner (2000) suggest that the moral power of children's entitlement to child support may be overestimated. For non-resident fathers, the entitlement of children to child support provision is very much interwoven with the quality of the parents' relationship. When this relationship was mistrustful, the moral power of children's entitlement to encourage compliance was found to be diminished. They suggest that non-resident fathers see mothers as trustees of the father's "active" role as a parent and of the expression of care attached to child support.

In their qualitative child support study, Bradshaw et al. (1999:203) categorised men between willing payers and enforced and non-payers. They suggested that willing payers are more likely to have contact with their children and select themselves as

divorce; moral obligation to honour agreements. The material cost is: perceived and/or actual economic hardship of child support. The material benefit is: avoiding the costs of not paying child support.

³⁷ It should also be acknowledged that men and women can provide dissimilar child support accounts. There is US evidence ((Seltzer & Brandreth, 1995:179), (Braver et al., 1991: 182)) to suggest that fathers report paying substantially higher amounts of child support than mothers report receiving. These differences in reporting can persist over time (Braver et al. 1993).

having a duty or obligation to pay. Paying child support helps to sustain their identity as fathers and is useful in facilitating father-child contact³⁸.

The willingness of men to pay child support may be affected by the meaning that it has for them. Chambers (1979) suggests that father's motivation to pay child support is one of the most important determinants in compliance. However, as research studies have indicated this motivation goes beyond meeting the financial needs of children and touches other areas such as addressing parenting expectations (e.g. fulfilling breadwinner role) and generating parenting opportunities (e.g. greater parental involvement required).

To conclude, although there appears to be widespread public acceptance of the principle that parents are financially responsible for their children, it is doubtful whether non-resident fathers perceive child support to be always the right way to fulfil this obligation given the evidence of low compliance rates. Although the evidence would suggest that there is a relationship between the five variables (i.e. the enforcement system in place; men's ability to pay child support; the strength of family ties; the economic needs of mothers and children, and men's willingness to pay child support) and the provision of child support, at the same time the findings from research have not always been consistent.

It would seem that translating a higher-level principle such as the financial responsibility of parents into practice is not always straightforward. This would indicate that there is a need to explore more fully non-resident fathers' perspectives on child support, and how they see formal provision in relation to their financial responsibilities. It would therefore be useful to consider their views and experiences of how child support arrangements are put in place and how they manage these arrangements over time. However, wider theoretical considerations may help to inform what is taking place in men's lives.

1.4 Wider Theoretical Considerations

Previous research on five issues related to child support compliance was reviewed in the preceding section. Attention is given in this section to outlining three theoretical approaches, which may offer insight into men's child support accounts when they come

³⁸ In contrast Bradshaw et al. (1999:204) suggest that enforced and non-payers have little contact with their children and usually do not accept that there is a justifiable need for maintenance. In doing so they either select others to pay for their children or believe that they have higher priorities elsewhere.

to be analysed in this study. The first approach draws on Finch & Mason's (1993) work on the construction of family responsibilities. The second approach draws on Pruitt & Carnevale's (1993) work on negotiation theory. The third approach draws on Nussbaum's (1998; 1993) functional capability theory.

1.4(a) The Construction of Family Responsibilities

Finch & Mason's (1993) work on the negotiation of family responsibilities arises from the concern that social policy is so often ideologically driven and based on assumptions about what families should be doing rather than the actual beliefs, attitudes and behaviour of families. In the area of child support one does not have to look very far to see the chasm between the intention of policy and its outcome in reality.

Their work suggests that there are no given rules about what are the "right" family responsibilities and what should be given to relatives. Instead there are procedural guidelines about how to work out whether it is appropriate to offer assistance. The procedural guidelines involve acknowledging:

" a two –(or more) way process of negotiation in which people are giving and receiving, balancing out one kind of assistance against another, maintaining an appropriate independence from each other as well as mutual interdependence. As a product of these processes, one individual becomes committed to giving assistance to another. Responsibilities thus are created, rather than flowing automatically from specific relationships" (Finch & Mason, 1993: 167).

They suggest that nobody has the right to expect assistance and the right to provide or withhold help must always remain with the potential donor. People accept responsibility for helping relatives, sometimes at a considerable cost to themselves, and they want to retain the right ultimately to do it of their own choosing. Responsibilities are therefore created through a process of negotiation and are not pre-determined.

"Developing commitments" over time also has a non-financial dimension. People's identities as moral beings are bound up in these exchanges of support and the processes through which they get negotiated. This can be in terms their reputations, their self-conceptions and their psychological investments. Similarly, withdrawals from responsibilities may be "too expensive" to make. Although this cost can be in material terms it is also:

"calculated in terms of people's personal identities and their moral standing in their kin group and in the eyes of the world at large" (Finch & Mason, 1993:168).

The meaning that actions convey to other people is important. People's positions need to be seen as legitimate, and if they cannot meet a responsibility, their reasons for doing so have to be seen in terms of "legitimate excuses".

Since responsibilities are negotiated and are not the consequence of following rules of obligation, Finch & Mason suggest that this is why there is such variation in people's experiences of assistance and developing responsibilities in kin groups. However, social conditions under which gender and genealogy are lived may help to create conditions, which are conducive to the development of certain kinds of commitments between individuals³⁹.

In conclusion, Finch (1989:241) suggests how a sense of obligation may develop. She says that kin relationships are distinguished by a sense of obligation. In addition to using principles of justice and fairness, people in these relationships operate on the basis of normative guidelines (i.e. nature and history of relationship; quality of relationship; pattern of exchange – reciprocity; whether the balance between the independence and dependence of person's relationship with his family is affected; and timing –right/wrong time for assistance). These assist in working out what to do rather than specifying what should be done in particular circumstances. Furthermore, as Finch & Mason (1993:167) suggest, these commitments get developed over time.

Finch & Mason's work suggests that men may define this financial responsibility by making provision other than child support; that they may want to provide legitimate accounts for their actions and that they may want something in return for payment. In other words, there may be a gap between the premises on which child support policy is

³⁹ Hence, differences in male and female undertakings of responsibility do not surface as a result of fathers and mothers holding different sets of ideas, or even from occupying different structural positions. They emerge as a result of women and men negotiating their own relationships with relatives and that these differences then get established over a period of time. In turn this affects future negotiations as commitments are already being formulated.

Specifically in terms of parent-child commitments there is a need to take account of the "social relations of child-rearing" which exist in society. They suggest that the parental-child context promotes an environment for this to happen. Parents are assigned responsibility for children which is public as well as private, underwritten by public policy: "When children are young, parent-child relationships are defined as relationships in which parents take responsibility for the material and emotional welfare of their children"(Finch & Mason, 1993:168).

Relationship breakdown suggests the conditions by which people live their lives change; not least the social arrangements of child-rearing. Finch and Mason's ideas may be helpful in understanding how non-resident fathers comprehend their financial responsibilities to their children. If responsibilities are seen as created commitments rather than rules of obligation, this opens the possibility that how child support arrangements are put in place, how men manage arrangements over time and what child support conveys for men may be factors influencing men's child support actions.

based and the reality, which might be that financial responsibilities are individually negotiated.

1.4(b) Social Negotiation Theory

The determination of child support often involves a negotiation process. Such processes have received little attention in the Irish context. Whereas Finch and Mason's (1993) sociological work suggested that responsibilities are "developing commitments", social negotiation theory may be helpful in explaining how commitments such as child support arrangements in reality are arrived at and managed over time. There has been little if any research undertaken in the area of child support from this perspective. This study draws on Pruitt & Carnevale's (1993) work on negotiation theory but adapts it for the purposes of understanding how child support arrangements are negotiated and managed over time, in chapters three and four respectively.

Pruitt & Carnevale's model is attractive in an area like child support because it acknowledges that social negotiations are complex processes. They challenge and build on the traditional negotiation paradigm by suggesting that negotiation is more than the process of people coming together by a desire to resolve a divergence of interest by reaching agreement. It is not enough to consider the conditions that prevail at the time of negotiation in terms of their influence on negotiators' motives, perceptions and cognitions. It is also not enough to consider how these psychological states impinge either directly on the outcomes reached or on the intermediate strategies or tactics chosen by parties to reach outcomes.

Pruitt & Carnevale propose that negotiations can be complex. They suggest that a main limitation of the dominant paradigm model is the premise that negotiators are only motivated by self-interest. They says that:

"this premise may be valid for negotiations between parties who have little in common and no other relationship" (Pruitt & Carnevale, 1993: 195).

Many negotiations are not of this kind such as in the case of family breakdown where the parties have some degree of concern about the other party's welfare. Moreover, they suggest that such concerns affect the way many of the variables function in negotiations such as time pressure, accountability and negotiation tactics. In such circumstances a dual rather than a sole concern model of negotiation is operating.

Pruitt & Carnevale also suggest that the social context of negotiation needs to be considered, including the social norms prevailing, relationships between negotiators, and the behaviour of third parties. They suggest that social norms such as the principle of fairness have a huge impact on negotiation, shaping offers and arguments, and the outcome of negotiation because they encourage efforts to achieve equal outcomes and concessions.

The process of separation usually involves third parties such as solicitors, mediators or the Court. While the latter involves adjudication, the use of solicitors and mediators can be seen as a form of assisted negotiation. Pruitt & Carnevale propose that the entry of third parties produces new arenas, between the third parties and each of the two negotiators (i.e. separating parents). In order for progress to be made depends on the strength of these new arenas, which rests on the extent to which the third party:

“gains information about both sides’ perspectives, speaks both parties’ language, and is trusted by both parties” (Pruitt & Carnevale, 1993: 195).

Time dimensions must also be considered, both in terms of the stages of negotiation and the events that occur before negotiation starts and after it is over. It is also important to consider why people choose negotiation rather than arbitration, struggle or some other approach to conflict. Finally, the issue of procedural justice must be acknowledged – people need to feel that they are being fairly treated both in terms of the process and in the decisions reached.

In conclusion, Pruitt & Carnevale’s work is a sophisticated attempt to describe the influence of many variables in terms of how the outcomes of negotiations are reached. The purpose of using Pruitt & Carnevale’s work is not to undertake a detailed social psychological analysis of child support resolution, but instead it can help to illustrate the dynamics involved concerning how child support decisions are made and managed over time from the perspective of non-resident fathers. While this study also uses social negotiation theory⁴⁰ like Bradshaw et al. (1999), drawing on Pruitt & Carnevale’s model offers additional ways to consider the actions of non-resident fathers in relation to child support.

For example, Pruitt & Carnevale indicate that different dimensions of the social context of negotiations and decision-making require consideration. This suggests that the presence and influence of the child support regime on child support negotiations,

⁴⁰ Also using Finch (1999), Finch and Mason (1993).

commitments and compliance requires greater scrutiny than perhaps was highlighted by Bradshaw et al. (1999) in their qualitative study on fathers' financial obligations.

1.4(c) Capabilities Approach

Drawing on Nussbaum's (1998) "capabilities approach" may also be helpful in positioning non-resident fathers' child support perspectives in relation to public policy. This is an approach to quality-of-life measurement, by which a goal of public policy should be to focus on the question: "What are the people of the group or country in question actually able to do and to be?" Nussbaum (1998:34). Regarding these "doings" and "beings" they can be seen in terms of the activities performed by human beings that seem definitive of a life that is truly human. In other words, there are functions without which a life would be regarded as not fully human.

This quality of life theory is influenced by the Aristotelian ideal that the goal of public policy should just not be the attainment of human survival but instead aiming for a life in which "fully human functioning, or a kind of basic human flourishing will be available", Nussbaum (1998:34). Translating this ideal to a practical level, a list of ten⁴¹ central

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1. ⁴¹ Life. Being able to live to the end of a human life of normal length; not dying prematurely or before one's life is so reduced as to be not worth living
 2. Bodily health and integrity. Being able to have good health, including reproductive health; being adequately nourished; being able to have adequate shelter
 3. Bodily integrity. Being able to move freely from place to place; being able to be secure against violent assault, including sexual assault, marital rape, and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction
 4. Senses, imagination, thought. Being able to use the senses; being able to imagine, to think, and to reason-and to do these things in a "truly human" way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training; being able to use imagination and thought in connection with experiencing and producing expressive works and events of one's own choice (religious, literary, musical, etc.); being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech and freedom of religious exercise; being able to have pleasurable experiences and to avoid nonbeneficial pain
 5. Emotions. Being able to have attachments to things and persons outside ourselves; being able to love those who love and care for us; being able to grieve, to experience longing, gratitude, and justified anger; not having one's emotional developing blighted by fear or anxiety. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)
 6. Practical reason. Being able to form a conception of the good and to engage in critical reflection about the planning of one's own life. (This entails protection for the liberty of conscience.)
 7. Affiliation. (a) Being able to live for and in relation to others, to recognise and show concern for other human beings, to engage in various forms of social interaction; being able to imagine the situation of another and to have compassion for that situation; having the capability for both justice and friendship. (Protecting this capability means, once again, protecting institutions that constitute such forms of affiliation, and also protecting the freedoms of assembly and political speech.) (b) Having the social bases of self-respect and nonhumiliation; being able to be treated as a dignified being whose worth is equal to that of others.) This entails provisions of non-discrimination.)
 8. Other species. Being able to live with concern for and in relation to animals, plants, and the world of nature

human functional capabilities has been identified in an attempt to specify the dimensions of the good life. Nussbaum (1999:46) says that the list is “a list of combined capabilities⁴²”.

The ten include functional capabilities addressing basis life, educational and political opportunities, but of particular relevance for non-resident fathers may be the capabilities⁴³ that focus on "emotions", "affiliations", the "material control over one's environment" and "bodily health and integrity", Nussbaum (1998:41-42).

Nussbaum notes that all the functional capabilities are of central importance and all are distinct in quality, whereby although some may be linked to each other, the trade-offs between them are limited. The “capabilities approach” as she conceives it, claims that a life that lacks any one of the ten capabilities, no matter what else it has, will fall short of

9. Play. Being able to laugh, to play, to enjoy recreational activities

10. Control over one's environment. (a) Political: being able to participate effectively in political choices that govern one's life; having the rights of political participation, free speech, and freedom of association (b) Material: being able to hold property (both land and movable goods); having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. In work, being able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers.

The Ten Central Human Functional Capabilities, Nussbaum (1998: 41-42)

⁴² Nussbaum (1999:45) suggests that three types of capabilities must be considered. First, there are basis capabilities, which are the “innate equipment of individuals that is the necessary basis for developing the more advanced capability”. These capabilities are sometimes more or less ready to function, e.g., capability to see or hear. More often they are undeveloped and cannot be directly converted into functioning, e.g., a baby has the capability for language and speech and for practical reasoning but is not physically mature to do so. Second, Nussbaum says that there are internal capabilities, which are the “developed states of the person herself that are, so far as the person herself is concerned, sufficient conditions for the exercise of the requisite function”. In contrast to the basic capabilities, Nussbaum suggests that these states are “mature conditions of readiness”. Sometimes this occurs from bodily maturing, e.g. sexual functioning. More often, internal capabilities only develop as a result of support from the surrounding environment, e.g. to love, play or exercise political choice. However, she suggests that at some point “they are there and the person can use them”. Third, the world can prevent people from exercising these capabilities. In response, Nussbaum suggests that there are combined capabilities, which are defined as “internal capabilities combined with suitable external conditions for the exercise of the function”. For example, she suggests that people living in repressive regimes have the internal but not the combined capability to exercise thought and speech in accordance with their conscience. She says the aim of public policy is the production of combined capabilities. Nussbaum also acknowledges that the distinction between internal and combined capabilities is not always “a sharp one because developing an internal capability usually requires favourable external conditions” (p46).

⁴³ In terms of emotions, it could be argued that sustaining this capability means supporting forms of human association that allow non-resident fathers and their children to maintain attachments. In terms of affiliation the implications are somewhat similar; supporting structures that support father-children contact, and which do not discriminate in favour of one party over the other. Combining the capabilities of control over one's environment with bodily health and integrity, suggests that non-resident fathers should be able to hold property and to have adequate shelter. Therefore, if these functions are aggregated in terms of parent-child relations it appears that there needs to be a sufficient level of resources available to ensure dignity and well being for all, irrespective of whether family members are considered separately or on an intra-dependant basis. However, in reality there are often insufficient resources available to fund the lifestyles of two post-separation households to a level at a level previously experienced.

being a good human life, Nussbaum (1998:42). In other words, a shortfall in any capability leads to a deficit in there being the possibility of a good human life.

Nussbaum (1998:45) suggests that if one cares about people's powers to choose a conception of the good, then one must care about the rest of the form of life that supports those powers, including its material conditions. This gives rise to correlated political duties to ensure that capabilities to function are met.

Nussbaum's theory has a number of implications for the re-distribution of family resources. The theory implies that men have as equal a right as other family members to acquire a functional capabilities set - before, during and after separation. In practice this may not always not happen. Trade-offs between specific functional capability sets may occur, e.g., father-child access being traded for increased maintenance provision, which in turn reduces the level of resources available to meet his housing needs. This may happen because in addition to public policy influencing whether men's capability sets are achieved, it may also influence what they believe they can actually attain and how it can be done:

"In general, people frequently adjust their expectations to the low level of well-being they think they can actually attain". (Nussbaum, 1998:33)

Nussbaum's theory also allows for the fact that the capability sets of individuals can vary. This in turn may have consequences for how child support responsibilities are viewed and executed. For example, some fathers may want a more active, hands-on role with their children in a post-separation environment. Because this costs money this may affect their position on the transfer of resources – including child support payments - to the lone parent family. At the same time each family member has a capability set – often informed by their pre-separation experiences (e.g. standard of living) – and if there are insufficient resources to meet these sets, problems may arise during the separation resolution process and may influence men's evaluation of the eventual separation settlement– including child support arrangements – put in place.

In such circumstances Nussbaum suggests that an active public policy intervention⁴⁴ is needed in order for people to attain the "good life":

⁴⁴ In other words, this translates into the State supporting measures to enable all family members to attain full human functioning. For example, it could be argued that if men cannot afford to meet the financial needs of their child without there being negative consequences for themselves (e.g. their functional capability set), then the role of public policy should be to ensure that these needs – and thus their own functional capability set - are met elsewhere. However, it is unclear from Nussbaum's work how this could be achieved.

“The aim of public policy is the production of combined capabilities. This means promoting the states of the person by providing the necessary education and care; it also means preparing the environment so that it is favourable for the exercise of practical reason and other major functions”. (Nussbaum, 1998:44)

In summary, Nussbaum’s account allows for an examination of the effect of child support policy on men’s lives whilst recognising that men have a range of post-separation visions, which can also be modified by the policy in place. By suggesting what the goal of public policy should be, Nussbaum draws attention to the fact that little if any attention is paid to the effect that child support policy has on men’s lives. This is further complicated by the fact that in Ireland child support usually gets resolved with other issues such as housing and access. However, Nussbaum suggests that every individual has a range of human functional capabilities such as shelter and human contact, but such needs are distinct and non-tradable⁴⁵.

It is acknowledged that the use of the capabilities approach in this study may be deemed by some to be controversial given its background and its use so far. At the same time it is felt that it allows for a fruitful examination of men’s post-separation aspirations that normally do not get addressed and the implications of these for a public policy such as child support. In doing so it is also acknowledged that the capabilities approach will be used selectively, focusing more on the lives of men than on their children or their former partners.

1.5 Irish Policy Issues

Irish policymakers have not been at the forefront of social policy innovation; instead there has been a tendency throughout Irish history to adopt policies to social problems from abroad⁴⁶. At the same time Jackson (1993) argues that the low volume of modernising legislation and administration in family policy partly arises from the specific

⁴⁵ Children and their mothers also have functional capability sets. These may complement or conflict with those of men. Nussbaum implies that nobody should be left in a position where their capabilities are detrimentally affected in order for the capabilities of others to be achieved. However, the reality is that where the demands of the functional capability sets of family members exceed the availability of resources (e.g. contact and financial), human flourishing will not occur unless other resources, more than likely underwritten by a change in public policy, emerge.

Nussbaum’s work also leads to a re-examination of the premises on which public policies are based. Capabilities focusing on "emotions", "affiliations", the "material control over one's environment" and "bodily health and integrity", open up the possibility that paternal financial responsibilities may not necessarily be seen by men in terms child support provision.

⁴⁶ Burke (1987:304) asks about Irish social policy whether “after more than sixty years of independence, are we still half copying English social services here in Ireland, or have we put enough effort and confidence into working out original solutions for what are, after all, social problems of people with a different history and culture?”

notion – as outlined in the Irish Constitution - that the family forms the basic unit of society with the state largely maintaining a non-interventionist role.

Like elsewhere, family forms in Ireland have changed in the past thirty years. Unlike other countries little social research or specific policy commentary⁴⁷ has been undertaken to date on examining the relationship between lone parent families and the financial role of non-resident fathers. Although the Guardianship of Infants Act 1964 set in place the modern child maintenance system, the main Irish family policy response in the 1970s and 1980s to the rise in the number of lone parent families was the introduction of social welfare allowances and a pro-labour market policy for mothers⁴⁸. The main development in the 1990s was the introduction of the DSCFA's liable relatives scheme, partly driven by Exchequer concerns.

Thus, although there may have been no grand Irish policy design, at the same time the issues facing policymakers today in relation to family breakdown are:

- Increasing number of lone parent families and non-resident fathers;
- Increasing number of welfare dependant lone parent families;
- Increasing Exchequer costs arising from supporting lone parent families;
- Low levels of child support paid and low compliance rates;
- Susceptibility of lone parent families to poverty and inadequate living standards⁴⁹.

While there is a need to consider the extent of the State's involvement in family life (i.e. the balance between the rights and duties of state, parents and children), what remains contentious is whether policies should respond to current situations or needs, which may influence the structure of future family formations or whether policy should be formulated on the basis of explicitly influencing predominant patterns of behaviour and denying others.

Social policymakers have been to date unsuccessful in developing policies to reconcile these different objectives. They have not been helped by the fact that societal expectations concerning the positions of parents have also changed over time. For

⁴⁷ For example, although the Commission on the Family (1998) makes a number of recommendations about lone parent families, this Report in contrast to the UK's *Finer Report* does not contain detailed analysis of a whole range of public policy issues affecting lone parents and/or non-resident fathers.

⁴⁸ Jackson (1993:85)

⁴⁹ See McCashin (1993; 1996) for evidence.

example, McKeown (2001) suggests the way in which non-resident fathers in Ireland parent their children is “likely to remain a salient issue for the foreseeable future (p28)” given the extent of marital breakdown. Whilst this has become an issue, at the same time there is also the longstanding issue of addressing how best to secure the living conditions of lone parent family units.

Hence, a key question is what is the appropriate balance between private and public responsibilities in the support of lone parent families? Marsh and Arber (1992) suggest that if policy-makers have inadequate knowledge of the broad range of different ways in which people conduct the personal and domestic side of their lives, and the way in which these arrangements are changing, it is doubtful whether they will be able to fashion effective or rational social policy.

One area where there is inadequate knowledge⁵⁰ is in relation to understanding non-resident fathers’ perspectives on child support. A better understanding of how men consider their financial role regarding their children would go some way to establishing a more effective child support policy. In doing so it may help to avoid the mistakes of the USA where for the past generation “policy makers and the public have focused primarily on fathers’ ability to pay child support, with little attention being given to their other responsibilities and concerns” (Garfinkel et al., 1998:24).

1.6 This Study

Men are generally considered by the State to be fulfilling their financial responsibility to their children by paying child support. However, the limited available Irish evidence would suggest that non-resident fathers make low levels of provision and that there are poor compliance rates. This had led to the view that many non-resident fathers do not take financial responsibility for their children.

The purpose of this study is to explore the experiences and views of Irish non-resident fathers in relation to child support and to ascertain the implications for Irish child support policy. Of interest are men’s accounts of how support arrangements were put in place and their child support actions after legal separation.

⁵⁰ This has not been helped by the “in camera” rule. Flockton (2003:17) notes “many people who want to talk about their experience in the family courts...are prevented from doing so by the “in camera” rule. They are forbidden from referring to the circumstances of their case or issues that arise from their experience in a family law case even after the case is completed”.

The study is qualitative with data collected through in-depth interviews with non-resident fathers. Chapter two outlines the methodology employed in the study.

Chapters three and four respectively describe non-resident fathers' experiences of putting/ not putting in place child support arrangements and their subsequent child support actions. Chapter three focuses on the time period up to the legal separation; chapter four looks at the period following it.

Chapter five examines the experiences of non-resident fathers interviewed for this study in respect of five factors, which may be linked to child support compliance. The five factors were: the enforcement system in place; men's ability to pay child support; the strength of family ties; the economic needs of mothers and their children; and men's willingness to pay child support.

Chapter six reviews the operation of the Irish child support regime from the accounts of men interviewed for this study. Chapter seven examines the implications for Irish child support policy in light of the perceptions and experiences of non-resident fathers interviewed for this study. Chapter eight reviews the findings of the study and reflects on the relationship between the State and the family.

The role of non-resident fathers in Ireland particularly in relation to their perspectives on child support has not been adequately researched. It is hoped that the findings from this study may be of use to policy makers and family support programme designers in developing an effective child support strategy.

Chapter 2 - Research Design & Overview of Respondents

Chapter one showed¹ that non-resident fathers in Ireland pay limited amounts of child support and that compliance levels are low. In light of these findings, it is of interest to uncover men's accounts of the process of how child support arrangements are put into place and how they manage these arrangements over time.

To find out this information a qualitative approach was adopted to get an "insider's view of reality" (Singleton et al., 1993:318). Qualitative research is about obtaining an understanding of people's actions from their own perspective. This means attempting to take the role of the other, seeing things as they see them and using their categories of thought in the organisation of the experience.

In this study this translated into using in-depth interviews with non-resident fathers to enhance "penetration into their relational worlds" (Denzin, 1970:133), with the focus being on how they account for their child support actions.

The purpose of this chapter is to outline the research design used in the study and to describe some of the personal, family and relationship details of the respondents. The first part of the chapter examines in more detail the reasons why a qualitative approach was used. The second part of the chapter describes how the research was conducted. The final part of the chapter provides an overview of the respondents' details.

2.1 Why a Qualitative Approach?

A qualitative approach was used for a number of reasons.

First, there has been insufficient attention² paid to understanding Irish non-resident fathers' perspectives on child support, such an approach allowed for a "commitment to

¹ Ward (1990); McCashin (1996). Although Fahey & Lyons (1995) found higher payment levels and higher compliance rates, their sample was drawn from couples who had recently separated.

² Drawing on Plummer's (1995) work in relation to the experiences of gay men may explain why non-resident fathers' child support experiences have not been sufficiently discovered. Plummer (1995) has suggested that there is a generic process of telling stories. First, the respondent must imagine, visualise and empathise about feelings, thoughts and acts. There might even be a whole world of feelings and experiences about which people may not even initially know. He suggests that most of modern life is trapped in the conventions and rituals of pre-existing stories, which prevent, conceal and block other ways of seeing. In other words, there may be blocks to imagining stories that could be told but are currently not. In terms of separated fathers this may be manifested by fears to express vulnerability and powerlessness, which may in some ways mask different post-separation fatherhood expectations.

Second, there is the initial act of articulating, vocalising and announcing stories, which takes the process of moving from the private to the public sphere of communication. This is not just a

viewing events, actions, norms, values etc. from the perspective of those being studied" (Murphy et al., 1998:74). It was felt important to seek information in this way because men's child support actions appear to be generally out of step with the intention of child support policy given the levels of child support provision paid and compliance. As Strauss & Corbin (1990) suggest, a qualitative approach is one of discovery in that it offers a way to see the world from the viewpoint of those being studied.

Second, Zimmerman (1993) argues that conceptual tools are needed for assessing family well-being. One of these tools is symbolic interactionism³; a qualitative approach used in this study. Symbolic interactionism addresses the subjective meanings⁴ that

matter of words but the ways in which they are expressed. Imagining and identifying concerns says nothing in itself of the kinds of languages, claims and stories that will then be produced around them. It is fair to say that the stories of separated fathers have, by and large, been heard in terms of "deadbeats", fecklessness, irresponsibility and selfishness rather than in terms of emotional upheavals, limited resources and larger expenses.

Third, there are the processes of inventing identities and becoming storytellers. Plummer suggests that the stronger stories will be those of community - "providing programmes and maps where others may be able to sense themselves." He suggests that grounded in this will usually be a story of identity - of who one is, of a sense of unity yet difference. Therefore, in terms of separated fatherhood is there a sense of identity? If so, has it emerged from the fathers themselves or has it been foisted upon them? What at least can be said is that this identity is unclear and in need of discussion.

Fourth, the creation of social worlds takes place, which is associated with the basis of a politics of identity being formed. This means that the story has moved out beyond the individual storyteller to a community of reception. Others must hear it, identify with it, and feel it to be part of their story. The more power a community has the greater the story's chances of taking hold. Story needs a visible public community of alliance and allegiances, which facilitates the telling of a tale. Is there support in the community for the tales of separated fathers to emerge?

Fifth, Plummer suggests that there are generic processes involved in creating a culture of public problems. The story moves out of a limited social world and enters an array of arenas of public discourse. According to Wiener (1981:14), "how the dimensions are carved out, how the number of people drawn into concern about these discussions is increased, how a common pool of knowledge begins to develop for the arena participants, and how all these sub-processes increase the visibility of the problem" lead to a situation through which social problems are socially constructed.

³ Mead (1934) developed the idea of the social self, that human beings are self aware, and monitor their behaviour in relation to how they perceive they should act in given social situations with regard to how their behaviour will be perceived and received by others. Society can therefore be seen as systems of interlocking interactions based on social actors' perceptions and expectations of each other.

⁴ Symbolic interactionism, suggests Blumer (1969), is based on three premises. First, that humans act towards things on the basis of the meanings that things have for them. Second, that social interactions lead to the development of the meanings that such things have for humans. Third, that the meanings are sustained or negotiated through an interactive interpretative process. However, the meanings associated with the role of separated fatherhood are disputed.

It seems that in respect of parenting roles there is a clearer "shared definition" about what is involved in mothering as opposed to fathering. Being a father, according to Barker (1994), does not comprise of a distinct, agreed set of behaviours compared to the role of a mother. In terms of being a separated father this creates further difficulties. For example, there are no set standards or expectations concerning the type or quality of relationship that should exist between separated fathers and their children.

situations have for people. Revealing these meanings are useful in a study like this because little is known⁵ about non-resident fathers understanding of child support. There is a need to explore and understand the meaning of events that non-resident fathers in their social situations experience in developing and managing over time their child support positions. This will be primarily achieved by understanding the ways in which they interpret and reflect upon these experiences and construct social reality.

Also of interest are men's perceptions of child support policy because as Zimmerman argues, these perceptions have been "converted from [their] perceptions of their problems (p249)". This view is based on the assumption that family well-being depends on how families and their members perceive and define their situation and on the ways in which they see public policy affecting them. Zimmerman (1993) suggests the implications of the conversion of perceptions of family problems into policies and programmes for families from the perspective of symbolic interactionism can be assessed using such concepts as expectations, satisfactions, relative deprivation, and families' own definition of the situation.

Third, there is also a need for contextualism and holism in researching men's perspectives and qualitative research provides a means of doing so. Bryman (1988) defines contextualism as a preference for "understanding events, behaviour, etc. in their context"(p64). Holism "entails an undertaking to examine social entities – schools, tribes, firms, slums, delinquent groups, communities or whatever – as wholes to be explicated and understood in their entirety" (p64). Thus to make sense of non-resident fathers' child support experiences there is a need to reveal the interactive effect of social, economic and political factors on men's actions.

It could be argued that the only distinct purpose that society deems a non-resident father to have is to financially support his children. How men are perceived is judged by how well they fulfil this function. There is little evidence to suggest that the terms of reference for the evaluation have been informed by the experiences of these men.

⁵ It should be acknowledged that a significant UK study on child support (i.e. *Absent Fathers?* by Bradshaw et al. (1999)) was published during the course of this research. *Absent Fathers?* came out when this researcher was engaged in fieldwork. More notice could have been given to this publication but there was a fear that it might have unduly influenced the data analysis and findings of this research. At the viva it was correctly pointed out that Bradshaw et al.'s publication should have received greater attention in the writing-up stage. This is because Bradshaw et al. (1999) and this study are some of the first qualitative child support studies from the perspective of non-resident fathers undertaken in the British Isles and both adopt somewhat similar approaches. As a result, some similarities and differences between the studies have been incorporated throughout the thesis since the viva. Specific references have also been made to Bradshaw et al.'s (1999) sample survey of non-resident fathers and their qualitative study on fathers and contact. However, in hindsight it is also felt that this task may have been more effectively undertaken if consideration was given to it at the outset (e.g. planning, overall structure, narrative flow) rather than the conclusion of the writing-up stage.

Fourth, qualitative research also places an emphasis on the dynamics or the processes of a social life. This is relevant for this study because what will be examined is men's understanding of the processes involved in putting in place child support arrangements and those involved in their management of child support arrangements over time. Murphy et al. (1998) note that a major criticism of quantitative research is that it treats social phenomena as more clearly defined and static than they really are. Of significance in a study such as this is Bryman's (1988) suggestion that social life involves an interlocking series of events that are in a state of flux and change. A qualitative approach offers a way to study the processes by which phenomena (e.g. child support formation, compliance, dissolution) change over time.

Fifth, because little is known in Ireland about the relationship between non-resident fathers and child support, a qualitative approach is sympathetic to the need for flexibility and a lack of structure in the research design. Hence there is less of a focus on hypothesis testing than on hypothesis formation in this research. Furthermore, although the research is informed by prior theoretical categories and assumptions, at the same time the approach adopted means that these theories are not imposed on the data. Instead the data remains open to new theoretical possibilities.

In summary, qualitative research is about a "commitment to viewing events, actions, values, etc. from the perspective of those being studied"(Murphy et al. 1998:74). Because little is known about men's perspectives a qualitative approach is useful as it can concentrate on forming an understanding of the events and behaviours around child support in the context of men's everyday lives. It can also seek to understand the processes by which events and behaviours around child support come about. It also offers a way in which to understand how child support policy affects men's lives.

The stories of non-resident fathers around child support have not been told. As a result it is unknown whether other non-resident fathers can claim these stories as their own or whether there are alliances who are keen to give them credibility and support. This study provides an opportunity for the stories of non-resident fathers to be publicly shared.

2.2 How was the Research Planned and Conducted?

In the last section it was suggested that qualitative research was a suitable approach to explore non-resident fathers' child support perspectives. The purpose of this section is to outline how the research was planned and conducted.

2.2(a) Sampling Issues

The intention of the qualitative approach is to obtain in-depth illumination, amplification and explanation and this is achieved by purposefully selecting information rich units that are studied in depth. The unit of study in this research were non-resident fathers living in Ireland whose dependant children are no longer primarily living with them⁶. With this in mind it was decided to adopt a purposive approach to sampling, encompassed both theoretical and referral sampling elements.

Singleton et al. (1993) note that in purposive sampling the researcher relies on his or her expert judgement to select units that are “typical” of the population under review. With this in mind a number of factors were used to set sample boundaries in order to strengthen the robustness of the findings.

It was decided to select men who had either been married for at least one year or who had cohabited for at least five years. This was an indicator of a degree of commitment in the relationship. A decision was also taken to interview men whose relationship had broken down for at least two years because it was more likely that they would have re-established some form of emotional equilibrium and thus to have developed a more reflective perspective (Chase-Lansdale & Hetherington, 1990).

An aim of the study was to reveal men’s perspectives on the processes involved in the resolution of child support arrangements. Although the Irish family law system allows for a variation in child support arrangements at any time, at the same time the process of separation usually witnesses arrangements being put in place, which form the basis of on-going commitments.

Therefore, to ensure the range, relevance and diversity – but not representativeness- of the sample to meet information needs, the sample was drawn from men who used the four separation pathways⁷ (i.e. mediation, lawyer-aided, judicial, not yet resolved), to reach child support arrangements. With this there was also an element of theoretical sampling (Glasser and Strauss, 1967) in so far as it was felt worthwhile after analysing initial interviews to continue the strategy of interviewing fathers who had reached child

⁶ A non-resident father is understood to be a father who no longer primarily resides with his children and who no longer is in (or who is in the process of not being in) a married or cohabiting relationship with the mother of these children. The Family Law Act 1995 (Section2(1)) notes that children are defined as being dependant if they are under 18 years, or under 23 years and in full-time education, or if they are physically or mentally disabled to such an extent that they cannot maintain themselves. This study uses these criteria in terms of defining dependant children.

⁷ See next chapter for more discussion.

support settlements along different pathways to ensure a level of heterogeneity in the sample.

The sample was also influenced by practical considerations, in terms of target group accessibility, and time and financial constraints.

Non-resident fathers are a difficult group to locate since they are relatively invisible. Therefore, it was decided to use referral sampling to locate men. Singleton et al. (1993) note that referral sampling is about contacting agencies or individuals to supply the names and addresses of potential respondents and is useful when the target group comprises a small subgroup of the larger population. Therefore, a range of sources was used to contact men in order to obtain as diverse a sample as possible. Respondents were identified⁸ through agencies, advertisements or by other non-resident fathers.

Moreover, it was also felt that selecting people from one urban area allowed for a certain degree of categorisation of non-resident fathers in that they shared a similar economic, political and social environment. At the same time it was hoped that there would be enough diversity to ensure a range of respondents with different socio-economic circumstances.

In addition, as Hammersley & Atkinson (1995) have noted, it is not unusual in qualitative research for opportunism to influence the choice of a group or setting under review. It was therefore decided to select respondents living or working in Dublin/North Wicklow because in addition to it being a distinct urban area, the researcher had easier access to this geographical region to allow him to overcome time and financial constraints.

The sampling approach held a number of advantages and disadvantages. The sampling was geared to uncovering men's accounts in an area where there was little available information so there was not an urgent priority to achieve statistical generalisation. It was also felt that the research would more likely to be seen as legitimate by respondents since they would be aware of the background to why they had been contacted, via an agency or another respondent (which/who was known to them). It allowed for the testing of heterogeneity and/or typicality of information already obtained. It made provision for cases to be selected in order to extend or fill in information gaps by, for example, asking initial contacts to identify others. It helped to

⁸ See next section for more details.

address the serious problems of locating and contacting this low-profile population group as well as not exceeding the project's resource constraints.

There were some weaknesses attached to the sampling approach. A restricted view may have emerged, meaning that only a partial and not a coherent picture was seen and thus the findings are unlikely to be representative of the wider non-resident father population⁹. Also there was a reliance on the researcher knowing the right people and having initial access to the correct networks. In other words, the sampling used non-probability methods of selecting respondents.

In summary, sampling decisions took into consideration:

- How long couples were living together and apart;
- Pathways to child support arrangements;
- Target group accessibility;
- Geographical setting;
- Different socio-economic circumstances;
- Practical research considerations.

2.2(b) How was Access to Non-Resident Fathers arranged?

As mentioned the study relied on referral sampling to overcome target group accessibility constrictions, and the researcher's time and resource constraints. In practice, it was decided to use two forms of referral sampling.

First, a form of a network sampling technique was used by getting in touch with organisations that had contact with non-resident fathers and by highlighting the nature of the study in local Dublin/Wicklow papers. Network sampling concerns contacting the wider population in order to identify members of the target population.

Second, a snowball sampling technique was used by asking non-resident fathers did they know of any other possible respondents. Snowball sampling depends on a chain referral process where respondents furnish contact details of other potential respondents.

⁹ An issue addressed more fully in Chapter 8.

Contact was made with organisations, newspapers and respondents to access non-resident fathers to be interviewed over an 18-month period, August 1998-January 2000¹⁰.

Local Newspapers

As it was decided to interview non-resident fathers who lived or worked in the Dublin/North Wicklow area, contact was made with three local newspapers in South Dublin and North Wicklow, "The Bray People", "Southside People" and "Southside News". After talking with reporters, articles were published in these papers explaining the nature of the research and as a result twelve non-resident fathers came forward. Eight of them fitted the sampling criteria and they agreed to be interviewed.

The Department of Social, Community and Family Affairs (DSCFA)

The planning section of the Department of Social, Community and Family Affairs (DSCFA) expressed an interest in this research project. Of particular interest to the Department was understanding men's perspectives of the liable relatives scheme. Fathers who have been issued with determination orders can be traced through the Revenue and Social Insurance (RSI) system.

The Department sent out a letter of introduction drafted by the researcher explaining the nature of the research to 30 separated fathers who were paying determination orders in the South Dublin/North Wicklow area. The letter invited men to contact the researcher directly.

Unfortunately, owing to the issues of confidentiality and the sensitive nature of this study, the Department was unable to furnish the researcher with the names and contact details of men who did not contact him. The researcher was thus unable to follow-up the letter of introduction. Therefore, this networking process had only limited success with only six of the thirty men making contact. However, the six men fitted the sampling criteria and agreed to be interviewed.

Parental Equality

Parental Equality is a voluntary group set up in 1992 to assist non-resident parents who want to have a greater involvement in the upbringing of their children. It is a

¹⁰ The researcher who was based in the UK commuted to Ireland to set up the project.

countrywide organisation. Its aim is to play a proactive role in creating a culture of shared family responsibilities. The organisation feels that men are granted limited access to their children, which undermines their parenting role. Parental Equality campaigns on child custody and access issues. It holds twice monthly information meetings where approximately a dozen men in various stages of separation attend to discuss and ask questions on current legal and policy issues and to share some of their experiences.

Parental Equality held a database of the names and addresses of non-resident fathers who had contacted this organisation for advice and support. Parental Equality agreed for this database to be used by the researcher to access men. Fathers on the database from the Wicklow/Dublin area who had their first encounter with Parental Equality in 1996 (i.e. two years prior to their interviews for this research) were only considered because this increased the likelihood that they were in a stable post-separation situation. Although there were concerns that the men contacted would be too politicised, this proved to be overstated. Four of the six respondents interviewed had only been in contact with Parental Equality for one or two support meeting and had thereafter ceased contact with the organisation. The main difficulty using the database was the contact details of many men were out of date. Eight men were contacted via Parental Equality's database. Six of these men agreed to be interviewed and fulfilled the sampling criteria.

Other Voluntary & Community Organisations

Contact was made with two lone parent self-help organisations (i.e. Bray Separated Parents Support Group, Gingerbread Ireland) and a Bray community centre, which resulted in ten separated fathers being interviewed, each of whom met the sampling criteria.

Bray Separated Parents Support Group was set up by a nun attached to the Holy Redeemer Roman Catholic Church in the early 1990s. The Group provides opportunities for separated parents to offer and receive support and to make social contact. By attending two of their meetings and speaking with the nun who set up the group, the researcher was able to make contact with six non-resident fathers who agreed to be interviewed.

Gingerbread Ireland was set up in 1978 to encourage and support single, separated and shared parenting. Contact was made with their Dublin support group, which

provides adult peer and parenting support. The researcher attended two meetings and made contact with two men who agreed to be interviewed.

Through making contact with a Bray community centre in the south-east part of the town, the researcher was given the names of two potential respondents who lived in the locality. They agreed to be interviewed.

Snowballing

After each interview a respondent was asked if he knew any other separated fathers who may have been willing to be interviewed. As a result of this approach a further twelve men were contacted and agreed to be interviewed. They met the sampling criteria.

Contact made with respondents through Newspapers lead to five additional interviews. Contact made with respondents through DSCFA lead to three additional interviews. Contact made with respondents through Parental Equality lead to one additional interview. Contact made with respondents through Voluntary & Community Organisations lead to three additional interviews.

Altogether through using a range of sources (see Table 2.1) 42 non-resident fathers were interviewed for this study.

Table 2.1 Sources for Respondents

Source for Respondents	Number of Men
The Department of Social, Community and Family Affairs (DSCFA)	6
Local Newspapers	8
Parental Equality	6
Other Voluntary & Community Organisations	10
Snowballing	12
Total Number of Non-Resident Fathers	42

2.2(c) Data collection

The interview was the method used to collect data. The first part of the interview used a standard schedule “in which the wording and order of all questions is exactly the same for every respondent” (Denzin, 1970:123). These questions were administered in the same way to all respondents using a questionnaire (Appendix One) to identify personal, family and relationship details.

The second part of the interview took the form of a non-schedule standardised interview in which the interviewer “works with a list of the information required from each respondent” (Denzin, 1970:125), but this is done in a way to suit the individual respondent so the particular phrasing and ordering of questions is flexible. To facilitate this to happen a topic guide was used.

A topic guide is an agenda - a list of topics rather than specific/structured questions, where specific topics address different categories of interest. Ritchie & Spencer (1994) note that it is an accountable document for discussion and reference, for amendment as necessary in the early stages, and it provides a context for the analysis/reporting. On a practical level it is also acted as a memory aid when interviews were being conducted.

A key factor to consider in constructing a topic guide is to break down the research objective into surrounding issues for discussion in such a way to minimise any preconceptions/ assumptions and to enable the objective to be approached as far as possible by respondents in their own manner and own words. In this regard the topic guide (Appendix two) addressed a number of issues directly and indirectly related to child support. The latter included family history, reasons for break-up, current relationships, work experience, housing conditions, parenting, life expectations, work, etc. Child support issues related to identifying perspectives on how arrangements were put in place, reasons for paying or not, financial responsibilities, arrears and enforcement procedures, and child support policy.

One advantage in using a topic guide is that it is not fixed. This means that it was amended slightly after initial interviews (e.g. a clearer delineation was needed between pre-separation, separating and post-separation stories). In the interviews men were asked to talk about specific events and incidents and not just their general impressions and opinions. This helped to avoid the danger that men might merely articulate commonly held assumptions and opinions; instead perceptions were linked with their own life experiences.

Interviews took place over an 18-month period, August 1998-January 2000. They were conducted in a range of settings including the respondents' own homes and work premises, hotels, cars, cafes and the Bray seafront. Interviews ranged between forty-five minutes and three hours. All except two¹¹ interviews were conducted on a one-off basis.

The only people present during the interviews were the researcher and the respondent. They were informed about the associated reason (i.e. PhD programme) for conducting this study. Respondents were guaranteed anonymity. Permission was always sought and given for interviews to be tape-recorded. Respondents were informed that the findings from the research would be circulated on completion of the programme.

To conclude, there were a number of benefits to using the interview method. First, it was flexible and experimental in that it facilitated access to a research area that has been neglected. Second, researching issues such as non-resident fatherhood and child support brought up strong emotions for respondents. Using a topic guide avoided straight, categorical questions and allowed respondents to bring up issues using their own words and to decide what and how issues were to be addressed. Third, this research had a policy dimension and the approach allowed for people to articulate how they saw policies and systems affecting their lives.

2.2(d) How Was The Data Analysed?

There is not a standard approach to qualitative data analysis¹² but any approach has to keep in mind the purpose of qualitative research which is to present and re-present the social world and the perspectives on that world, in terms of the concepts, behaviours, perceptions and accounts of the people studied. In turn data analysis attempts to summarise and order the data by identifying themes, concepts, propositions and theories (Singleton et al., 1993:346).

The analytical approach "Framework"¹³, developed by the Social and Community Planning Research (SCPR) Institute was used for data analysis because it had a clear and logical process. There were a number of stages to the "Framework" approach.

¹¹ Because of time constraints it was agreed to meet again to complete the interviews.

¹² Miles and Huberman (1984) suggest that there are few agreed-on canons for qualitative data analysis, in the sense of shared ground rules for drawing conclusions and verifying the sturdiness of the findings. Strauss (1987) notes in comparison to both the quantitative analysis of data and the actual collection of data by qualitative analysts, the methods for qualitatively analysing materials are rudimentary.

¹³ See Ritchie & Spencer (1994).

First, data was transcribed from tape to commence the familiarisation of the complexity and diversity of men's experiences and perceptions. Whilst listening to the tapes, transcribing and reading the transcripts the researcher gained an overview of the richness of the data and noted down some of the themes emerging from the data (e.g. differences in men's willingness between supporting their ex-partners and their children; the extent of men's own needs).

The second part of the analysis focused upon setting up a thematic or coding framework in order for data to be categorised. This was undertaken by referring to the topic guide, the research notes taken after interviews, the meanings assigned by respondents, and the emergent themes and research questions in mind. The data was then coded using Atlas.ti, a qualitative software package. Atlas.ti has tools to allow for the selection, coding, annotation and comparison of noteworthy segments. Coded data can also be quickly retrieved.

The coding organised the material in terms of events over time (e.g. how child support arrangements were put in place; how overall separation settlements were reached; how child support arrangements were managed over time, etc.) and men's perspectives of different issues (e.g. their evaluation of child support arrangements at separation; their post-separation reflections on child support arrangements; attitudes to Courts, DFSCA, solicitors, etc.; parenting; work; subsequent relationships; what improvements could be made; etc).

Having applied the thematic framework to individual transcripts, the researcher needed to consider the range of experiences for each issue. "Framework" calls this process charting. In this study a thematic approach was adopted so charts were drawn up for each key subject area, and entries made for every respondent. These subject areas were structured using two considerations: chronological events over times and men's perspectives on different subjects. The ordering and grouping of individual cases was linked to their separation pathway to enable comparisons to be made. Microsoft Excel sheets were used to chart the data. This was linked to the coding done using the Atlas.ti software package, which helped to speed up the charting process, and also ensured ready access to different men's data within each subject area.

Charting allowed for the mapping and interpretation of data to take place. This part of the process is difficult to describe. In terms of this study the researcher was reminded of Ritchie & Spencer (1994) suggestion that the process involved addressing the key

features of qualitative analysis¹⁴. In terms of this study this meant mapping the range and nature of men's relationship with child support provision over time, and understanding their concept of financial commitment (or not) towards their children. It will be shown in later chapters that evidence did emerge from the data that can be interpreted using social theories to explain men's child support actions and perspectives. Before turning to these issues the personal, family and relationship details of the respondents will be described.

2.2(e) Presenting Information

The names of respondents, their children and former partners have been changed. Men's own words are normally highlighted in italics. There is a two-part reference number at the end of quotations. The first part refers to the line number of a transcript; the second part refers to the number of the transcript.

The age of family members are those at the time of a respondent's interview. The length of time a man has been legally or physically separated refers to the period of time up to his interview. Employment statuses are those at the time of the legal separation, unless otherwise stated. When a couple has not legally separated, employment statuses are those at the time of a respondent's interview.

2.3 Personal, Family and Relationship Details of Respondents

This section provides an overview of some of the personal, family and relationship details of the respondents interviewed for this research. Altogether 42 non-resident fathers were interviewed. Forty of the men had been married and two men had cohabited for at least 5 years.

¹⁴ It involves making sense of the information by searching for structures and features. The key points to take into consideration are the conceptual definition under study, the form and nature of the phenomena (e.g. processes, systems, attitudes, behaviours, decisions, judgements, etc.), creating typologies of the different types of cases, finding associations between different factors (e.g. attitudes and behaviour, experiences and attitudes, circumstances and needs, etc.), providing explanations (explicit and implicit) e.g. reasons, causes, sources, etc.), and developing and identifying strategies and ideas, and theories and hypotheses.

2.3(a) Age Profile of Non-Resident Fathers

The age profile of non-resident fathers at the time of their interview was as follows:

Table 2.2 Age Profile of Non-Resident Fathers

Age of Men (Yrs)	Number of Men
30-39	9
40-49	28
50-59	4
60-69	1
Total Number of Non-Resident Fathers	42

2.3 (b) Employment Status

Men worked in a wide range of jobs. These included lorry driving, social work, building, civil service – executive and administrative grade, teaching, fire service, information technology, public transport, law, postal service, media, factory assembly work, maintenance, carpentry and catering.

Table 2.3 Employment Status at Legal Separation¹⁵ and at Interview

Employment Status	At Separation (Number of Men)	At time of Interview (Number of Men)
Employed	22	23
Self-employed	7	9
Unemployed/Back to work Scheme	11	7
Disabled	2	2
Retired	0	1
Total No. Of Non-Resident Fathers	42	42

2.3(c) Number of Dependent Non-Resident Children

At the time of their interview all fathers had at least one dependent¹⁶ child who was not living with them with two men having such children from more than one previous relationship¹⁷.

¹⁵ For men not formally separated, their employment status at the time of an interim child support arrangement (e.g. voluntary, interim order) is noted. If there was no interim arrangement, their employment status at the time of the relationship breakdown is noted.

¹⁶ Children are defined as dependant if they are under 18 years, or under 23 years and in full-time education, or if they are physically or mentally disabled to such an extent that they cannot maintain themselves.

¹⁷ One of these men had non-resident children from two relationships. The other man had children from three previous relationships. For the first man no child support arrangement was put in place subsequent to his first relationship break-up (i.e. marriage breakdown)- his ex-wife

Five men had dependent children living with them. For three men, these children were born during their relationship with their former partners. For two men, the children were born as a part of a subsequent union.

Table 2.4 Number of Dependent Non-Resident Children¹⁸

Number of Dependent Non-Resident Children	Number of Men
One Child	17
Two Children	14
Three Children	10
Six Children	1
Total Number of Non-Resident Fathers	42
Total Number of Dependent Non-Resident Children	81

2.3(d) Duration of Relationship With Former Partner

In terms of the length of time that a couple was together, periods of cohabitation were added to the duration of the marriage. The median length of a relationship was 13 years. The longest relationship was 25 years. The shortest marriage was one 1 year.

Table 2.5 Duration of Relationship With Former Partner

Length of Time of Relationship (Yrs)	Number of Men
0-5	4
6-10	12
11-15	15
16-20	7
21-25	4
Total Number of Non-Resident Fathers	42

refused payment. No child support arrangement was put in place subsequent to his second relationship (i.e. cohabitation) break-up because he was unemployed.

For the other man, a child support arrangement was put in place subsequent to his marriage breaking down. After his second relationship (i.e. cohabitation) broke down an informal child support arrangement was put in place. Subsequent to his third relationship (i.e. cohabitation) break-up, no child support arrangement was put in place because he was unemployed.

For the purposes of clarity and explication the aggregate statistics in this study relate to these men's first relationship (i.e. marriage) breakdown, unless otherwise stated.

¹⁸ At the time of the respondent's interview.

2.3 (e) Length of time since Relationship Breakdown and Legal Separation

When respondents were interviewed, divorce legislation was relatively new in Ireland so none of them had obtained Irish divorces¹⁹. Thirty-three men were formally legally separated. The median length of time²⁰ since men were legally separated was 3 years. The longest period was 19 years.

Table 2.6 Length of time since Relationship Breakdown and Legal Separation

Length of Time since Relationship Breakdown (Yrs)	Number of Men	Length of Time since Legal Separation (Yrs)	Number of Men
2-4	17	0-2	10
5-8	18	3-5	11
9-12	4	6-8	8
13-15	0	9-15	3
16+	3	16+	1
Total Number of Non-Resident Fathers	42		33

However, when a legal separation is put in place it may not represent the time since when a couple in their own minds separated. For a number of men they believed themselves to be separated but for different reasons a legal separation had not been reached. For other men despite being legally separated they noted that they had been living apart –physically separated- from their ex-partner for a longer period of time. For the forty-two respondents the median length of time²¹ since they felt their relationship had broken down was 5 years. The lengthiest split was 25 years. The briefest time period was 2 years.

2.4 Conclusion

This chapter outlined why a qualitative approach was adopted for this study as well as the research design that was used. It also provided an overview of some of the personal, family and relationship details of the respondents. The next chapter examines how child support arrangements were put in place from the perspective of non-resident fathers.

¹⁹ Two of the respondents had obtained UK divorces subsequent to them establishing formalised separation agreements in Ireland.

²⁰ The period between legal separation and a man's interview.

²¹ The period between irretrievable relationship breakdown and a man's interview.

Chapter 3 –How Child Support Arrangements are Put in Place from the Perspective of Non-Resident Fathers

Until they come of age (and on occasion long afterwards) some form of financial provision is required to meet the living needs of children. The breakdown of a marital or cohabiting relationship results in a re-configuration of household resources. If there are children involved an additional aspect of this realignment is to consider ways of supporting them.

The purpose of this chapter is to consider how child support settlements are put in place from the perspective of non-resident fathers, focusing in particular on those arrangements put in place as part of a legal separation.

The first part of the chapter examines the decision-making context in which child support arrangements are put in place. In order to make sense of men's perspectives it was decided to examine their experiences in relation to the different "pathways" used by couples to legally separate.

The next part of the chapter examines the factors affecting how child support arrangements are put in place. Thereafter, men's evaluations of child support arrangements are considered. The chapter concludes by putting forward an elementary model which contextualises men's perspectives on how child support arrangements are realised.

3.1 Child Support Decision-Making Context

For each couple the aftermath of a relationship breakdown is a unique experience, but for every couple a re-configuration of resources – financial and/or emotional - occurs. For this to happen some form of decision-making takes place.

In this study men were invited to explain how their child support arrangements (if any) were put in place. Their stories involved explaining the circumstances that led to their relationship breakdowns, the factors affecting how child support arrangements were put into place and their evaluation of those arrangements. As it will be demonstrated, it became evident in the interviews that child support decisions were not made in isolation from the resolution of other issues – financial and non-financial.

The process by which child support decisions are made can be structured into three stages. First, when couples break up interim support arrangements may be put in place

to support the child. Second, these interim support arrangements may/may not stay in position until support arrangements are put in place as part of a legal separation. Third, these separation arrangements may then be subject to change during the course of the post-separation period. With this in mind a decision was taken to adopt a sequential approach to better understand men’s accounts on how child support provision was determined and managed by them over time.

However, while interim child support arrangements may be put in place after a couple splits up, these arrangements are usually reviewed during separation proceedings. Therefore, in order to make sense of men’s perspectives on how child support arrangements were determined it was decided to consider their experiences in relation to the separation “pathways” available to them.

A “pathway” is used here as a term to describe the means by which a couple arrived at a legal separation settlement. This approach provided a framework in which to understand how child support settlements are reached and allowed for different accounts to be compared. Four separation pathways were identified for the forty-two respondents who participated in this research. Some fathers started along one pathway and transferred to another. The pathways -highlighted in Table 3.1 -are those along which separation arrangements were reached. The table also includes those men where a legal separation was not concluded.

Table 3.1 Pathways to Legal Separation

Pathways used by Respondents to reach Legal Separation	Number of Men
Mediation	11
Lawyer Aided	15
Judicial Separation	7
Not Yet Resolved	9
Total Number of Non-Resident Fathers	42

3.2 Pathways to Legal Separation Arrangements

Men arrived at child support arrangements along different separation pathways. This section provides an overview of men’s use of these pathways.

3.2(a) Mediation

Eleven of the forty-two respondents arrived at separation agreements by mediation. This was provided by either the State-funded Family Mediation Service (seven men) or

by a private, self-employed mediator (four men). Mediation took up to six sessions, usually over a three-month period. When a couple agreed a mediated agreement this was transferred into a legal document – a deed of separation – by a solicitor.

Reasons for using the mediation pathway included a relative lack of antipathy between separating partners – either personal and/or over issues to be resolved - compared in particular to those who used the judicial separation pathway and to a lesser extent those who used the lawyer aided pathway; conducive separating environment (e.g. both partners working or receiving state support before the relationship breakdown); the avoidance of court costs; a concern to avoid unnecessary antagonism which may have arisen if other pathways were used and the belief that mediation offered better outcomes for families and individual members.

Four men had interim child support arrangements in place before separation agreements were finalised. These arrangements were either negotiated informally with their partners or through mediation.

Ten of the eleven respondents negotiated mediated separation agreements where child support provision arrangements were incorporated. In one case a respondent developed a chronic mental illness during the period of his mediation sessions. This resulted in no child support arrangement being put in place as part of his separation settlement.

Seven respondents negotiated a mediated separation agreement before, at the time of, or shortly (i.e. up to six months) after the physical separation¹ from their partners. For two other respondents there was less than a two-year time difference (but more than six months) between physically separating and reaching a legal separation agreement. For two others it took respectively four and five years to finalise a separation agreement after their physical separation.

3.2(b) Lawyer Aided

Fifteen respondents finalised a separation agreement with the assistance of lawyers. Reasons for using this pathway included respondents feeling that they would obtain a superior separation settlement outside of court; the avoidance of court costs; solicitors advising respondents that good settlement terms were on offer compared to other men in similar circumstances; conducive separating environment; informal agreements

¹ Physical separation refers to the situation when a couple no longer lives together.

needing to be legalised; and couples transferring from other pathways (e.g. mediation broke down).

Seven men had interim child support arrangements in place before separation. Nine men agreed to child support arrangements as part of their separation settlements.

Five men settled outside the courtroom with the aid of lawyers (i.e. solicitors and/or barristers) on the day of their judicial separation hearing. The disincentive of further legal costs and in particular the risk of receiving an inferior court settlement were factors leading men to settle out of court.

Four of these five respondents who settled outside court negotiated child support provision as part of their separation settlement. In the case of the fifth respondent provision was not agreed because he was unemployed.

The time period involved in reaching a lawyer aided separation agreement varied. Seven of the fifteen respondents negotiated separation agreements before, at the time of, or shortly (i.e. up to six months) after the physical separation from their wives. In these cases child support provision only formed part of three separation settlements.

For eight other men it took between two to six years for a separation agreement to be put in place after the physical separation from their partners. Seven men had interim child support arrangements in place. In the eighth case the man was unemployed. These interim arrangements were arrived at through direct resolution with their partners, solicitor aided negotiation or through court² adjudication. For six of these men child support also formed part of their separation settlements. For the seventh man who had an interim child support arrangement, by the time he was legally separated he had become unemployed and stopped paying support.

Child support arrangements were not put in place as part of a separation agreement for two reasons. First, five men³ were unemployed at the time of their separation and were not in a financial position to pay. Second, the partner of one respondent refused support since she wanted her "independence" and his "contribution would only have been a pittance because of her wider income".

² For three men interim arrangements were put in place through informal negotiation with their partners and later through the court.

³ However, for one man who did not have a child support arrangement in place at separation, he subsequently paid child support when he recommenced employment. The DSCFA became aware that he was working and requested his wife to obtain a maintenance summons to offset OFP.

3.2(c) Judicial Separation

The judicial separation pathway is different to other pathways in that the court adjudicates over the re-distribution of household resources.

There were a number of reasons why separating couples failed to reach agreement outside of court. These included: mediation or lawyer aided negotiation attempts failing because no agreement was possible between the separating parties on certain issues, especially over housing or relationships (e.g. access arrangements); one or both partners seeing no value in using other separation pathways; and one or both parties refusing to negotiate.

Seven respondents used this pathway to reach a separation settlement. The Court put child support arrangements in place in four cases. Interestingly, a support arrangement in lieu of child support was put in place for an unemployed man when the Court decided that part of the housing equity could be used to offset his child support commitments for four years. In this and two other cases no child maintenance order was made because the respondents were unemployed at the time of their Court hearings.

In only one case was the respondent not physically living apart from his partner by the time of the judicial separation order. Six men had interim maintenance orders in place⁴.

In contrast to respondents who used other separation pathways, there was generally a longer time period between the point when couples physically separated and the point when a judge issued a judicial separation order (i.e. legally separated). This ranged from a minimum of one year up to about six years. Perhaps not surprisingly these separations proved to be complicated and difficult affairs.

3.2(d) Not Yet Resolved

Nine of the respondents had not arrived at a legal separation agreement by the time of their interview for this research. Five of them had been physically separated for at least four years. Two respondents had been separated for three years and another two had been separated for two years.

⁴ Two men issued with an interim order were unemployed by the time a judicial separation order was made. In their cases no child support arrangement was put in place at separation.

These men can be placed into three distinct categories. First, those who cannot technically legally separate. Second, those who have not (as yet) decided to legally separate. Third, those who were at different stages of reaching a legal separation.

Eight of the nine respondents paid some form of child support provision subsequent to their physical separation. Of these, six were paying support at the time of their interview. One respondent never paid child support because he had been continuously unemployed since his relationship broke down.

Of the eight respondents who had paid child support, two created informal⁵ arrangements with their partners. Six of the other respondents had interim court maintenance orders in place. Of these six, two originally had informal arrangements in place but their wives applied for state financial support, which resulted in maintenance orders being sought. Another two men were not paying maintenance at the time of their interviews because they had become unemployed subsequent to the interim child maintenance orders being made.

There were different reasons why the nine respondents had not reached a legal separation agreement. These included: a legal separation was not technically possible in the case of two co-habiting interviewees; respondents and/or their partners had developed some form of post break-up living arrangement equilibrium, without needing or having decided (at the time of their interview) to legally separate; on-going judicial proceedings.

However, four respondents were at different stages of reaching a legal separation agreement; this ranged from the partner of one respondent instigating legal proceeding just prior to his interview for this research to another couple that had been physically separated for five years and had been to court on 52 occasions but still had not finalised a settlement. The average number of years that men had been physically separated but had not been legally separated (excluding the two never married cases) was 3.5 years.

3.2(e) Summary

Twenty-five men arrived at an interim child support arrangement before – if at all- they were legally separated. Of the thirty-three men where a legal separation was finalised, twenty-three of them had a formalised child support arrangement (see Table 3.2) put in place as part of the separation settlement.

⁵ Support paid to partner, which did not involve legal or third party involvement.

Table 3.2 Overview of Interim Child Support Arrangements and Child Support Arrangements Put in Place At Legal Separation

Pathways used by Respondents to reach Legal Separation	Number of Men	Number of Men With Interim Child Support Arrangements	Number of Men with Child Support Arrangements as part of Separation Settlement
Mediation	11	4	10
Lawyer Aided	15	7	9
Judicial Separation	7	6	4
Not Yet Resolved	9	8 ⁶	N/A
No. of Respondents	42	25	23

Although men use different pathways to reach child support arrangements, their accounts indicated that there are particular factors which led – or did not – to child support arrangements being put in place.

3.3 Factors Affecting How Child Support Arrangements Were Put in Place

This section addresses the factors from men's perspectives, which had an influence on how child support arrangements were put into place. The intention is to draw from individual men's accounts to highlight the effect of different factors on arrangements. However, what will be obvious from these accounts is how rare it was for child support arrangements to be influenced by just one factor. It appears that child support resolution is a complicated process involving the interaction of a number of different elements. An explanatory model to explicate how these elements can come together is provided later on in the chapter.

3.3(a) Willingness to Separate

The degree to which men want to separate can affect child support resolution. If a non-resident father instigates a relationship break-up, separation negotiations may be less tinted by bitterness and hostility on his part and he may be more motivated to reach an amicable child support arrangement. There was evidence to support Bradshaw et al.'s suggestion (1999:219) that there can be a "usefulness" attached to paying maintenance. As they pointed out and as it will be demonstrated, maintenance can be paid by men to compensate for relationship breakdowns and for not being in their children's lives, and in recognition of their ex-partner's and children's entitlement. Conversely, a reluctance to separate may lead to delays and confrontations in separation and child support negotiations.

⁶ Eight men had paid some form of child support provision subsequent to their relationship breakdown. Of these, six were paying support at the time of their interviews for this research.

A willingness to separate acknowledges a wish to move on from the relationship; in the case of Sean it influenced how child support was determined.

Example 1 – “Sean” – The Effect of a Non-Resident Father’s Willingness to Separate on Child Support Arrangements

Sean (40)⁷ had been married for 15 years (plus 3 years cohabitation). He had been legally separated for two years⁸ and he moved out of the family home just after the second of three mediation sessions. The successful mediation process lasted three months. At the time of the separation Sean was a fireman⁹ and his wife worked part-time. They had two daughters aged 13 and 11 who continued to live with their mother.

Sean's desire to leave his wife was the key factor in determining the overall settlement reached. He wanted to get out of the family home “because they were making each other unhappy”. The separating couple talked and decided to go to mediation because it cut down on costs and reduced the risk of unnecessary conflict arising if another separation pathway had been chosen.

Sean's view of his responsibilities were:

“I knew I would have to pay the mortgage and I would have to pay maintenance but I threw in all the rest, paying some of the bills, paying a couple of other things during the school year like school fees and that, which more or less was over and above what I could have got away with” 72/9¹⁰

As Finch & Mason (1990) indicate, people use moral guidelines such as fairness and justice in negotiations. Sean felt it was fair and just to offer his wife and children adequate maintenance due to decision to leave the marriage.

Part of the reason he took this position was also to reduce any potential of conflict between his wife and himself:

“...[It would have been] least painful for me, I just wanted to, least painful for me, I didn't want arguments, I didn't want, I just wanted to do a runner” 111/9

⁷ The age of family members are those at the time of a respondent's interview.

⁸ The length of time a man is legally or physically separated refers to the period of time to his interview.

⁹ Employment statuses are those at the time of the legal separation, unless otherwise stated. When a couple has not formally separated, employment statuses are those at the time of a respondent's interview.

¹⁰ The first number at the end of a quotation refers to the line number of a transcript; the second refers to the number of the transcript.

This view was also accompanied by the belief that if they went to court that he would have been ordered to leave the family home and also the fact that he really wanted to leave:

"I was being selfish, I wouldn't have had the freedom if I had stayed in the house with the kids and my wife had left" 1221/9

In other words, as Bradshaw et al. (1999:194) suggest, some men consider that it is their duty to pay maintenance "born out of feelings of guilt, as feeling guilty implies a desire to take responsibility for one's actions". In Sean's case this amounted to compensating his wife and children as a result of him taking a unilateral decision to do "a runner" from his family. It was also provided in recognition of his children and his ex-partner's entitlement to support, and as a substitute for not being in his children's lives. In other words, there is a "usefulness" (see Bradshaw et al. (1999:219)) to maintenance because it fulfils a number of functions.

The mediation process highlights the difficulty reconciling post-marriage income and expenditure levels. Sean felt his wife had unrealistic expectations:

"Her total [future expenditure] totalled up more than I earned totally in the year" 133/9

This issue was solved when the mediator informed Sean's wife that he had made a generous offer, based on his own calculations:

"at the time I did it all, I worked it all out myself. I hadn't talked to anybody until a couple of weeks after I separated. I just wanted to get out ... the easy way I suppose. So I just said when I was adding it off all of the figures, well I could pay that and yeah, I could pay this" 95/9

His calculations were also informed by his ability to be able to move in with his father:

"I would be left with so much and if I moved in with Dad then I would be able to afford food, petrol and to run a car" 134/9

So a settlement was agreed where he would pay spousal maintenance of £180mth (per month); child maintenance of £40mth(i.e. £20 per child); their mortgage £300mth and £900 per annum in utility bills. His position on the adult: child maintenance ratio was influenced by the fact that adult but not child maintenance provision was tax deductible in Ireland. His outgoings represented 47% of his take home pay, of which child support represented 5%.

Sean considered child support to be part of an overall financial package to support his family:

Interviewer:

Is there a difference between paying child maintenance and the rest of your expenditure on your wife and children?

Sean:

No, no. I never thought of it as different because it doesn't go eh – all the money goes to my wife...to take care of the house and the kids 856/9

In conclusion, Sean's desire to separate amicably and quickly resulted in him offering a generous settlement, of which child support was just one element. Although his willingness to leave the relationship was a key factor influencing his negotiating position, a number of other factors influenced how Sean proceeded.

First, he weighed up how much he could afford to spend on the lone parent family while at the same time allowing himself sufficient resources to survive. Second, child support held a similar function to his other expenditure on the lone parent family. As Sean felt responsible for wanting to move on, child support represented a payment to support the *entity* of the lone parent family unit. Conversely, the financial cost of meeting the children's needs was less of a consideration. Third, the child support payment level was influenced by the structure of the tax system.

Sean was initially happy with the child support arrangement and the overall settlement put in place. However, in hindsight he regretted his rashness because he did not envisage his post-marriage capabilities would include a new relationship:

"Well at the time that I made the agreement my needs weren't taken into account by me so that was all self-inflicted, any shortage I had" 1246/9

The impact of post-separation factors on child support arrangements will be examined in the next chapter.

3.3(b) Resources Available

Probably the most obvious factor affecting the resolution of child support arrangements relates to men's employment status. In this study when men were not working at separation, on-going child support arrangements were not put in place as part of the separation settlement. As Bradshaw et al. (1999:144) also found, the main reason given by men who were not paying child support was that they were unemployed or could not afford to pay.

However, the nature of a man's employment status was seldom the only income-related factor from his perspective influencing how child support arrangements were determined. For example, if his partner had access to an independent source of income (e.g. work, her family) this could affect his view on how child support

arrangements should be resolved. In this study it appeared easier for separating couples to reach agreement on child support arrangements and the overall separation settlement if both of them were working¹¹.

Conversely, when a man's partner was not working this can put pressure on the separating couple to negotiate a mutually satisfactory separation settlement. This can occur if the costs to achieve both parties' post-separation aspirations exceed the level of resources available to them. If a man's partner is not working it can ultimately have an effect on how child support is determined, his view of the arrangements put in place and his view of how his child support responsibilities are being executed, as in the case of Joe.

Example 2 – “Joe” – The Level of Resources Available at Separation

Joe (49) had been married for 10 years. He had been physically separated from his wife for 4 years and had been legally separated – solicitor aided pathway -for 1 year. Joe worked as a postman and his wife was a homemaker at the time of their formal separation. They had three children: two girls aged 10 & 9; a boy aged 5. The children resided with their mother.

A breakdown in mediation as a result of a failure to negotiate a housing settlement was a significant contributory factor leading to court maintenance and barring summons being issued against Joe. He believed that his wife provoked him, by using “a planned action on her part” to obtain these summons. However, through the active intervention of their solicitors, his wife and himself come to an interim financial arrangement outside the courtroom. Joe was influenced by his solicitor's advice and his fear of an inferior judicial settlement to reach an out of court settlement:

“Well we worked these things out among ourselves before we went into the judge. And the advice from my solicitor was we should sort this out before we go in. In hindsight I think I should have went in and took my chances. It was what the solicitors agreed between them” 102/29

In terms of the level of child provision agreed, the influential role of his solicitor was again noted:

“It's a disgusting place to be in [outside courtroom]. You're in one room, they're in another room, and it's just the pits, to be honest with you. So they're – my solicitor, they're going into one another's rooms and they're coming back and she'd shout to me, “blah, blah, blah, I think that you should accept it” or “you shouldn't accept it”. That's how its done” 115/29

¹¹ Examined in greater detail in chapter five.

Subsequent to the negotiation between the couple's solicitors and on the recommendation of his own solicitor he agreed to pay £80 per week undifferentiated maintenance to his wife and his children and also he had to pay £150 monthly mortgage and life assurance. The maintenance, mortgage and life assurance accounted for approximately 50% of his take-home pay. Access arrangements were for two day visits per week.

Joe was not happy with the interim settlement reached:

"[it was] absolutely disgusting. I was really put down into the ground" 73/29.

This seems to support Bradshaw et al. (1999:168) suggestion, that interim awards can be set an "artificially high level" where information is incomplete¹². In Joe's case it appears that his own living expenses were not sufficiently considered.

However, it was also agreed during these interim negotiations that his maintenance contribution would reduce once his wife received OFP. This happened approximately two months after the interim settlement was put in place. With his wife receiving OFP, Joe paid £20 per week child maintenance, the mortgage and life assurance. These outgoings represented approximately 25% of his take-home pay (child support represented approximately 9% of his net earnings).

Shortly after his wife was receiving OFP the DSCFA requested the transfer of the £20 per week maintenance. Joe was happier paying the DSCFA than his wife:

Interviewer:

What's the difference between paying £20 per week to your wife or that state?

Joe:

Well in the end there's no difference but your mind is freer that you're giving it to the government rather than giving it to her. Because they're paying it to her. I don't like putting the money into her bank account, but I have no problem putting it into the government's bank account. [Originally] it was money into her account to do what she wanted with it. I didn't know what was happening to it. But now you're paying it in[to the state] and you know that the government's paying it back to her to feed the kids and feed herself and so to speak. So there's something being done with it. Oh, she can do what she likes with it but my conscience is more clearer 2326/29

¹² It is acknowledged that in Bradshaw et al.'s study, these were set in the UK by the CSA. Although not decided by a third party, such as outcome arose for Joe because he was operating in the shadow of the law, a law where there was a lack of detailed guidelines around maintenance decision-making. As a result he reluctantly accepted a decision because he feared a worse outcome in Court.

After about a six-month period prior to going back to court to finalise a judicial separation, the couple agreed that they would again try to negotiate a separation agreement. These negotiations lasted for about two years with the main area of contention being the house. What made the separation agreement difficult to negotiate was that he wanted to buy his own place where his children could stay but his wife was not working so there wasn't enough money to support two households. In some ways this is a pivotal point in determining his attitude towards child maintenance. If he had been successful in being able to negotiate a housing settlement to his liking, he could have bought a house with the result that his children could have stayed with him some of the time and his child maintenance payments would have been reduced. However, he noted:

"I wanted the house sold and there was nothing could be done about it because the kids were there, well the judge will have to find in favour of the kids, has to keep the roof over their head. That's fair enough, I agree with that. But I think the house should have been sold 50/50, then we'd have two houses... I wanted money off her, I wanted what I thought would have been my fair share of the house, to be put into the separation agreement and all the solicitor would say to me was, "well where would she get that kind of money? She'd have to go and get a loan at the bank and they wouldn't give it to her[she wasn't working]" 465/29

Joe frustratingly agreed to a separation agreement fearing that he would receive an inferior court settlement. He agreed to continue to pay the mortgage and £20 per week child maintenance. It was also agreed that the house would be sold when the youngest child was 21 years old and the proceeds would be split between the couple. The agreement also allowed for flexible access and stated that he should be consulted by his wife on parenting decisions.

Joe also felt that by paying the mortgage it was in some ways akin to paying maintenance for his children. It also allowed him control over his expenditure for his children's benefit:

Interviewer:

How do you support your children?

Joe:

Well, that's how I do it with the mortgage. That's the maintenance payment for them, that's how it's done

Interviewer:

Some people would say that's not going to them, that's going to the building society?

Joe:

Yeah, but as I said, if I don't pay it that way, I still have to pay the money. The social welfare will take it off me anyway, so at least I have control over my own money
1064/29

In conclusion, there was a complicated set of circumstances to navigate in order to reach a child support settlement. An inability by the separating couple to resolve the issue of housing triggered a court maintenance summons and stalled the speed of the separation negotiations. Joe felt compelled to reach agreement because he feared an inferior court settlement.

Joe considered his child support provision not only in terms of those formal child support arrangements in place. He justified the level of child support negotiated because he also saw mortgage payments as a form of child maintenance. He argued that if he was not undertaking mortgage repayments the DSCFA would have wanted more than £20 per week contribution from him. At the same time he preferred paying the determination order to the DSCFA rather than child maintenance to his wife because he felt that the Department would make better use of the money; in other words, he felt he had more "control" over how the money was spent. Finally, his dissatisfaction with the separation settlement was reinforced by his lifestyle comparison with his wife's situation:

*"Well, it's the pits. Because I think I'm paying enough. She's getting all the allowances from the state. I can't get a penny off for anything. As I said, I feed my kids out of my own pocket when I have them, and I think I should get something for that. I can't get a house. I'm looking for a house, I can't get a house because I have property they say, so it's totally unfair"*322/29

3.3(c) Interim Child Support Arrangements

Respondents noted that interim child support arrangements were determined by the court, informally between the separating partners or to a lesser extent through the assistance of solicitors or mediators. Whilst interim arrangements could resemble arrangements put in place at legal separation it did not necessarily follow that they did so. One reason for this is that at separation child support gets resolved alongside the resolution of other issues. There are two other points worth noting.

First, it was noted that all things being equal, the longer the period between the time a couple physically separated and legally separated, the more likely it was that the child support arrangement put in place at separation would be greater than the interim arrangement level.

Second, interim and final child support arrangements differed in one significant regard, namely that the former could be put in place where there was the possibility that the couple could be reconciled. In such circumstances it was more likely that the non-resident father would continue to provide the level of support that his family normally received, placing lower emphasis on his own needs. In addition, there was also evidence to support Bradshaw et al. (1999:168) suggestion, that interim awards can be set an “artificially high level” where information is incomplete. However, if the couple were not reconciled, the non-resident father could later look for a change in the level of provision paid. This could cause problems during the separation settlement negotiations. This was especially evident when a man was the primary breadwinner, as in the case of Barry.

Example 3 –“Barry”- Interim Child Support Arrangements

Barry (47) had been married for 20 years (+3 years cohabitation). He had been physically separated from his wife for 6 years and had been legally separated (i.e. mediation pathway) for 2 years. Barry and his wife had five children: three sons aged 22, 18, and 15; two girls aged 21 & 16. At the time of their formal separation John worked as a handyman for the local authority and his wife worked part-time.

Barry said that the physical separation was triggered because his wife had provoked him and in response he had physically hit her. He said that he was not rational at the time; he was on anti-depressant pills and had low self-esteem.

In hindsight he didn't know “what possessed” him to pay £100 per week maintenance for his children and wife, but it may partly be explained by the fact that when they initially split, they did so on a trial basis. It may have also been decided without the consideration of alternative future scenarios. As Bradshaw et al. (1999:168) suggest, interim awards can be set an “artificially high level” where information is incomplete. Subsequently, his wife suggested mediation in order to reach a final settlement or else she threatened to seek a barring and maintenance order. However, in the meantime he realised that he couldn't continue to afford the £100 per week maintenance – it was approximately two-thirds of his weekly income – and he suggested £60 per week at the mediation. He was spending more every week than he was earning. This attitude was reinforced by his belief that his wife could cut down on her drinking and clothes expenditure whereas he “was going around with his arse hanging out of his trousers”. He wanted the maintenance reduced and he told the mediator:

“ I'm [going to] giving her £60wk and if she doesn't like that, take me off and lock me up so I'll still have a roof over my head” 279/22

His wife was unhappy with this amount and he decided to leave the session. The mediator said it was a fair offer in light of the overall settlement because she was also receiving state support (e.g. OFP, the children's allowance (e.g. universal child benefit) and she could continue to live in family home¹³ until the children were at least 18 years old. His wife accepted the mediator's recommendation, which resulted in 38% of his net earnings being paid in child support.

In conclusion, it would appear that Barry's aims changed after his relationship breakdown. Initially he thought that his wife and himself would get back together. Subsequently, he realised that this was not possible. This realisation affected how much maintenance he was willing to pay because he needed sufficient resources to live.

However, the availability of resources was limited as his wife was not working full-time and he didn't have a well-paid job. He realised that what he was originally paying was too much if he was to have any sort of quality of life in a post-marriage situation and at mediation it appears that he developed a dual concern negotiating perspective; he realised that he had needs, that he had a right to a quality of life however much this was counterbalanced by his responsibility to support his children:

"I was just existing, so what I'm saying is that we're all entitled to some kind of life, quality of life, we're all entitled to that. The quality is determined by the children's, at the end of the day" 1160/22

3.3(d) Housing

Men have different post-separation housing requirements. While the level of resources available at separation is a factor determining whether they acquire satisfactory post-separation accommodation, men also vary in terms of the extent to which they are willing to ensure that their housing needs are met. There was evidence to suggest that men can use the guideline of financial equity across post-separation households (see Bradshaw et al., 1999:197) to inform their thinking about their financial responsibilities to his children. Equity can be measured and informed by quality of housing comparisons.

As a result, if a separating couple find it difficult to resolve the issue of the family home at separation, this can affect how child support arrangements are put in place. This can

¹³ The mortgage on the family home was already paid off.

either be in terms of the level of support paid or in terms of the time it takes to reach resolution, as will be shown in the case of Mike.

Example 4 – “Mike” – The Impact Of Men’s Housing Needs On Child Support

Arrangements

Mike (43) was married for nine years (plus three years cohabitation). He had been physically separated from his wife for seven years and had been legally separated – mediation pathway – for two years. Mediation took place over a two-year period. The first set of mediation sessions failed because Mike and his wife could not come to a housing agreement. The second time they went to mediation (i.e. 5 sessions) proved to be more successful. Mike worked full-time in education and also did some agency work. His wife worked full-time. They had three children: two sons aged 17 and 13; one daughter aged 13. The children reside with their mother.

The first point to note from Mike’s account is the complexity of the post-breakdown environment until the time a deed of separation was signed. After Mike’s wife announced that she was in another relationship, they both rotated the weekly primary caregiver role within the family home for a three-year period. During this time period no formal child support arrangements were put in place; both partners were working in similar paid jobs and they met the needs of the children during the time they were the primary caretaker:

“We just continued on as we were, the way we were going because it wasn’t costing us anything, the way we were doing it” 976/26

Thereafter, Mike’s wife (with his agreement) moved into her new partner’s home with the children and the respondent agreed through mediation to pay £40 per week child support. It appears that this decision was primarily taken bearing in mind the overall income of the two households (i.e. his income, his wife and her new partner’s income) and secondarily, the cost of maintaining the children given that access arrangements were flexible. However, an overall separation settlement was not concluded because they could not resolve the issue of the family home. Both of them wanted to retain ownership of the family home. In his view his “wife just kept getting uptight about everything, she seemed to want everything her own way and when it didn’t fall into place she pulled the plug on it”.

Subsequently, his wife instigated judicial separation legal proceedings that collapsed outside the courtroom. Mike felt she was using access as a bargaining chip. Therefore, in addition to men willing to reciprocate financial provision for access (see Bradshaw et

al., 1999:210), women also can negotiate with a view to expecting financial support in return for access. He believed that his wife thought that he “would fold in on everything, everything that she wanted”. He was not happy with the limited access and housing arrangements on offer and began to feel that he would achieve a better settlement in court. However, he believed that his wife eventually decided not to seek a court judgement because of her fear that she would lose out financially, her risk of mounting court costs, her knowledge that Mike was willing to represent himself in court and the fact that her new partner’s lucrative financial income would also be considered by the judge.

Mike suggested that the intervention of lawyers outside the Court threatened to deteriorate the relationship between the separating couple:

“So we went into the Forecourts [i.e. Circuit Family Court] one day and I had a solicitor and a barrister and she had a solicitor and a barrister, and it was like a cattle market with wig and gowns and it was only in the foyer, it was an informal chat, and the barrister was coming over to me and saying that you can see your kids on a Saturday between one and four, and I nearly took the head off her, how dare you tell me when I can see my kids, you don’t know the first thing about them and as for the solicitor, you were only engaged because my mother died, she left her will in your practice, you don’t know the first thing about me, don’t ever come back near me again” 928/26

After the collapse of legal proceedings Mike continued to pay child support, maintained flexible access with his children and resided in the family home for another year until he approached his wife:

“to try and sort out how we were going to go, how we’d split up everything, how we’d work out access and maintenance and the whole lot” 11/26

He suggested that there was only two ways to resolve their differences, through mediation or through the courts, and “I was prepared to go[to court] anyway just to sort it out, I didn’t leave the relationship...I didn’t want to be in limbo for the rest of my life”.

Eventually she agreed to attend mediation and the new sessions reopened the issue of child support but this could not be resolved until decisions around housing were finalised. The initial aim of both separating partners was to hold onto the family home. Mike felt that if the family home was sold then he would not have been able to afford to buy another house after all the bills were paid (e.g. there were mortgage arrears). He felt that he needed to hold onto the family home in order to sustain a meaningful relationship with his children (e.g. they would be able to visit and stay at the house):

"We could have sold it, but then I'd nowhere to go and the kids had nowhere to stay"

472/26

Seeing his wife and children comfortably residing in her new partner's home reinforced this position.

In addition to the need to resolve the issue of housing, there were a number of other factors affecting how child support arrangements were put in place as part of the separation settlement. First, Mike's position was that the income of both households should be taken into account in setting the level of "affordable" child support. Mike's view of his wife's income exceeded her earnings from work; instead it was based on the aggregate earnings of her new household, which included her new partner's income. Mike justified his position by noting it was unfair to increase the inequity in living standards between the two households:

"I didn't mind going to court...I don't think that she was prepared to go – say if she was on her uppers and living in a council house and saying I can't afford this, that and the other, she could have probably got more, but living in the house that she's living in with a guy that's earning so much, I don't think any judge in the world, I think that he might have said reduce it [what was agreed in the settlement]" 1453/26

Second, what was considered "affordable" was linked to the outgoings of the separated parties. For Mike this included his subsequent mortgage, his living expenses and his own direct parenting costs.

Third, what Mike had already been paying was a benchmark for negotiations:

"Well, we agreed on it, I was paying £40 and she wanted £60 or something. No, she wanted more, I think, so that figure[£50], I said if that's the figure that's reasonable enough" 1433/26

Thus nearly two years after the original mediation sessions commenced an overall settlement was reached, which shortly afterwards formed the basis of a legal separation agreement. As part of the separation settlement Mike agreed to pay £50 per week child maintenance for his three children; to pay 50% of the on-going and ad hoc child related expenditure (e.g. school uniforms, books, clothes, medical and dentistry fees); and that he would buy his wife out of the house for £5k. Access arrangements were flexible. Child support accounted for 25% of his net income. His outgoings¹⁴ on the lone parent family unit accounted for approximately 28% of his net income.

¹⁴ One-off payments for housing equity have not been included in these calculations.

In reaching an agreement he believed that his wife realised that she could not get everything she wanted. After five years informally separated he believed that she wanted to reach a settlement and it appears that a trade-off between the couple was reached:

"She wasn't happy about that [the settlement], but she wanted to get everything cleared and sorted, and all that, so I agreed to legal separation and she agreed for me to buy her out and the day we legally separated I paid her" 477/26

Mike had a positive outlook on the child support arrangement as it formed part of an overall separation settlement that allowed him to retain ownership of the family home.

In conclusion, while Mike acknowledged a financial responsibility for his children, at the same time his story in some ways corroborates Finch's (1989:241) view about how a sense of obligation develops. She suggests that in kin relationships people operate on the basis of normative guidelines or principles more concerned with how to work out what to do than specifying what should be done in particular circumstances. She suggests that one of these guidelines is that there is "a sense that there is a "right time" in people's lives when they can ask for or give assistance, but at other times this would not be appropriate". In addition, Finch notes (1989:153) that men faced with conflicting claims can develop a set of rules that result in a fair outcome by prioritising claims.

For Mike and his ex-wife finding "the right time" and having different priorities proved to be obstacles. It could also be argued that the family obligations were worked out by the adults considering the normative guideline of "reciprocity" (see Finch, 1989:165) in their negotiations. Financial provision was exchanged for access Their inability to reach a housing settlement contributed to first, a delay in putting a child support arrangement in place as part of a separation settlement and second, the payment level reached. Mike felt it was important to retain ownership of the family home in order for him to meet his own fathering capabilities (e.g. having a base for his children to visit and stay). He was also motivated to offer his children a quality of life comparable to what their mother was able to offer them. The level of "affordable" child support to be paid as part of the separation settlement also took into account the incomes and potential outgoings of the separating parties (including his wife's subsequent partner); what had been paid previously and a need to compromise on a figure (i.e. midpoint between what Mike had been paying (i.e. £40) and what his wife wanted (i.e. £60).

Although Mike suggested that he had a financial role in meeting his children's needs, two issues influenced his position. First, he argued that his responsibility had to be

considered in the context of the level of resources available to the post-separation households. Second, while his children had to be supported in the lone parent family, this was counterbalanced by Mike's need for resources to support his children when they were in contact with him. For Mike his position on child support was justified by the extent he wished to be involved in his children's lives. These costs –including housing – were seen as a legitimate form of child support, which had direct benefits for his children (e.g. facilitating father-child contact).

This position may not be surprising. Bradshaw et al. (1999:197) suggest that men who are unwilling to pay child support can select others to "carry" the financial responsibilities of parenthood. They can do this when they perceive a mother's household income to be greater than their own as a result of her re-partnering. However, Mike did not expect his ex-wife and her new partner to *fully* pay for his children's upbringing. Instead, he judged that their healthy financial position - relative to his own - should allow him access to sufficient resources to buy a home in order to offer a similar level of care to his children. In this regard, Mike may be using the guideline of financial equity across post-separation households (see Bradshaw et al., 1999:197) to inform his thinking about his financial responsibilities to his children.

3.3(e) Undifferentiated Maintenance

For some respondents child support formed part of a larger maintenance settlement to support the lone parent family unit. As Bradshaw et al. (1999:219) also observed, there was evidence to suggest that maintenance can be paid in recognition of a child and mother's entitlement. They do not differentiate between child and spousal support, as in the case of Warren.

Example 5 – "Warren" – Undifferentiated Maintenance Provision

Warren (54) was married for 21 years. He was physically separated from his wife for 10 years. He has been legally separated – solicitor pathway – for 4 years. The legal separation process took place over a three-month period. Warren works for a local authority as a maintenance man. His wife receives OFP. They have three children: two boys aged 30 & 15; a daughter aged 25. The youngest child lives with his mother.

Warren left the family home because of the financial pressure he was put under by his wife who was always looking for more money; she was "a bad [financial] manager". He moved into the house of a female friend, and later they developed a relationship.

For the first three years after he left the family home they put in place an informal maintenance arrangement. He was earning £140 per week, he gave her £90 per week and he also paid the bills. In terms of how this level was decided he suggested:

"...that was the money I was handing up when I was married, that's the way it was like, it wasn't that I had come up with a figure out of the blue because I was separated"
157/6

For the next three years he did not have a regular job and he collected £90 per week social welfare benefits for his wife, his children and for himself, from which he gave her approximately £75 per week; her rent was also paid by the State. In addition to the £15 per week he received from the State, he managed to work occasionally as well as surviving on his second partner's OFP. In terms of his response to how it was decided to give his wife £75 per week he responded:

"It was my wife. I had to give it to her. I had to see her get by. I was drawing there on behalf of my wife and the three children . . . it was her money that I felt that I was drawing, why would I not do that" 752/6

What therefore can be deduced from both the time he was working and not working is that Warren was keen to maintain a financial responsibility for his family. As Bradshaw et al. (1999:219) suggest, maintenance can be paid in recognition of a child and mother's entitlement. This included Warren's recognition of his ex-wife's entitlement as the primary carer of his youngest child. It appears that Warren may have felt obliged to pay support as he was operating under a normative guideline of "considering who the person is; what their relationship is to" him (see Finch, 1989:178).

In meeting this responsibility he did not demarcate his income – whether from the State or work - between his wife and his children. This situation resembled a traditional breadwinner/homemaker parenting arrangement, but continuing after the marriage breakdown. In fact this respondent perceived there to be a post-marriage gendered division in labour roles: with him working outside the home, and his wife maintaining the family home: "I paid her her weekly wage".

However, this informal, post separation arrangement broke down through a combination of his wife wanting her own economic independence and owing to her not always receiving maintenance; Warren was honest enough to say that he did not always pay noting the excuse that at times he would drop up to the family home with the maintenance but his wife would not be there!). Consequently she successfully applied for OFP. The DSCFA in turn investigated his subsequent partner who was also

receiving OFP and as a result of them co-habiting she lost her entitlement to state support. The outcome was that he then had to support his second partner through social security benefits. Hence, six years after leaving the family home he sought advice from a solicitor and he instigated separation proceedings in order to achieve “a degree of finality” and “not to be hit again”.

There were few issues to negotiate over in terms of reaching a separation agreement. His access to the children was not an issue. As both spouses were receiving social security support there was no provision made for child support but he agreed to contribute to their clothing and schoolbooks, partly due to him wanting to be a factor in their lives because he didn't “want to be out of my childcare”:

“There was nothing about supporting each other or the children in it. I think that I had in it that I would look after their clothes or something but finance, no” 805/6

His wife and their children were renting local authority housing and he agreed to sign over the house to her because:

“I thought it was the fairest thing to do, I thought it was the right thing to do. I was the person fucking around so I don't see why she should have had to pay the penalty” 781/6

There were a number of issues affecting Warren's perspective on child support arrangements. As a result of him feeling responsible for leaving the family home he also felt financially responsible to maintain his family - not just his children – at a level previously experienced by them. He continued to feel financially responsible towards his family even after he became unemployed, although this was expressed via DSCFA payments.

However, his sense of responsibility changed once his wife successfully claimed OFP and his subsequent partner had to give up her OFP. Subsequent to these actions he felt financially responsible – still via DSCFA payments- to maintain his new partner's and not his wife's household. Thus his child support perspective was also informed by the overall availability of state resources and the changing nature of the state's involvement in his life:

“the woman with whom I'm living, they took the book off her so I compensated her for the book. My wife claims off the social welfare I can't answer you any other way than what it is. If they come along and give her back her book, I'll give my wife that £90.” 445/6

Or as Beck & Beck-Gernsheim (2002: xxi) indicate, human mutuality and community rest less on established traditions than on reciprocal individualization. For Warren part of his decision was that he chose to continue to have a roof over his head, in his subsequent partner's home.

Moreover, although he became a step dad, he did not mention his stepchildren in his interview and appeared to have little interaction with them. As Parke (1996:219) noted, stepfathers in contrast to biological fathers tend to be disengaged and less likely to have an optimal parenting style with their stepchildren.

Warren was unemployed at legal separation – 6 years after splitting up - so no formal child support arrangement was put in place. However, he still agreed to maintain a limited financial responsibility for his children in that he was prepared to have an on-going, ad hoc and materially identifiable financial role in their lives.

In conclusion, Warren's child support perspective has to be seen initially in the wider context of his wish to support, as a *whole*, the lone parent family unit. Over time, it has also to be understood in the circumstances of the changing level and source of available resources to meet the needs of two post-separation households, one of which included his subsequent partner and her children.

3.3(f) Access

At separation men differ in their child access requirements. At the same time there was evidence to support Bradshaw et al.'s (1999:203) that child support can "work as a guarantee for contact with children by "easing" relationships with mothers or as a tool to manipulate mothers into agreeing to contact arrangements". Thus for men like Henry they traded increased child maintenance payments for increased access provision.

Example 6 – "Henry" – The Impact of Obtaining Satisfactory Access Conditions on Child Support Arrangements

Henry (42) was married for three years. He was physically apart from his wife for 9 years and had a separation agreement in place for 7 years, negotiated through mediation. The mediation took place over three months and involved four sessions. Henry worked full-time as an administrator. His wife worked part-time. They had a son aged 11.

Henry's wife left the family home with their young child after informing him that she was in another relationship. She moved back to her mother's house and he entered into a voluntary arrangement with his wife to pay £30 per week child maintenance because "it is responsible to pay". This sum to be paid was taken in light of where his wife had moved to, her alternative sources of income (i.e. part-time work and successfully claiming OFP) and that he had to maintain his son at the weekends. He continued paying £30 per week child support for two years until the separation agreement was finalised.

Henry's wife originally thought they had to go to court to reach a settlement but they went to mediation because he "looked up a bit of literature and heard about mediation and said: "listen, why don't we give this a try?". In terms of reaching a final settlement, many issues had to be negotiated, including access, housing, spousal and child maintenance. In some ways having so many issues to resolve allowed for easier negotiations because there was room for trade-offs to occur. The respondent appeared to have clear post-marriage living aspirations, particularly in maintaining an active parenting role:

"I wanted the best relationship I could get with my son . . . I had to keep an income, keep a household and to be able to raise my child" 40/3

With this in mind Henry preferred a more flexible approach to maintenance:

"I would have preferred a more flexible approach where I could give what I could but it had to be tied down, so I agreed to that . . . I mean money was short because I agreed as well to buy out my wife's interests in the home and that involved me re-mortgaging which put a good bit of extra expense on me, so that's why the money was tight" 99/3

In principle, Henry had no problem paying child support, the only difficulty was how much he could afford to pay. He felt that he was coerced by a combination of factors to reach agreement on child support provision, in order to achieve his post-marriage aims:

Interviewer:

How did resolve how much child support to pay?

Henry:

Essentially that was resolved by me agreeing to a figure, which – you know a gun was put to my head to some extent, the figure which I didn't think I could afford but which I had to go along with.

Interviewer:

How was a gun put to your head?

Henry:

Well in the sense that she always held that she wanted maintenance for herself and the child and if she didn't get it, well she's not playing ball, you know go to court, you won't get to see your son as often as you like.

Interviewer:
That was said?

Henry:
Ah yeah, or well implied.” 71/3

This resembles the “silent bargain” associated with maintenance payments as described by Bradshaw et al. (1999:202). Using Finch’s work (1989:193), they note that the “proper thing for mothers to do” is to enable father-child contact. For fathers the “proper thing” to do is to pay child support. Therefore, through working out what to do Henry and his ex-partner had negotiated a set of commitments, to which both of them would be committed. Interestingly, while the negotiation over exchange can take place more on an explicit basis¹⁵, for Henry and his ex-partner this interaction took place at an implicit level (see (Bradshaw et al., 1999:208); (Finch & Mason, 1993:61)).

In terms of the overall settlement, Henry agreed to continue to pay £30 per week child maintenance linked to the retail price index; to pay half the on-going childcare costs (e.g. schooling, health, clothes) and to buy out his wife’s interest in the home, which meant him re-mortgaging. Child support represented 10% (13% if on-going childcare costs are considered) of his net income.

In conclusion, Henry traded a higher, fixed sum of child maintenance provision for increased access but associated with this transaction was his need to have a home in order to effectively parent. He also had to contend with the wider legal environment which meant that if his wife was not content with the out of court settlement, the Court may have rewarded her with a superior settlement.

Finch (1989:241) suggests that while kin relationships are distinctive by having a sense of obligation, at the same time there are normative guidelines concerned with working out what to do. In Henry’s case a key guideline was in relation to reciprocity. In order to reach an agreement on his obligation to support his son, Henry expected to receive adequate access. Therefore, while Henry felt an obligation to support his child, paying child support was a conditional act. In other words, paying child support was not an unconditional obligation for Henry. As Finch (1989:178) indicates, the normative guideline concerning the “patterns of exchange” in which people are involved can inform their sense of obligation.

Although the respondent felt that he had to pay more maintenance to get more access he felt that it was better to reach an amicable arrangement with his ex-wife because it

¹⁵ For example, see “Teddy” in Section 3.3(g)(ii)-footnote & “Gerald” in Chapter 4.2(e).

could have led to on-going difficulties between them. However, he also noted that although his wife wanted the family home sold, “he would have fought that all the way” and would have gone to court because having a home was a parenting requirement.

3.3(g) The Influence Of Third Parties

The act of formalising a separation arrangement involves third parties. These can be lawyers, mediators or the Court. These in turn can affect how child support arrangements are determined. However, as can be observed in the men’s stories in this section, formal maintenance obligations may vary in the extent to which they are *genuinely* negotiated, a point underplayed by Bradshaw et al. (1999:226). As a result, drawing on Finch & Mason’s (1993:94) work, men’s commitment to formal child support obligations may be less “powerful” because the support arrangements put in place have not been fully achieved through their own negotiations but have to some extent been influenced (or imposed) from outside. For example, this is particularly observed in Jack’s story in Section 3.3(g)(iii).

3.3(g)(i) Lawyers

The role of third parties can vary but what was particularly noticeable was the extent to which the role of lawyers differed. On one hand, solicitors could transfer a mediated agreement into a deed of separation. On the other hand, lawyers directly negotiated with other lawyers on behalf of their clients. This often occurred when the separating parties were waiting to enter court. In between these extremes some men used lawyers in a supportive and advisory capacity through the negotiating process.

The prominence of the role of the lawyer was reinforced by the lack of State guidance concerning child support resolution. Many respondents noted a fear of court adjudication and escalating legal costs as factors influencing their decision to reach an out of court settlement. These fears went hand in hand with relying on their lawyers for assistance over child support determination. The outcome was that respondents invariably accepted – sometimes reluctantly- child support recommendations made by their lawyers, as in the case of Bill¹⁶.

¹⁶ Example 7 – “Bill” – The Influence of a Lawyer on Child Support Arrangements

Bill (47) was married for 7 years. At the time of the interview he had been 6 years legally separated from his wife and moved out shortly afterwards. Bill had been working as a teacher at the time of his separation negotiations but at the time of the interview had retired on health grounds. Bill’s wife was not working at the time of their separation. Bill and his wife allowed solicitors to negotiate a separation settlement on their behalf over a three-month period of which child support was a component. They have three children who resided with their mother: two boys aged 15 & 7; and a girl aged 10.

Bill’s wife wanted to separation and they approached solicitors to help them to resolve issues. Bill claimed that they never went to mediation because they never heard of the service. Their solicitors negotiated a separation settlement where it was arranged Bill would continue to pay

3.3(g)(ii) Mediation

The aim of mediation is to encourage parents to co-operate with each other in working out mutually acceptable separation arrangements. The process is usually preceded by both parents willing to co-operate to reach agreement. At mediation child support resolution takes place within the wider context of the overall separation settlement. It appears mediation helps couples to resolve disputes over issues and then to reach agreement on how they will manage these issues when they separate. For respondents who used the mediation pathway to separation the disputed issue was not child support but housing, joint custody or access. However, the resolution of these issues had an effect on child support arrangements put in place as in the case of Teddy¹⁷.

the £300 per month mortgage on the family home, pay £100 per month child support for his three children and pay £100 per month spousal maintenance. Altogether this represented approximately 39% of his income (child support represented 8%). As part of the separation agreement he also agreed to move out once he found suitable accommodation.

In terms of how child maintenance provision was negotiated it appears that Bill's solicitor had a key advisory role:

Interviewer:

How was maintenance provision agreed?

Bill:

Because my solicitors told me ... that you would be wasting your money taking that to court. The judge will tell you that you are the only one working; she [partner] wasn't working at the time. You're the breadwinner, you'll be told to pay the mortgage and you will be told to pay maintenance. And at that time the maintenance was only one hundred pounds and he said you are going to get away with murder with that and eh, it stayed at that"

Interviewer:

So did you offer £100 child maintenance to your wife?

Bill:

No, that's what my solicitor said I should offer 224/20

In conclusion, Bill did not want to separate and he relied on his solicitor for advice and to negotiate a separation settlement. His solicitor advised him to stay out of court, remarking that he was the only breadwinner in the family and suggesting that the settlement terms on offer were reasonable in comparison to other cases. Bill was content with the settlement reached, particularly since he believed his parenting role would not significantly change [i.e. he would have flexible access to the family home to see his children]. However, incidents subsequent to the separation changed his perspective on the separation – including maintenance - arrangements. Bill's case is a good example of where a lawyer can play a significant role in determining child support arrangements.

¹⁷ Example 8 – "Teddy" – The Influence of Mediators on Child Support Arrangements

Teddy(43) had been 6 years married(+6 years cohabitation). He had been physically separation for 4 years. There had been a legal separation agreement in place for over 4.5 years. Teddy and his wife reached a separation agreement through mediation – 6 sessions -over a four-month period. Teddy was a self-employed company director and his wife worked full-time when they were legally separated. They have a daughter aged 9 years who primarily resides with her mother.

Teddy and his wife negotiated a settlement where he agreed to pay £35 per week child maintenance, to receive 50% of the housing equity, to have rigid access arrangements, and to

have joint custody arrangements. The £35 represented 50% of the cost of paying for their daughter's childcare fees and was specified as such in the separation agreement.

Teddy's wife instigated the separation and he told her that he would only negotiate through mediation, as solicitors were too expensive. He would also have preferred to have sold the family home and split the proceeds but he realised during mediation that his wife wouldn't be able to afford new house because she had a "fixed salary" whereas he was able to artificially inflate his salary to get a mortgage as a result of being self-employed. Thus mediation helped to resolve the primary dispute by creating new options:

"It was agreed at mediation...mm, essentially at mediation they went into the finances – all the different options went into with the mediator. You know, initially I didn't know why I should move outside of the family home and the initial idea was to sell the family home, split whatever money from it and we were both on our own so to speak but financially if we had done that I probably would have been able to buy another house. She probably wouldn't have been able to. The arrangement with regards to property was the first thing that was gone into" 41/17

Once the issue of housing was solved the issues of joint custody and child maintenance were addressed. The issue of joint custody was important to Teddy. He would have gone to court if it had not been agreed at mediation:

"The idea of her having full custody of my daughter, I wouldn't even contemplate it for a second. If that scenario had raised its head, I would have fought it tooth and nail." 337/17.

Joint custody was agreed between the partners and this was manifested in complex access arrangements being negotiated. In turn joint custody – with the implicit acknowledgement of joint financial responsibility -influenced child support resolution.

The background to this negotiation was that there had been money pressures during the marriage due to the fact that he had been self-employed so his wife wanted a fixed sum of maintenance for their daughter even though his wages fluctuated. In contrast he would have preferred a joint account for his daughter where there would be a flexible contributing arrangement because he "wasn't in a job with "X" amount of money".

To resolve this issue the mediator found the following solution:

"We went into incomes with the mediator in great detail and essentially money was going to be needed for Anne (his daughter). She hadn't started school at the time. Both of us were working full-time and the costs of childcare were actually quite expensive at the time because we were both working. So I suppose that is where the thirty-five quid (i.e. child maintenance) came in from...It was stipulated in the separation agreement that it was to represent 50% of the cost of maintaining our daughter... But eh, how shall I- in line with the notion of joint responsibility that we each had, sort of 50% responsibility financially (he chuckles), I suppose that was the reason that, that stipulation was put in, the 50% thing as opposed to just saying a straight forward thirty-five quid towards the maintenance of our child." 397/17

Thus the solution was that child maintenance represented 50% of the childcare costs in the context of both parents sharing financial responsibility for the on-going maintenance of their daughter, with this principle being explicitly acknowledged in the separation agreement.

Teddy negotiated a specific child support arrangement in light of acquiring particular access arrangements. In such situations, as Bradshaw et al. (1999:219) suggest, maintenance can be useful for it can "ease parental relations and act as a guarantee for contact". Also a child support arrangement was put in place as a result of a process of negotiation undertaken at an explicit level (Finch & Mason, 1993: 61).

In summary, the separating couple required the assistance of mediation to address housing, joint custody and child maintenance issues. Mediation created possible solutions, but those options that were put forward were also influenced by the fact that both parents were working and that the father wanted an active parenting role.

3.3(g)(iii) The Court

The involvement of the Court can mean that child support is determined by adjudication rather than negotiation. Men's perspectives on how child support arrangements are put in place through the judicial separation pathway highlight the shortcomings of this approach, notably the absence of detailed family law guidelines concerning child support resolution. The experiences of Jack illustrate what can happen¹⁸.

In conclusion, successful mediation is about creating mutually acceptable separation arrangements – of which child support is just one element - for both separating parties. While Teddy had to compromise on a fixed child maintenance payment he agreed to do so because of, first, the overall settlement reached and, second, because the principle of joint financial responsibility was agreed which resulted in child support provision being identifiable in terms of a specific child-related expenditure.

¹⁸ Example 9 – “Jack” – The Influence of the Court on Child Support Arrangements

Jack (42) had been married for 15 years. At the time of his interview he had lived apart from his wife for 6 years and had been judicially separated for four years. It took 1 year for the judicial separation to be resolved. Jack worked as a middle-level civil servant. His wife received OFP. They had three children: a son aged 20; two daughters aged 18 & 8. The 3 children lived with their mother.

Initially Jack left the family home as a result of his wife obtaining a protection order. Thereafter she instigated separation proceedings, which left him shocked and surprised. She wanted them to go to mediation; he declined:

“Mediation assumes that there's a willingness to reconstruct something to some degree and all I saw was the intransigence so there's no reason for me to go for something that wasn't going to go anywhere anyway and only just irritate myself” 200/39

After he moved out he paid maintenance and the mortgage:

“I gave her, I knew how much the food bill for the week was and I said “Right there, that's for that, “ right. I was paying the mortgage, ESB [electricity] and the phone bill and that independently and keeping that together and then she decided “well I'm going for maintenance” and she decided that she'd take over all this. Ok, so that was when the maintenance level was set...”1064/39

His wife “wanted to have her own line of income” so she successfully applied for an interim maintenance order and OFP. The Court awarded £60 per week in total for three children, £120 per week for his wife and £90 per month mortgage.

His evaluation of this decision was:

“It was leaving me in a heap money-wise, I had no scope to live a life, how could I be happy?” 1132/39

Thereafter, his wife applied for a judicial separation and it took a year for its determination. There were a number of court sessions as psychological assessments were requested to determine the Jack's level of access.

In terms of the final settlement the judge ordered maintenance provision for his ex- wife and their children. He believed that the judge worked this out by:

“I think that the judge made a calculation about how much he reckoned I could live on and then said, “Well he needs so much for this, so much for that, the rest”, that's the way I think they did it, I don't know” 113/39

In terms of the settlement reached this resulted in him paying approximately 52% of his income in maintenance and mortgage payments: £60 per week for three children, £75 per week for his

3.3(h) Summary

This section illuminated the effect of a number of different factors on how child support arrangements were put in place from the perspective of non-resident fathers interviewed for this study. These factors were:

- Willingness To Separate
- Level Of Available Resources
- Interim Child Support Arrangements
- Housing Needs
- Belief In Supporting As A Whole The Lone Parent Family Unit
- Access Arrangements

wife, £90 per month mortgage. Child support amounted to 20% of his net income. This maintenance arrangement maximised his tax relief. His wife and children also had the right to live in the family home until the youngest child reached 18. Then they would have to negotiate selling the house with each parent obtaining 50% equity. In terms of the access arrangements it was agreed that the older two children could see their father when they wanted to, but rigid and limited arrangements were put in place for the youngest child.

The respondent was unhappy with the settlement reached by the judge:

"The thing about it is the maintenance left me no options, now it meant I would have little or no money, I wouldn't be able to go out, you know and socialise, mingle with people and get back on track because I wouldn't have the money to do it. ...I wasn't happy at all because you know there was no recognition by the court or by anybody that I'm entitled to a life and its still that way. Like I mean there's no, it's just not there" 327/39

"What I was left to live on was the amount of money we used to blow at the weekend, you know literally, go off out for a meal, the whole four of us, five of us at a time, go out for a meal or like a Sunday or whatever, spending money" 750/39

The reason he did not appeal the court judgement was that he was "relieved that the court proceedings were over"; that he did not want to re-engage with the court (i.e. he represented himself); that maintenance would reduce (i.e. children no longer dependant) and that his earnings would rise over time.

In summary, it would appear that the when his wife applied for a judicial separation it froze Jack into inaction because he did not want to separate. It also appears that the man did not have a clear post-marriage strategy in terms of identifying his needs, which in some way was reflected by his intransigence to negotiate and reinforced by his wife's lack of access to other sources of income. Altogether this contributed to him receiving a poor settlement. Jack particularly regretted the outcome because it did not leave him in a position to buy another house.

In conclusion, the Court was the major influence in terms of deciding the overall settlement, of which child maintenance provision was just one component. Whilst Jack saw maintenance as being part of "just one sum that goes over" to his wife, there was a "difference of willingness" for him in paying it. He was happy to provide maintenance where his children were concerned because they could not support themselves. In contrast, although he had a duty to support his wife he felt that this was an imposed obligation. Commitments arising from Court may feel less powerful than "commitments developed oneself through one's own negotiations" (see Finch & Marsh, 1993:94). He was unhappy with this responsibility, as his wife had the capacity to work and support herself.

- Influence Of Third Parties

However, a closer reading of the accounts of men, which illuminated the effect of these factors, would also reveal that often there was more than one factor at work. Therefore, it appears that child support resolution can be a complicated process involving the interaction of a number of different elements. Because of this and because there is a unique interaction of factors in every case it was decided not to summarise what were determinants of every respondent's child support arrangements. Instead an explanatory model explicating how these various elements can come together is provided later on in the chapter.

3.4 Men's Evaluation of Child Support Arrangements

Men were asked to consider how they felt about the child support arrangements put in place at separation. Their views are considered in relation to the different separation pathways used by them. Where men were not formally separated their views are also considered.

3.4(a) Mediation

Eleven men used mediation to reach a separation settlement. Ten men negotiated a child support arrangement as part of their settlement. Men were more likely to be satisfied with child support arrangements put in place along this pathway than through other separation pathways. There were a number of different reasons for this outcome.

The process of mediation was generally found to be empowering and it helped couples to amicably resolve issues. Only one of the ten men felt pressured to agree to a settlement and unlike how decisions were reached along the judicial separation pathway, child support arrangements were not imposed:

They were great the mediation. It was the Irish Life Centre. I thought they were there as referees. They just sit there and say: "well that's your side, that's the other side". They'll not side with the one person". 83/22

Mediators also helped couples to stop looking at the past and to focus on the future:

There was an awful lot that went on in the marriage, it was very bitter and very hurtful, but by going to mediation, we kind of faced up to it, we faced up to first of all the decision that we were going to separate 964/17

Another man liked the fact that the number of mediation sessions was limited:

I know the mediator had a certain volume of work on, whatever, but she definitely wanted it, you know, tied down by a certain period of time which was good because you could meander forever arguing. 1110/18

Mediation helped separating couples to focus on finding solutions. By identifying each partner's interests, sequencing and prioritising the issues of concern, successful mediators were able to help the separating parties appreciate each other's perspective with the result that they were more willing to concede on matters that concerned them less.

At the end of the day it really doesn't matter whose right and whose wrong. It matters in what way you are going to live in the future and eh, that would have been, I suppose, pointed out by the mediator 258/17

This could lead men to feeling fairly content with an outcome where they were able to exchange child support provision (e.g. fixed arrangement; payment levels) for access or better post-separation housing conditions. Therefore, where men made a compromise on child support arrangements in order to achieve other post-separation goals and whilst they may not be ecstatic with these arrangements, they may judge them to be satisfactory or at least tolerable in light of the overall separation settlement and how fair it is to both sides:

Interviewer: There does not appear to be much bitterness between you and your ex-wife. Why do you think this is the case?

Respondent: Well I would have said that its because of mediation probably, in the sense that we came to an agreement whereby we both came out of it with a reasonable level of satisfaction not a great level [he traded maintenance for access]. 526/3

It was also helpful for child support to be identifiable with some specified outgoing (e.g. childcare costs) so a man knew how resources were being spent:

What was stipulated in the separation agreement was that it was to represent 50% of the cost of maintaining our daughter. But, eh, how shall I – in line with the notion of joint responsibility that we each had, I suppose that was the reason that that stipulation was put in, the 50% thing that she would pay the childminder, as opposed to just saying a straight forward £35 towards the maintenance of our daughter 40/17

The one man who felt dissatisfied with the child support arrangement put in place felt that the mediator and the solicitor pressurised him into signing the agreement. His unhappiness has to be viewed in the context of the events leading up to separation (i.e. he judged his wife to be responsible for the relationship breakdown) and the demands placed on him as a result of the overall separation settlement. In addition, unlike other

men, he had no clear post-separation vision for his life and instead his focus was on the past:

Interviewer:

Were you happy with the mediation agreement?

Respondent:

No. The solicitor talked me into signing for it. I wasn't happy with my part of it, that's why I went back [to renegotiate after separation]. It all collapsed. The mediator knew I wasn't happy...I wasn't happy with the money part for a start and what she got – I made one mistake, I never told the solicitor about the marriage with my wife, I was too ashamed to tell her...I was left with £100 per week to myself, you couldn't really afford to live on it 152/5

In conclusion, in nine of the ten cases where child support formed part of a separation settlement men were not dissatisfied with the support arrangement put in place. This was due to the process of mediation (e.g. it allowed men to feel that they were actively participating in decision-making) and because the outcome of a successful mediation usually left a man with a reasonable degree of satisfaction with his overall separation settlement, not least in relation to what his ex-partner had achieved.

3.4 (b) Lawyer Aided

Fifteen men finalised a separation agreement with the assistance of lawyers. Nine men agreed to child support arrangements as part of their separation settlements. Men had mixed views on the child support arrangements reached.

The most dissatisfied were the four men who settled outside Court with the aid of lawyers (i.e. solicitors and/or barristers) on the day of their judicial separation hearing. These men felt coerced by their lawyers to reach a separation settlement. They felt disempowered by the negotiating process:

I was put under pressure...by Helen's [ex-wife] solicitors, by my own solicitor-my representation was completely terrible – way off, we had a personality clash, he didn't like me. It wasn't that I didn't like him. I had to rear [i.e. get angry] a few times. Gave him stuff to use in my defence and he kept saying no...I was just fed up with it and I just got stronger and thought I don't need this grief for a couple of grand, just agree to this and get the fuck away. 309/12

For these four men who settled outside Court their evaluation of child support arrangements was also influenced by other considerations (e.g. their judgement that their wives did not require the level of child support negotiated (e.g. she had access to an independent source of income); their belief that the costs for them of staying in

contact with their children were not sufficiently acknowledged; and their view that their wives had achieved more from the overall separation settlement).

Often there was a combination of reasons that led to men's dissatisfaction. For example, one respondent's view was influenced by his unsuccessful joint custody application and his belief that his wife's sole custody application was principally motivated by a desire to obtain the family home and maintenance. This negative assessment was reinforced by his view that he was the more active parent during the marriage and that his wife could have committed to working longer hours after separation. Whilst he acknowledged the level of child support to be minimal, he evaluated this arrangement taking into account the wider separation settlement:

Interviewer: What did you think of the level of child support you agreed to pay?

Respondent: I thought it was minimal like I didn't think it was much at all, but you can't have, like I mean she also, like I think, I thought £65k [i.e. he paid wife £65k to buy her out of the family home], she had done extraordinarily well with the £65k...yeah, like it was cash into her hand, you know, she couldn't have it every way. I mean if she'd said to me: "Okay I'll settle for £30,000 but give me £100 a week for the kids", I'd say: "Okay I can live with that". 37/445

Another man felt the structure of his child support arrangement to be unfair:

"I felt conned about this thing with the difference in the amounts to the two different children. The implication, as it turned out later on, was I'd be paying a larger amount for a longer time. And, you know, whilst if you agree to this, it'll be a deal. But it wasn't pointed out what would be in it (i.e. paying larger amount of child support for younger child over a longer period of time) and the solicitor was very anxious to get a deal rather than to do any kind of justice or fairness". 27/597

For four of the five men who agreed a separation settlement with the aid of their lawyers – usually solicitors- without the imminent recourse to court adjudication, it appeared that they were more satisfied with child support arrangements put in place. There were a number of factors that informed their evaluation.

For example, men felt that a compromise had been achieved: they were willing to pay more child support for particular access, custody or housing settlements; they judged child support to be part of an overall separation settlement that was fair to both households; or they were glad that Court adjudication had been avoided.

In addition, men were also influenced by solicitors telling them that they had negotiated satisfactory support arrangements on their behalf compared to what other men were paying in similar circumstances. As a result they felt satisfied with the arrangement put

in place. Two men also felt responsible for the marriage breakdown and this sense of responsibility informed their stance on child support. Three respondents felt relieved that the level of maintenance eventually agreed was less than the interim arrangement. Most men were also relieved to reach an agreement so that they could get on with their lives.

One father who reached a child support settlement without the impending threat of court adjudication was dissatisfied with the arrangement put in place for a number of reasons. Despite being satisfied that he had agreed to pay a lower amount than he had been paying previously (i.e. interim support arrangements), his view on child support was influenced more by the terms of the overall separation settlement which did not leave him in a position to buy another house and by the fact that his wife had instigated the separation. Furthermore, this dissatisfaction was compounded by the fact he felt compelled to pay the mortgage on his wife's home - which he also saw as a form of child support – because he feared to would receive an inferior court settlement.

In conclusion, there were usually a number of factors, which influenced men's judgement on child support arrangements put in place along this separation pathway. These included the less a non-resident father felt that a child support settlement had been imposed on him, the more likely he was willing to accept the terms of the settlement. In addition, some men were more likely to find child support arrangements acceptable if they felt they were getting a good deal compared to other men in similar circumstances or they felt that they are getting something in return for making provision. These exchanges may be implicit (e.g. to get on with their lives without the on-going threat of court action by their partners) or explicit (e.g. more child support for more access). Furthermore, men's judgements on child support arrangements were usually influenced by their view on the consequences of the overall separation settlement for the lives of the separated parties.

3.4(c) Judicial Separation

Seven men were judicially separated. Four men had child support arrangements in place as part of their separation settlements. Three of the four men were unhappy with the child support arrangements put in place.

In addition to being dissatisfied because a child support settlement had been imposed on them, men who were judicially separated were more likely than other men to be

unhappy with the level child support to be paid. The three dissatisfied men judged that they were asked to pay too much child support.

For example, one respondent judged that the level of child maintenance would negatively affect the quality of his day-to-day life:

Well you see the thing about it is the maintenance left me no options, now it meant I would have little or no money, I wouldn't be able to go out, you know and socialise, mingle with other people and get back on track because I wouldn't have the money to do it. Things like going to the pictures was out, even buying cigarettes like these is out, if I wanted to smoke I had to go and buy packets of roll up and you know eke them out over the week or the fortnight you know. I wasn't happy at all because you know there was no recognition by the court or by anybody that I'm entitled to a life and it's still that way. Like I mean there's no, it's just not there. 327/39

Men's views on child support provision were also influenced by the terms and consequences of the overall separation settlement. For example, when the Court rejected one man's aspiration to have an active parenting role (e.g. joint custody), he felt that the Court had judged him to be an incapable father and was more interested in his financial affairs to assist his wife. Such a judgement upset the respondent and coloured his perspective on child support arrangements (reinforced by the Court's decision that he had to partially pay his wife's mortgage):

I wanted to have an equal role in his [i.e. son's] upbringing, I wanted him to spend half his time with me and I wanted to contribute financially to everything else so it was clearly down the middle ...he [i.e. the Judge] just knew I was a man and she was a woman and I had a certain income and therefore he made the decision [i.e. child support]...I felt if his judgement had been that I was an incapable father, whilst I wouldn't have agreed with it I would have at least seen where he was coming from but to me it was totally dismissive on his part simply because I was a man and I was really upset with that. 636/24

Only one father noted that he was satisfied with the child support arrangement in place. This was because the overall settlement was "fair"; it left both partners with a similar standard of living:

"Well I was earning £30,000 at that time, so I suppose that was £600 a week less tax, the mortgage was quite low, about £60, £65 a week, so £265 for my wife and children would have left me with I suppose a similar sort of sum for myself, which wasn't unreasonable" 999/25

In conclusion, the fact that a couple have failed to reach a negotiated separation settlement suggests that they are unable to reach agreement on issues. However, more often than not the Court's adjudication on child support left men feeling dissatisfied. They judged such arrangements in light of the restrictions placed on their

post-separation capabilities, usually taking into account the consequences of the overall separation settlement.

3.4(d) Not Yet Resolved

Fathers who were not separated held mixed views about child support arrangements in place. Eight men had paid some form of support subsequent to their relationships breaking down. Six had court-based support arrangements. Two men had informal arrangements. The six men with court-based arrangements were dissatisfied with those arrangements. The two men with informal arrangements were more satisfied: one man was relatively satisfied (i.e. he received something in return for maintenance) and one man felt content with his child support arrangement.

Four of the dissatisfied men had been issued concurrently with maintenance and barring summonses. For these men a maintenance order¹⁹ represented the only type of post-relationship support arrangement put in place. Although they acknowledge a financial responsibility to their children, these men felt such actions had been imposed on them by their wives and deemed the outcome of Court adjudication to be unfair as it limited their options. For example, they *had* to pay child support and they *had* to leave the family home – both directions cost money and usually left them with little time to plan ahead.

For example, one man was “horrified” by how much the Court asked him to pay; he thought the amount was unfair as it was based on his overtime earnings, which were not secure. He felt “forced to work overtime to cover the maintenance and mortgage”. For another respondent he was unhappy with the level to be paid since he was looking for another place to live in order for his children to stay with him. Hence, the maintenance order limited his housing and parenting options.

Two men, who initially had informal arrangements in place, were subsequently issued with determination orders as a result of their wives’ application for OFP. Because the men felt that they had negotiated fair arrangements with their wives they were unhappy with the State’s involvement because they were asked to pay more. In the case of one respondent, his initial response to the DSCFA’s request was to give up work because he “would have been working for nothing, just to pay his wife on flat (i.e. wages) weeks”. In addition, he felt stigmatised that his wife had taken him to court as he was already paying maintenance. This was reinforced by the fact that he hadn’t deserted

¹⁹ In one case agreed outside of Court.

her and she had other sources of income. Whilst acknowledging a child support responsibility, the impact of these other factors put together tempered his perspective on child support:

I feel that I should pay, look after them, for their upkeep. I have no problem with that whatsoever. There is no mental block there, it's just, the thing that pissed me off was that when she's working and on disability benefit. ...If there is a god up there if I deserted my wife and three kids I'll turn around and say that I deserved to be punished but I didn't. Why am I targeted? Why am I treated as I deserted my wife and three children? At the end of the day, I know it means nothing but psychologically it means a lot to me. 572/14

In term of the two men with informal arrangements in place, one felt that he compromised in reaching a child support arrangement. Although he felt that he was paying too much support, he did so because it helped to ensure that he was able to see his son. He also preferred that it was an informal arrangement:

I do feel as though I should pay an amount, I just feel as though I am overpaying...well to me the more informal the better, now I don't know I wouldn't want to be too formal about it no...because then if I did that I would probably have, the overriding thing is I'd have less access to Kevin because it could get a bit dirty then. 296/38

One man was satisfied with the arrangement in place. Because he was unemployed when their relationship broke down and since his partner had a better income, she had not taken him to court for maintenance and had instead agreed to an informal arrangement where he would contribute when he was able to, on an ad hoc basis.

In conclusion, the breakdown of a relationship can result in men unexpectedly receiving Court maintenance and barring summonses. A number of factors affected men's evaluation of subsequent maintenance orders including the level to be paid, and the overall financial burden placed on them by the Court, not least if they have to leave the family home. If a man's partner accepts an informal child support arrangement he is more likely to be satisfied with this arrangement.

3.4(e) Conclusion

There were a number of factors influencing men's views on support arrangements put into place.

Generally speaking, the less contentious the process of separating and the more tolerable the overall separation settlement, the more likely it was that men found child support arrangements to be acceptable. Conversely, when men experienced child

support arrangements being forced on them – either by the Court or having to reluctantly accept an arrangement outside of Court – it was more likely they would be dissatisfied with these arrangements.

Although every man in this study acknowledged a financial responsibility for their children it was rare for men's evaluation of child support arrangements to be primarily influenced by whether they considered such arrangements to be an expression of this commitment. This is because men's views on child support arrangements are informed by wider issues such as the extent and composition of their aspirations and the level and source of income available at separation. Therefore, child support arrangements are rarely considered in terms of meeting the specific needs of children in isolation from the availability of resources and the breadth of their aspirations. The latter can include how they would like to parent and thus how they would like to spend resources on their children.

The degree of men's willingness to separate can influence their view on support arrangements put into place. Men may be more prepared to compensate their partner for past misdeeds or for their desire to move on. An arrangement put in place in such circumstances may also be interpreted as an unspoken acknowledgement of their partner's role as the primary carer.

If men do not want to separate they may be unhappy with arrangements because they may deem them to be imposed – either implicitly or explicitly. Even if child support is seen as an expression of their financial commitment to their children, support arrangements may have negative connotations: they reinforce and symbolise men's separation from their children.

Men's evaluation of child support arrangements has also to be considered in the context of the overall financial separation settlement for it was rare at separation for child support to be the only financial arrangement to be put in place. The resolution of child support is linked to the resolution of other financial issues. Indeed the level of child support to be paid can be influenced by the tax regime in place (e.g. adult but not child maintenance is tax deductible); how housing is resolved; and the level of income available to the separating parties -whether both, one, neither or subsequent partners are working.

While child support can form a large or small part of a man's outgoings at separation, his evaluation of support arrangements can be informed by the demand of the overall

settlement on his resources at the expense of his aspirations being realised. In other words, men's views on child support arrangements are influenced by their judgement of the overall financial settlement. It was difficult for men to separate their judgements in these two areas.

Men were also satisfied when child support arrangements formed part of a separation settlement, which they judged to be fair or equitable to both parties. This was more likely to be achieved where both of the separated parties were working and the man judged child support to reflect in some way the income differences between the parties. In addition, child support arrangements were also more acceptable when they were specified against particular child-related costs (e.g. childcare costs).

Men's evaluation of child support arrangements can also be influenced by the degree to which their access or joint custody requirements are realised. Men are willing to compromise on a child support arrangement (e.g. set amount, level, formalised payment) in exchange for satisfactory access, joint custody or post-separation housing arrangements. Although such arrangements may not be ideal, at the same time they feel they are a price worth paying to ensure satisfactory contact with their children.

Men's views on child support arrangements put in place are also influenced by their perception of the socio-legal environment in which resolution takes place. Given that there were no specific legal guidelines concerning how child support levels should be set some men evaluated their child support arrangements in light of what their solicitors and peers (e.g. support group) informed them were the "going" rates, even though such levels have not been laid down:

"My solicitor told me: "you can fight it but you would be wasting your money taking that to court. The judge will tell you that you are the only one working". Maude was not working at the time. "You're the breadwinner, you'll be told to pay the mortgage and you'll be told to pay maintenance". And at that time the maintenance was only a hundred pounds and they said:" you are going to get away with murder, if you are going to get away with that" and it stayed at that." 203/20

In conclusion, it is difficult to easily summarise whether men were satisfied or unsatisfied with child support arrangements put in place at separation. Their evaluation is not only influenced by the level of payment to be made. Instead a range of factors influences their judgement. This may help to explain why despite every man expressing a financial responsibility for his children no man was "ecstatic" with the child support arrangement put into place.

Table 3.3 tentatively summarises whether men were “satisfied” or “dissatisfied” with child support arrangements put in place at separation. It draws on the accounts of men using the different pathways to separation as highlighted in this section. Men’s “satisfaction” or “dissatisfaction” with child support arrangements was determined in relation to whether they found such an arrangement to be acceptable or unacceptable in light of their willingness to separate; the involvement in the resolution process; their appreciation of the legal and social environment; the availability of and the capacity of parties to generate resources and the nature of the overall settlement (e.g. acquiring more access for more child support) and how it impacted on their post-separation aspirations.

Table 3.3 Men’s Evaluation of Child Support Arrangements put in place at Separation

Pathways used by Respondents to complete Separation	Number of Men Using a Pathway to complete Separation	Number of Men with Child Support Arrangements as part of Separation Settlement	Number of Men “Satisfied” With Child Support Arrangements	Number of Men “Dissatisfied” With Child Support Arrangements
Mediation	11	10	9	1
Lawyer Aided	15	9	4	5
Judicial Separation	7	4	1	3
Not Yet Resolved	9	8 ²⁰	2	6
No. of Respondents	42	31	16	15

3.5 Discussion On Child Support Decision-Making

It is difficult to summarise simply how child support arrangements are put into place from the perspective of non-resident fathers, as there are various issues that have a bearing on how settlements are reached. Section 3.3 highlighted the factors affecting how child support arrangements were put in place at separation. In this section there is an attempt to construct an elementary model that demonstrates the interacting nature of these factors. It is far from perfect and draws from Pruitt & Carnevale’s (1993) work on negotiation theory. However, it provides a preliminary framework for further research in this area by sketching out the complicated and different processes facing fathers in reaching child support settlements.

Pruitt & Carnevale’s work is a useful framework to consider in relation to child support resolution, not least because it acknowledges that social negotiations are complex processes. They challenge and build on the traditional negotiation paradigm by

²⁰ Number of men with some form of child support arrangement in place after a relationship breakdown.

suggesting that negotiation is more than the process of people coming together by a desire to resolve a divergence of interest by reaching agreement. While beneficial it is not enough to consider the conditions that prevail at the time of negotiation in terms of their influence on negotiators' motives, perceptions and cognitions. Similarly, it is also not enough to consider how their psychological states impinge either directly on the outcomes reached or on the intermediate strategies or tactics chosen by parties to reach outcomes.

Pruitt & Carnevale propose that negotiations are more of an intricate affair. They suggest that negotiators are not always trying to maximise self-interest; that the social context of negotiation needs to be considered, including the social norms prevailing, relationships between negotiators, and the behaviour of third parties. They also suggest that time dimensions must be considered, both in terms of the stages of negotiation and the events that occur before negotiation starts and after it is over. It is also important to consider why people choose negotiation rather than arbitration, struggle or some other approach to conflict. Finally, the issue of procedural justice must be acknowledged – people need to feel that they are being fairly treated both in terms of the process and in the decisions reached. This last point is especially relevant to men's experiences of child support resolution through court adjudication.

The examples used in Section 3.3 revealed that it is often not a straightforward task for couples to reach a child support agreement. A close reading would also reveal that child support arrangements were seldom determined by just one factor. Instead it was more likely that there was a combination of issues at play- different for each man.

Conditions at the Beginning of the Decision-Making Process

Pruitt & Carnevale suggest that the initial factor to consider is the conditions at the beginning of the decision-making process. They suggest that these "conditions...are assumed to have an impact on psychological states, such as motives, perceptions and cognitions" (1993:8). Therefore, a man's view of his relationship breakdown may affect his willingness to move on and may have consequences for child support resolution.

For example, "Sean" (Example 1) was so motivated to leave his marriage that he did not give much thought to his post-separation living requirements. In order to expedite matters, he offered a generous separation settlement – of which child support was just one element.

In contrast, other men were so shocked by the instigation of separation proceedings that they were unable to fully formulate post-separation goals and to develop productive negotiating strategies. During the process of separation it would seem that their psychological states were attuned less to the need to reach a constructive settlement and more to the throes of the relationship breakdown. These types of separations could become adversarial and stressful, leading to the court adjudicating on child support arrangements as in the case of “Jack” (Example 9).

In between there were men who were more able to come to terms with being separated to the extent that during the separation process they could conceptualise their post-separation aspirations and the need for resources, as what happened to “Henry” (Example 6).

Therefore, during separation proceedings it would appear that men differ in their psychological states, in their ability to define post-separation goals and in what goals they do define.

Men's Post-Separation Aspirations

There are consequences arising from men having different post-separation aspirations during the separation process. They can affect their choice of separation pathway, and the strategies and tactics adopted by them. They can also affect how they respond to the intervention of third parties and how well they are willing to get on with their partners. Each one of these issues²¹ can in turn influence how child support arrangements are determined.

For example, “Teddy” (Example 8) aspiration to obtain a joint custody arrangement for his daughter influenced his choice of separation pathway and the negotiating tactics adopted by him which ultimately had an impact on the child support arrangement put in place.

The two most significant post-separation aspirations for men were in relation to housing and access. Holding aspirations in these areas affected how child support arrangements were put into place. For example, some respondents in this study agreed to particular child support arrangements (e.g. payment level, more formalised arrangement, etc.) in exchange for suitable housing and/or access arrangements.

²¹ Although not the focus of this study it needs to be acknowledged that men's partners have their own motivations and aspirations, which may have consequences for separation pathways chosen, etc. These in turn can influence how child support arrangements are determined.

In contrast, other men were more willing to accept that their children would be predominantly raised in the lone parent family unit with them playing a less active or hands-on parenting role. In such situations it can be easier to put in place child support arrangements; possibly because men accepted that their partners needed financial support or possibly because they realised that they in turn needed fewer resources.

For example, although “Sean” (Example 1) was primarily motivated to finalise a separation settlement by his willingness to move on from his marriage, at the same time he was also prepared to accept a less active parenting role and acknowledged his wife was the primary caregiver for their children. These considerations also influenced his negotiating position on child support.

In addition, when men wanted to leave the relationship or were content to play a secondary parenting role, this could lead to child support being seen as part of an undifferentiated maintenance package to support the lone parent family unit, as in the case of “Barry” (Example 3).

Self-Interest

Pruitt & Carnevale (1993:108) suggest the premise that negotiators are only motivated by self-interest is somewhat overstated in processes such as the resolution of separation settlements. This may be because the separating parties have something in common, not least their children. In turn this can lead to men having some degree of genuine or strategic concern about the welfare of their partners and their children.

Alternatively, men’s self-interests are not conceptualised in the same way because it appears that they can see their own needs as separate to or tied up with their children’s.

The evidence from this research would suggest that men want to financially support their children but at the same time question whether child support arrangements are the right way to do so.

For example, some men justified having an active parenting role by noting the benefits to themselves and to their *children*. In other words, their own needs and interests are tied up with their children’s. In such circumstances they argue that there should be fewer resources for child support, as they require more resources to meet their own additional accommodation expenses, which will arise from contact with their children,

as in the case of “Mike” (Example 4). For them these additional expenses represent a form of child support.

There are also men who define their self-interest in terms that are *different* from their children's. For example, although “Sean” (Example 1) saw child support - as part of a separation settlement - forming the basis of his financial responsibility towards his children (i.e. meeting his children's interest). As Bradshaw et al. (1999:219) might suggest, Sean was a man who paid maintenance in recognition of his children's entitlement and his ex-partner's entitlement as the primary carer of their children. At the same time he also entered into this arrangement because his self-interest was conceived primarily in terms of moving on from his marriage.

Alternatively, a number of men cited the need to have some breathing space after separation in order to financially re-establish themselves. Whilst this would help them they also noted it would be in the long-term financial and relationship interests of their children. They used this reason as a justification to pay less child support or to put in place a more flexible child support agreement²². Bradshaw et al. (1999) and Simpson et al. (1995) also noted a similar intention by some men to save money, not to pay support and to postpone relations with their children.

Moreover, such arrangements may be imposed (e.g. “Jack”) and they may find them unsatisfactory in terms of the likely impact on their quality of life (“Barry”). Thus some men either negotiate or accept child support arrangements that are in their children's but not in their own self-interests.

On the other hand, despite the additional resources that an active parenting role involves, men conceded on the wider redistribution of resources during separation negotiations to achieve such a role, as in the case of “Henry” (Example 6). Pruitt & Carnevale (1993:109) would see this as evidence of men adopting “instrumental considerations, that is, informed self-interest”. In addition to exchanging access for another commodity²³ men such as Henry are also laying the foundations for a satisfactory future working relationship with their partners— they are showing strategic concern for their wives' welfare in order that their children are looked after in the lone parent family unit as well as smoothing the pathway over future contact with their children.

²² This justification became more evident after separation as can be seen in the cases of “Gerald” and “Dave” which are examined in the next chapter.

²³ Finch & Mason (1993) would label this as an example of “Reciprocated Exchange”.

Even where men were disappointed with the child support arrangements put in place (e.g. not achieving their aspirations or likely to affect their quality of life (e.g. "Barry"); arrangements that were imposed (e.g. "Jack") or they feel pressurised to accept), they usually acknowledged that it would be in their children's interest to receive this support, even if was at the expense of their own self-interest. Thus their dissatisfaction with child support arrangements was mediated by their genuine concern for their children's welfare interests.

On the other hand, this contrasted with their position on supporting their former partners. Unless men felt responsible for the relationship or felt that their former partners fulfilled a primary caregiver role – and they in turn accepted fulfilling a hands-off parenting role – men at most felt it was in their instrumental self-interest to support their former partner. Instead they felt their partners had a duty to support themselves.

Men's conceptualisation of their self-interest can influence their negotiating position because it can affect their outlook on how their own and financial needs of their children can be met in the future. Whether men achieve a child support arrangement which is in their self-interest is mediated by other factors which they have little or no influence over (e.g. level of resources available at separation; and the nature of the legal system).

Level and Source of Resources

The level and source of resources available to the separating partners can be important in terms of how child support is resolved. On-going child support arrangements were not put in place when a man was unemployed or receiving disability benefit. In contrast, when both partners were working and especially when they had similar paid employment, it was easier to put arrangements in place because it was more likely that there would be sufficient resources available for both parents to fulfil -to some degree- their post-separation aspirations.

In such circumstances the income levels of the separating parties had a significant bearing on what support arrangements were put into effect (e.g. child support may be seen to offset general or specific expenditures (e.g. childcare costs) or to balance up inequities in income (e.g. to address the difference in a couple's income). It was also easier for men to justify their negotiating position on child support if their partners were working.

Generally speaking, the greater the extent to which both post-separation households relied on a father's income and the greater the extent of his post-separation aspirations, the more difficult it was to put child support arrangements and/or an overall separation settlement in place.

Legal Framework and the Intervention of Third Parties

The Irish child support regime does not offer detailed guidance concerning child support resolution. Moreover, the fact that child support resolution frequently takes place— whether through negotiation or adjudication – in an environment where other issues are resolved has a number of implications for child support resolution.

In addition to some men perceiving certain access or housing arrangements being exchanged for particular child support arrangements, other men did not perceive “child support” being met only in terms of giving a percentage of their weekly/monthly income to their partners in child support payments. Instead they suggested that the overall settlement should be seen as a form of support (e.g. meeting the housing costs of lone parent units; maintenance for partner (especially for tax considerations). Moreover, men also justified those arrangements put in place by noting their own direct and indirect (e.g. housing costs) expenditure accruing from future contact with their children.

Mediators and to a lesser extent lawyers played varying roles in resolution of child support arrangements. Men were usually satisfied with child support arrangements- as part of a wider settlement – put in place through mediation. As Pruitt & Carnevale (1993) suggest this may be because the mediator acquires an insight into the perspectives of both parties and gains their trust. This often leads to them facilitating solutions where the different priorities of the couple can be accommodated, as in the case of “Henry” (Example 6).

Owing to the absence of legal guidelines, some men took their lawyers' advice to avoid both the legal costs and uncertain outcomes stemming from court adjudication and accepted their recommendation on child support arrangements. Again, there was less concern about meeting the financial needs of children within lone parent family units solely in terms of child support provision; instead child support was positioned as part of a wider settlement.

When settlements were imposed, men normally felt dissatisfied with child support arrangements. They queried such arrangements in light of the other demands on their

resources and the overall settlement. They disliked the disabling nature of the process including the fact that decisions were imposed. Thus, commitments arising from the legal environment of separating may feel less powerful than “commitments developed oneself through one’s own negotiations” (see Finch & Marsh, 1993:94). However, it is unclear from their accounts how child support arrangements could otherwise be determined given the breakdown in negotiations along other separation pathways.

Thus whilst men’s willingness to separate and their post-separation aspirations may vary and have consequences for the child support resolution process and outcome, at the same time the legal framework in place and the level of available resources can also be factors influencing the determination of child support. For some men these latter factors influence the extent of men’s post-separation aspirations and thus indirectly impact on child support arrangements. For others these factors have a more direct effect (e.g. judicial settlements).

Strategy & Tactics Adopted

As Rerrich (1993:322) notes, “elements of rationalization and calculation are marching into private life”. For a number of separated men it was important to avoid court-based settlements because they were concerned about the automatic activation of enforcement procedures stemming from non-compliance actions. They did so for a number of reasons.

For example, Dave stopped paying support because he needed to financially regroup after separation. By agreeing to a mediated agreement it was if the “public” consequences of his non-compliance actions could be kept at bay in the “private world” of their separation, circumstances in some ways mirroring the lack of State involvement during their marriage. In other words, child support difficulties could be worked out informally between his former wife and himself, as child support formed part of a mediated separation agreement rather than a judicially determined settlement.

However, defaulting on the child support agreement had the unanticipated outcome of his former wife being granted a maintenance order, which was triggered by her OFP claim. Dave had not anticipated this intervention:

“What my main problem is trying to get up out of the ashes to start again when you get hit with a hundred pound a week [maintenance order]. ...you’re [ex-partner] going to be looking after the girls so, you know, take everything to get started and give me a year so to get myself sorted and then you know we talk again, but in the meantime talk, talk – we keep talking, that was a financial thing - but I hadn’t really realised that State’s part, I hadn’t fully appreciated that.” 812/18

Alternatively, men upon separating feel that the presence of a court order can thwart the option of later developing a flexible child support arrangement, reflecting re-defined post-separation parenting arrangements. The implicit assumption is that non-court based child support agreements are easier to unravel and less prone to the risk of enforcement tools being used. For example, in the case of Teddy he argued that the presence of a court order would have made it harder for him to evolve his parenting role:

If we had gone to Court more than likely the arrangement would be that her mother would have custody and eh, I would have access... be arguing over money constantly. It's a different, it's a totally different scenario where, you know what I mean, where I'm, eh, I'm contributing towards her, her upbringing as opposed to just paying for her upbringing. 578/17

For others despite acknowledging a financial responsibility for their children, they did not want to be burdened with the rigidity of a fixed maintenance sum. Although there was an acknowledgement that periodical payments orders or agreements can be re-negotiated, some men –especially self-employed -preferred an informal or ad-hoc arrangement, which allowed them the flexibility of responding to the realities of day-to-day living. To change such arrangements meant less bureaucracy, less third party or legal involvement and less cost. Change could be undertaken more quickly and enforcement procedures would take longer to activate if there was a disagreement. In other words, it was better to put in place child support arrangements, which fostered flexibility and minimised legal redress, as in again the case of Teddy:

...I wasn't in a job with "x" amount of money at the end of the week. Eh, my financial situation would go up and down...I probably would have preferred to have some sort of a joint account or something for our daughter...418/17

Social Norms

Pruitt & Carnevale (1993:118) suggest that social norms and especially the principle of fairness is a factor governing the negotiation over resources. It would appear that it is difficult for men to isolate their evaluation of child support arrangements from their evaluation of the overall separation settlement. Moreover, it appeared that some fathers felt child support arrangements to be more acceptable when they and their partners made concessions in moving towards an overall settlement agreement, as in the case of "Teddy" (Example 8) where he compromised on the issues of housing and fixed maintenance provision and his wife compromised on the issues of joint custody and item-related maintenance provision.

As well as judging the overall settlement in relation to the extent to which it allowed them to fulfil their post-separation aspirations, other fathers made lifestyle comparisons with the lone parent family. This was particularly evident for those men who had left the family home before a separation settlement was resolved. They perceived their partners continuing to benefit from living in the family home with the children at hand whereas they usually had to move to inferior accommodation. These perceptions increased the likelihood of feeling a sense of unfairness during the negotiations. However, these assessments may be unsound and could be based on their perception of the living standards within the intact family household.

The men who were the most dissatisfied with child support arrangements were those with arrangements imposed by the Court. In addition to being dissatisfied because of the level of payment to be made, taking into account the terms of and the impact of the overall settlement on their lives, men's dissatisfaction arose from the disempowering nature of the process. One consequence – explored in the next chapter - is that a negotiated rather than an adjudicated settlement leads to a greater moral commitment on behalf of the paying party.

Summary

Instead of assuming that the outcome of child support resolution at separation can be understood as an expression of a non-resident father's financial commitment to his children it is more useful to consider child support arrangements coming about as a result of an interaction of a number of factors. There are variations in separating fathers' abilities to self-reflect and to analyse their circumstances; to clarify and define future post-separation aspirations, and to develop a negotiating strategy and tactics. Child support levels may be determined or influenced by outside agents (e.g. mediators, solicitors, judges) and may be influenced by the quality of a man's relationship with his partner as well as the extent of her own aspirations and the quality of her negotiating strategy. Child support levels may be influenced by the source and level of resources at separation as well as the need to put in place an overall separation settlement.

Because there are few guidelines around resolution there may also be an element of randomness. A compromise or mid-way point may be reached from the separating couple's initial bargaining positions, as in the case of "Mike" (Example 4). Child support

arrangements at separation may closely follow interim arrangements. They may follow positions adopted in other cases.

Men rarely saw child support arrangements put in place as a complete expression of their financial commitments towards their children. Instead the overall separation settlement -and the expectations arising from it – is a better indicator as it demonstrates the overall transfer of resources to the lone parent family unit and lays the foundation for a man's direct and indirect (e.g. his housing costs) expenditure on his children.

Therefore, what needs to be considered is every father's unique position – including his distinctive decision-making capabilities – in the context of the social and legal environment in which child support decisions are reached. Drawing on Pruitt & Carnevale's work the following elementary model (fig. 3.1) illustrates the interacting nature of the factors affecting how child support arrangements are put in place.

Figure 3.1 Elementary Model Demonstrating The Interactive Nature Of The Factors Affecting How Child Support Arrangements Are Put In Place From The Perspective of Non-Resident Fathers

Conditions at beginning
of decision-making process

- >Why broke up
- >Perceiving fault/responsibility

>Psychological states

(His & Her Motivations-conceptualising future capabilities, aspirations, goals-whose interest(s),
Cognitions and Perceptions – self-reflective and decision-making abilities)

- >Level and sources of available resources
- >Legal environment in which child support decisions are reached
- >Social norms (e.g. a sense of fairness)

- >Strategies/tactics – ability to compromise or exchange commodities
- >Preferences for informal/formal settlements
- >Pathways chosen
- >Intervention of third parties
- >Quality of spousal relationship

>Interim Child Support Arrangements

>Intervening variables (e.g. change in job status, new relationships)

>Formalised Child Support Arrangement as part
of a Separation Settlement
>Evaluation of Outcome

<_____ Time dimensions _____>

3.6 Conclusion

The purpose of this chapter was to consider non-resident fathers' perspectives on how child support arrangements were put in place, focusing in particular on those arrangements put in place at legal separation.

The first part of the chapter examined the decision-making context in which child support arrangements were made, by outlining the "pathways" used by couples to legally separate. The chapter then addressed the influence of a number of factors on how child support arrangements were determined, by examining various men's separation experiences. How respondents assessed the child support arrangements put in place at separation relative to the separation pathways used by them was then looked at.

The chapter concluded by putting forward an elementary model which contextualised the complicated and different considerations facing fathers in reaching child support decisions.

The next chapter examines men's post-separation perspectives and experiences of child support arrangements.

Chapter 4 – Non-Resident Fathers’ Experiences of Child Support Arrangements after Legal Separation

The purpose of this chapter is to examine men’s experiences of child support arrangements after legal separation.

As noted in chapter one there is evidence to suggest that Irish child support compliance rates are low. The first part of the chapter examines the factors from men's perspectives, which led to changes over time in child support arrangements. The chapter then looks at men’s accounts where child support arrangements did not change over time.

The chapter concludes by putting forward an elementary model which contextualises men’s child support perspectives and actions after separation.

4.1 Overview of Child Support Arrangements after Legal Separation

Thirty-three non-resident fathers were formally separated. Twenty-three of these men had a child support arrangement in place at separation. Table 4.1 outlines the child support situation for these men at the time of their interviews for this study.

Table 4.1 Overview Of Child Support Arrangements In Place At The Time of the Respondents’ Interviews

Pathways Used By Men To Complete Separation	Number Of Men Using A Pathway To Complete Separation	Number Of Men With Child Support Arrangements As Part Of Legal Separation Settlement	No Change In Payment ¹ Level	Reduced Payment or No Payment	Child Support Arrangements put into place after Legal Separation
Mediation	11	10	6	4	0
Lawyer Aided	15	9	7	2	1
Judicial Separation	7	4	0	4	1
Number of Men	33	23	13	10	2 ²

Table 4.1 does not necessarily address every change over time in the level of child support provision. It compares the arrangement put in place at legal separation with the level men were paying at the time of their interviews for this study. For a number of men there were intermediate changes that are not reflected in Table 4.1. For example,

¹ Except for Retail Price Index changes.

² This represents two cases where no support arrangements were put in place at separation because the respondents were unemployed. However, as a result of them starting work after separation, this led to child support arrangements being put in place at the behest of the DSCFA.

a number of men stopped paying child support but due to Court action (or the threat of) they recommenced paying.

4.2 Factors That Led To Changes In Child Support Arrangements

The majority of respondents in this study experienced a change in child support arrangements after separation. These changes were either in terms of the level of child support paid or to whom such payments were made. The intention of this section is to draw on individual men's accounts to illustrate how different factors affected child support arrangements put in place at legal separation³.

4.2(a) New Relationships

The emergence of post-separation relationships introduces a new set of dynamics into the child support decision-making environment. They can lead to non-resident fathers reconsidering the level of resources required to support their own and lone parent households. Their advent can lead to a re-evaluation of the purpose and effect of making child provision, in light of the availability of and the wider demand for resources. The conditions that helped bring about a child support settlement may no longer be wholly relevant. For two men in this study the emergence of post-separation relationships was significant in influencing child support arrangements to change⁴.

Example One – “Bill” –Consequences for Child Support Arrangements as a result of a Non-Resident Father’s Wife Entering into a Post-Separation Relationship

Bill⁵ (47) was married for 7 years. At the time of the interview he had been 6 years legally separated from his wife and moved out shortly afterwards. Bill had been working as a teacher at the time of his separation negotiations but at the time of the interview had retired on health grounds. Bill's wife was not working at the time of their separation but at time of the interview she was in receipt of OFP and working part-time. Bill and his wife allowed solicitors to negotiate a separation settlement on their behalf over a three-month period of which child support was a component. They have three children who resided with their mother: two boys aged 15 & 7; and a girl aged 10.

³ However, what will become obvious from these accounts is how rare it was for child support arrangements to be influenced by just one factor. Indeed in some cases it can be difficult to distinguish the main reason that led to change.

⁴ Their accounts have been chosen to illustrate the contrasting influence of post-separation relationships on child support arrangements. The first example looks at the experiences of “Bill” whose child support decision-making was affected by his wife's decision to enter into a post-separation relationship. The second case of “Sean” illustrates what can be the consequences for child support arrangements as a result of a non-resident father entering into a post-separation relationship.

⁵ See Example 7, Chapter Three for more details on “Bill”.

The couple's solicitors negotiated a separation settlement where it was arranged Bill would continue to pay the £300 per month mortgage on the family home, pay £100 per month child support for his three children and pay £100 per month spousal maintenance. Altogether this represented approximately 39% of his income (child support represented 8%). As part of the separation agreement he also agreed to move out once he found suitable accommodation.

This arrangement continued successfully for nearly two years until the respondent's wife entered into a new relationship. However, Bill was not able to accept this new relationship as he felt that it changed the post-separation parenting environment:

"The problem was when this other guy came on the scene, it fecked everything up because I wasn't going to accept it. For a start he was coming into the family home and sleeping with her in front of the three of them. I mean, I have a problem with the morality of that. The fact that I couldn't go to see them because he was in there because I had been involved on a daily basis with them, their schooling and their homework and all that. That meant basically the whole thing changed" 1138/20

As Bradshaw et al. (1999:122) in their qualitative study on fathers and contact also observed, that when a mother enters into a new relationship it can lead to tensions in existing relationships. In Bill's case it could be argued that it led him to perceiving his ex-wife's new partner encroaching upon his fathering position.

As a result of Bill's inability to accept his wife's new relationship, he reduced maintenance provision by £100 per month. Bill's actions appear to support Bradshaw et al.'s (1999) finding that father-child contact can be closely associated with whether child support is paid. Bradshaw et al. (1999:202) suggested that some fathers question why they pay maintenance when ex-partners do "not reciprocate by "allowing" them some parental responsibilities in terms of caring". This can lead to men withdrawing or reducing child support. In Bill's case it appears that he reduced payments as a response to his unhappiness with what he saw as the imposition of inferior post-separation parenting arrangements. At the same time he also believed that the reduction did not significantly affect his children's welfare:

"Given both of their sort of behaviour, I thought it's outrageous if he is allowed to eat the food basically that I am giving to my children . . . I'm not saying that I was neglecting my children but I was going to make waves in my own quiet way to change things because that is the only way that I can make waves. I can't go to a senior counsel (QC) and say there is a thousand quid, sort it out for me, as some guys can say in this society. So I mean, you cut your cloth to your measure in situations like that" 1607/20

By stating that he was not “neglecting” his children Bill was concerned to maintain his reputation as a caring father. Finch & Mason (1993: 149) suggest that “reputations... are the means by which moral identity of each individual gets built up, consolidated and modified over time, and gets “carried” from one situation to another”. Thus, Bill was attempting to minimise the consequences of altering his child support actions. Otherwise such actions could put his reputation at risk.

However, Bill’s wife successfully applied to court for a maintenance summons but in advance of the hearing he agreed to pay the original maintenance arrangement because he was afraid of the legal consequences. Nonetheless, Bill still considered the circumstances to be unfair and appeared resigned to continuing to pay child support:

“I think that if she is living with somebody that that should be legalised, not legalised but it should be, it should have an input on what I’m paying, it should have an influence shall we say on what I am paying but eh, I have sort of given up, see I have lost confidence completely on the system, basically I have been melt to the core by the whole thing” 1328/20

In hindsight it could be argued that the seeds for later maintenance disruption were sown if Bill’s view on the implications of his separation agreement are considered. Bill felt that the:

“concept that by signing a separation agreement, I kind of felt that the separation agreement in my naivety meant that we just – we were bringing up the children together, we just weren’t living in the same house” 1161/20

Although he acknowledged that he had a responsibility to pay child support, a number of other issues affected his thinking. This included him feeling that he should have been directly caring for the children and that he should have been looking after his own material needs better. However, his overriding feeling regarding the provision of child support was one of anger and this arose because five years on, he had not come to terms with being separated:

“Overriding all that is anger, that I am separated . . . I’m absolutely livid because if I was an adulterer or a drunkard . . . I’d say fair play, I’d deserve it but what makes it very difficult for me is that I deserve nothing like that and neither do the children. I mean this is what makes me so furious” 678/20

In conclusion, Bill’s case illustrates how a non-resident father’s response to his wife’s post-separation relationship can destabilise child support arrangements put in place as part of a separation settlement. It appeared that although he initially tolerated being separated and the maintenance arrangements put in place, his acceptance of these

were undermined as a result of his wife's relationship. He did not expect and could not adjust to the emergence of this post-separation factor. He allowed it to affect his ability to parent. As Bradshaw et al. (1999:210) indicate, the history of men's relationship with their children may be seen as a contingent factor related to willingness to pay. He also perceived his wife's partner to be benefiting from maintenance.

In addition, Bill's belief system regarding social norms appeared violated; he felt that it was both immoral and unfair that his wife should have another man in the family home. He was angry at this new development. To show his dissatisfaction he stopped complying with child support arrangements. It was only with the threat of judicial intervention that Bill reluctantly started paying child support once again.

Example Two – “Sean” -The Effect On Child Support Arrangements As A Result Of A Non-Resident Father Entering Into A Post-Separation Relationship

The experiences of respondent “Sean” indicate how men's post-separation relationships can affect child support arrangements.

Sean (40) had been married for 15 years (plus 3 years cohabitation). He had been separated for two years and he moved out of the family home just after the second of three mediation sessions. The successful mediation process lasted three months. At the time of the separation Sean was a fireman⁶ and his wife worked part-time. They had two daughters aged 13 and 11 who continued to live with their mother.

Sean was initially satisfied with the separation agreement reached through mediation. He agreed to pay £40 per month child support, £180 per month spousal support, £300 mortgage per month and £900 per annum on utility bills (e.g. schooling, electricity, gas). The proportion of maintenance to be spent on his ex-partner compared to his child was formulated for tax purposes. Approximately 50% of this respondent's monthly take-home pay formed part of the settlement. Access provision was flexible. Sean's wife and children remained in the family home whilst he returned to live in his own father's home. He was satisfied to quickly come to a settlement because he “wanted out” of the relationship, he didn't want any arguments and he felt like “doing a runner”. Interestingly, because he felt responsible for the marriage breakdown he felt a duty to make a generous settlement:

“I wanted out so I sort of paid more than I had to really, a little bit more, over the odds, just to, so I could leave, a sort of face saving exercise...I threw in all the rest, paying some of the bills, paying a couple of other things during the school year like school fees

⁶ Employment statuses are those at the time of the formal separation.

and that which more or less was over and above what I could have got away with, you know” 73/9

Interestingly, although the level of child support was a small sum in the context of the overall settlement, he saw the overall settlement as an expression of his parenting responsibility. Sean did not differentiate between the purpose of child support and the overall settlement:

“I never thought of it as different because it doesn’t go eh – all the money goes to my wife and nothing is specified, eh, like it goes to her, to take care of the house and the kids” 304/9

However, Sean’s initial satisfaction with the settlement later turned sour because he did not have sufficient resources to meet the costs of a subsequent relationship. Although he negotiated with his wife to reduce maintenance provision by £10 per week, he still found it difficult to make ends meet (e.g. buying furniture, going on holidays). On reflection he believed that he “took the short term view” and that his “needs were not taken into account by me, so that was all self-inflicted, any shortage I had” during the separation negotiations.

Consequently, Sean expressed mixed feelings in terms of continuing to meet the settlement provision. On one hand, he was dissatisfied when he perceived his wife to be buying goods for herself from the settlement provision, whereas he perceived himself to be financially struggling. At the same time he acknowledged that it was impractical to ensure that only his children benefited from the transfer of resources. Sean reinforced this position by adopting a hands-off approach to parenting and how maintenance was to be spent:

“She is out earning her own money. We’re finished with each other. I don’t want her to be comfortable but I mean like if she’s uncomfortable because I left her short, well then the house is uncomfortable and the kids are getting the brunt of it. I will always be involved with her, you know to some extent. So I mean I can’t cut her off and still end up with the kids, still having the same lifestyle, quality of life. I mean it goes as far as sort of having comfortable home without argument and all that . . . You can’t restrict what they are getting to just food and clothes and school books and things. It includes peace of mind for them” 945/9

However, as a result of Sean entering into a new relationship his aspirations changed which led him to changing his perception on the child support arrangements and overall settlement put in place at separation. He saw them as a temporary equilibrium; a “ceasefire” arrangement. Although he remained dissatisfied with the settlement provision, he was set to continue pay child support and was not looking to re-negotiate arrangements for the time being:

"I have four years left on the mortgage. The separation agreement will be in place for five more years and then it will be re-negotiated. It will be re-negotiated anyway if things change, if I lose my job or if my Dad dies. But in four years time when the mortgage is paid I will want to pay her less, a lot less than I am paying now and she's obviously going to want more. So at the moment in my situation I feel I'm in a ceasefire at the moment. So that's the way it is, like in four years time I will want to pay her very little and I can see us having to get solicitors and all the rest then but at the moment things are – we are sailing along with the agreement we made" 194/9

Therefore, while frustrated with paying maintenance because of the impact on his own life, it appeared that Sean would continue paying. Finch & Mason (1993:168) might argue that it had become "too expensive" for Sean to withdraw from the evolving post-separation situation. They suggest that this "expense" may not necessarily have to be calculated in material terms. However, while in Sean's case this was a factor, it was also important for him to be seen as morally responsible. Using Finch & Mason's framework, the cost to Sean would be in terms to his self-identity and his moral standing inside and outside his family, if he broke the agreement. From an Irish historical perspective, to be at "ceasefire", implies a morally active and constructive undertaking; it is normally applauded.

In conclusion, as a result of entering into a new relationship Sean reconsidered the terms of his separation settlement. This was because the resources required to sustain his new relationship led him to be dissatisfied with the overall settlement put in place. Moreover, this was reinforced by Sean's belief that he had agreed to a generous separation settlement in order to leave an unhappy marriage.

Although he wanted to be as generous as possible to his children, Sean felt that there were insufficient resources available to adequately fund two households. This led to a reduction in the level of child support he paid. Although he welcomed this reduction he was still dissatisfied with his outgoings on the lone parent family unit. However, he felt compelled to comply with child support arrangements, not least out of a sense of honouring the agreement.

4.2(b) DSCFA's Liable Relatives Scheme

To offset the costs of OFP the DSCFA may issue non-resident fathers with a determination order⁷. The DSCFA made contact with ten fathers after they were legally separated. This led to (or was about to lead to) changes in eight men's child support⁸ arrangements.

⁷ See Chapter One for more details.

⁸ There was no effect on the terms of the separation settlement in two other cases. In one case the Department unsuccessfully sought a maintenance order against a father; the application

As a result of the former wives of six respondents successfully claiming OFP, maintenance provision were transferred⁹ to the Department. In two other cases the Department's involvement resulted in post-separation maintenance arrangements being put in place (i.e. maintenance orders were successfully sought by the DSCFA against two fathers after they started working after their legal separation). Respondents responded differently to the involvement of the DSCFA into their lives¹⁰.

failed because as part of the judicial separation it was agreed that the father would make a lump-sum payment (i.e. housing equity) in lieu of maintenance for a five-year period. In another case the subsequent partner of a non-resident father had her own OFP withdrawn as a result of a DSCFA enquiry, which followed his former wife's successful OFP claim. In turn this man was not issued with a determination order because he had insufficient funds.

⁹ In one case this was about to happen at the time of the man's interview.

¹⁰ When the DSCFA did not demand additional resources and where the transfer was sympathetically viewed in relation to a lone parent's OFP claim, it was more likely that the DSCFA's intervention was acceptable.

Where men experienced an additional demand on their resources following the intervention of the DSCFA, they generally resented it. This was because they felt they were being asked to contribute more than was agreed at separation. Specifically, the resolution of a separation settlement allows men to plan for the future. Consequently, they dislike the effect of higher maintenance demands on their lives.

In addition, the background to the Department's involvement can also influence their response in other ways. For example, one man felt that the DO request was illegitimate. He felt that his ex-partner could have received a generous separation settlement except for her destructive attitude during the negotiations. He felt that she had unnecessarily engaged in a costly and lengthy adversarial separation process. This had incurred excessive legal costs, which had in turn affected the level of resources available for re-distribution. This outcome partly necessitated his wife to seek social welfare resources, which had the knock-on effect of him being issued with a determination order. Similarly, another man felt that the Department's involvement was unfair because he had negotiated a moratorium on child support provision at separation. Thus men's view on their on-going child support commitments was very much tied up with the process of reaching and the terms of the separation settlement.

The fact that men's former partners were not obliged to work could affect their views on paying determination orders. One respondent - "Aidan", discussed below- was concerned there would be insufficient funds to meet his children's needs because his ex-partner would no longer be receiving maintenance and because she was not working. As a result he also wondered whether he was at risk of receiving future maintenance summonses.

Another man was concerned to be issued with a determination order but for quite different reasons. He judged his ex-wife to have the capacity to work but that she refused to do so. Consequently, he felt that she was unfairly receiving State benefits. The issuing of a determination order reinforced his sense that the State was gender-biased. His sense of unfairness was underpinned by the fact his children spent a lot of their time with him- an additional and unacknowledged drain on his resources. He also felt that he had to work harder after separation to meet his overall expenses whereas there was no pressure on his wife to work outside the home.

However, despite his misgivings of being issued with a determination order, he preferred paying the State rather than his wife. Instead of worrying about how she was spending maintenance, by paying the State he felt that because they were putting his maintenance to good use. What she did with OFP was up to her. His conscience was clear.

Therefore, men's response to being issued with a determination order is informed by issues beyond the level to be paid. These include their perspectives on who was responsible for the relationship breakdown, their evaluation of the separation process and its outcome, and whether they see the Department's request as a legitimate claim.

The stories of two respondents, “Dave” and “Aidan”, highlight in greater detail their quite different responses to the involvement of the DSCFA into their lives.

Example Three – “Dave” – A Non-Resident Father’s Perspective On The DSCFA’s Intervention That Resulted In A Higher Level Of Child Maintenance Being Demanded

Dave (42) had been married for 13 years. He had been formally separated for 4 years; thereafter the couple physically separated. A mediated separation agreement was reached over 6 sessions in a 4-month period. Dave was self-employed; he was a plumber. His wife at the time of the interview received OFP and was running a B & B. They had two daughters aged 14 & 12; the girls resided with their mother.

Dave was reluctant to agree to the separation settlement but capitulated owing to the mental and emotional pressure of separating, “in order to preserve my sanity”. Dave bought out his wife’s share of the family home, which gave her sufficient capital to buy outright a house in another part of the country. Dave also agreed to pay £160 per month child maintenance for his two daughters who continued to reside with their mother and also agreed to a nominal figure of £2 per month to maintain his wife. Child maintenance represented 20% of his income.

However, within a matter of months of the separation Dave stopped complying with the maintenance arrangements. He paid less than the agreed amount and was late with the payments. Dave justified his position by noting a number of reasons.

Although he agreed to pay a fixed monthly maintenance provision, at the same time he felt there was some flexibility in this arrangement and viewed the housing settlement as a form of child support and the basis for his wife to generate an income. Before separating they had agreed to set up a B & B outside of Dublin and Dave justified his flexible position around maintenance by suggesting that his wife’s act of purchasing a new house had enabled her to fulfil this plan. His position was reinforced by the view that his wife and himself had an equal parenting responsibility:

Interviewer: You as a father, don’t you have a financial duty to support your children”?

Dave: But I did. I bought a house. They {the DSCFA} don’t have to buy a house for them. That was our house, that was some kind of an income, some kind of support, my wife was supposed to do the rest because we were apart, we were supposed to be equal . . . Basically my idea, my selfish idea was if you take everything but see it as maintenance. That was the principle, I realise that was naive. It was also selfish; I wanted the space. I said if you take everything, give me a space to get going again, to get started again 752/18

While Bradshaw et al. (1999:210) suggest that a past financial settlement can be a contingent factor related to a man's capacity to pay child support, it may also be a factor affecting men's willingness to pay support. In addition, he also felt that he could stop paying the fixed monthly maintenance provision and instead provide informal financial support until he could re-establish himself. As Bradshaw et al. (1999:197) might suggest, Dave's ex-partner was "selected to shoulder the financial responsibilities of parenthood on the basis of ...[a] guideline of financial equity across the two households". Simpson et al. (1995) also observed that by saving, some men hope to obtain a better relationship with their children in the future.

However, Dave was willing to informally supplement the income generated by the B & B. In other words, in terms of his capability to re-establish his well-being, Dave required "space" so that he could come to terms with both the psychological (e.g. he became depressed which affected his capacity to work) and the financial (e.g. he had to find funds to re-mortgage) pressures arising from his separation. However, he did not consider his actions would lead to the intervention of the State:

"I wasn't capable at the time of rearing two girls, just didn't have the skills at the time and it just wasn't feasible: "You're going to be looking after the girls so, you know, take everything to get started and give me a year so to get myself sorted and then you know we talk again", but in the meantime talk, talk – we keep talking. That was a financial thing but I hadn't really realised that, the State's part, I hadn't fully appreciated that"
654/18

Dave's attitude suggests that he anticipated the active cooperation of his ex-wife in preserving this arrangement. At the same time, as Finch & Mason (1993:157) also observed, "talk" or face-to-face interactions are important parts of the process by which "reputations get confirmed, sustained and modified". In other words, Dave hoped that by talking (i.e. "we keep talking") to his ex-wife, this would help to sustain his reputation as a responsible father.

Finally, owing to him changing his job, which led to him having unanticipated start-up costs, Dave's post-separation income decreased which affected his ability to pay child maintenance. Consequently, the provision of child maintenance did not take precedence:

"I thought looking at the figures {separation settlement}, yeah, it could be possible. But different things happen; you see life doesn't flow that way. I left that job and went contract. I had to buy a van and I had to buy tools and it just wasn't there, that's life"
1085/18

In response to him not paying child support Dave's wife applied for OFP. This triggered a course of action whereby the DSCFA requested Dave's wife to successfully apply to the court for a child maintenance order, which resulted in the judge ordering £100 per week. However, Dave could not afford this sum as his weekly income was £200 per week and his mortgage repayment was £100 per week. Dave thought that the demand for this amount was unfair. It was unfair because he was "trying to get up out of the ashes to start again and you get hit with a hundred pounds a week". It was also unfair because the State did not appreciate the contents of the overall separation settlement and the fact that his wife could involve the State so easily when both of them "could earn a bob". It also had an impact on how he conceptualised his parenting role:

"There is £200 coming in and say the State wants £100 of that, then the State takes my role, it takes my role as a financial thing, and it doesn't leave me any room because I don't have it. It has taken it. So as far as my family – as far as my children are concerned the State is supporting them, I am out of the picture, plus I am more resentful because its unreal ... I didn't expect the State to be Daddy, the State's being Daddy, that's what it is . . . I don't like it" 1379/18

However, with the support of his wife he appealed the court order and maintenance was reduced to £40 per week, which he agreed to pay by direct debit to the DSCFA.

At the time of the interview this arrangement had been in place for three years but Dave was concerned about how it affected his parenting role. Although Dave accepted and continued to pay £160 per month child maintenance to the DSCFA, he did not feel that his children saw this provision as an expression of his parenting role. Instead Dave saw paying the State as a hurdle to jump over before he could have a meaningful relationship with his children. However, he accepted that that the provision to the Department was a "minimum" and it was "real"; the level was fair because he was able to meet it, even with a variation in his weekly income, and it also allowed him to continue on his terms an involvement with his children:

**Interviewer:*

Why were you content paying £160 per month child maintenance?

**Dave:*

Because it was the minimum. It left me space to continue an involvement with my children, on my terms. In actual fact it was real. Like if I had a bonus or did well, then there was money, if things were tight, then you know, that's real [maintenance level], that's how life is... I try to keep the State over there. I'm literally paying them £160 per month to shut them up and I'm having my own relationship with my children; it's actually nothing to do with my wife. I buy all their clothes, all the treats, all the things. 923/18

Thus in order for Dave to fulfil his parenting role he felt he needed to be able spend directly on his children, without expenditure being mediated by his wife. As Bradshaw et al. (1999:215-216) highlighted, some men feel that there is an invisibility attached to paying maintenance. As in Dave's case, they suggest that child support can have little value in "aiding intimacy" whereas men feel that buying "*all their clothes, all the treats, all the things*" can be seen by children as a demonstration of their love. Furthermore, it was important for him to have some control over his resources. If they were scarce, he preferred to spend money directly on the children rather than pay the DSCFA:

"I save a commitment to the children for pocket money and clothes. I couldn't do, there were times when I couldn't do both, I wasn't paying the State. I was making a decision to send them down their pocket money or pay the State. I would always send them down their pocket money." 1520/18

Dave felt that his wife and himself should have met their children's everyday expenses. However, to underpin his visibility as a parent it appears that he felt that they should be funding different aspects of the children's care: his contribution being recognisable and welcomed by the children (e.g. clothes) and his wife's contribution "doing the rest". Thus child-related expenditure was a way to maintain good relationships with his daughters:

**Interviewer:*

Tell me how they are getting food on the table, clothes, heating, pocket money and so on?

**Dave:*

They get the pocket money from me; they get £50 a month each. They get clothes from me. They get their holidays from me. They are up with me quite a bit, so I'm feeding them. They will have my house. That is going to be left to them. So – I just reckon my wife could do the rest, had she not informed the State, I think that it was viable . . . I guarantee my children will survive and they will survive very well and they are very happy. Now that is the reality. That is the human side, that's what actually happens. The State thing is all bureaucracy. 1336/18

Paying child support came to form part of a wider strategy to maintain smooth relations with his wife. Dave admitted developing such a strategy to reduce the risk of his wife instigating any further court action, especially to avoid the possibility of being issued with a higher maintenance order. Part of this strategy consisted of him continuing to meet the on-going financial requests of his wife. The benefits of keeping his wife happy included Dave being able to maintain a relationship with his children, which was helped by him having some control –without the interference of the State – over his resources:

"It's like eh, I have to keep her happy, yeah. That might mean sending money on the side, things like that . . . but that's my money, my decision. That's nothing to do with

anybody. But what the dangerous thing is I think that the State takes that away, it really does. In going for a maximum they leave nothing for a relationship with the children... If this gets legal again which it might do the way relationships go – it will all be up in the air again, you'll declare what you earn. They'll say: "no, no we want more". And my wife says: "we want more". It just limits my human contribution, do you know what I mean, my ability to be human about how I give money, or give presents or give clothes and behave as a father, do you know what I mean" 354/18

Dave was uncertain whether child maintenance equilibrium had been developed. He was anxious about the future because he had a fear that either he might not be able to afford provision or that his wife might seek an increase in the level of provision to be made, owing to the variation in his self-employed earnings. Furthermore, although access arrangements have become more flexible over time with the result that his children were spending a greater proportion of their time with him (e.g. one daughter spent all of her school holidays with him in the summer previous to the interview), Dave decided that he would not seek a reduction in the level of maintenance provision to be paid. This was because it could have detrimentally affected the quality of his relationship with his wife, which in turn may have led to legal and access consequences.

In conclusion, Dave initially responded to child support measures agreed at separation with a *laissez-faire* attitude. Subsequently, as a result of not paying child support a chain of events occurred. The intervention of the DSCFA resulted from Dave's wife seeking OFP and led to him being issued with a maintenance order for a higher amount than he had originally agreed to pay. With the support of his wife he succeeded in getting the maintenance order reduced back to the level agreed at separation.

Although Dave thought child support arrangements were unfair in the context of the overall separation settlement; his post-separation financial needs; and the capacity of his wife to generate an income; at the same time he complied with the maintenance order from fear of the financial and relationship consequences of not paying child support.

However, he disliked the involvement of the State into the private family domain. There was little recognition from Dave that he had a responsibility to offset the State's OFP. In fact he saw the determination order as a financial obstacle to overcome before he could engage in having a relationship with his children.

What is interesting about Dave's account is that it helps to elucidate how men justify renegeing on child support arrangements. His account also helps to illustrate how men

respond to the intervention of third parties such as the Department, not least in terms of the effect that a determination order has on men's perception of their parenting capacity.

Furthermore, it also demonstrates the roller coaster aspect of some men's post-separation child support experiences that a snapshot perspective would not capture. Therefore, it appears insufficient to consider at a particular point in time (e.g. the time of the interviews for this study) whether there has been compliance with arrangements.

In Dave's case the intervention of the DSCFA resulted in a demand for an increased level of maintenance. In the case that follows the intervention of the DSCFA resulted in a transfer of maintenance provision. However, the respondent had concerns about this new arrangement.

Example Four – "Aidan" - A Non-Resident Father's Perspective On The DSCFA's Intervention Which Resulted In A Transfer of Maintenance Arrangements Put in Place at Separation

Aidan (46) had been married for 10 years (+ 3 years cohabitation). He had been formally separated for 3 years. The couple finalised a separation settlement outside the court on the day of their judicial separation hearing. Thereafter, the couple physically separated. At the time of the interview Aidan was self-employed and his wife was receiving OFP. They had three children. Two daughters were living with their mother. One son was living with Aidan.

As part of the separation settlement Aidan agreed to pay £110 per week child maintenance and also agreed to pay specific on-going bills (e.g. children's and half of the household utilities and repair bills (e.g. healthcare, re-decoration, schooling, clothing)). The sum of £110 per week was arrived at by being the mid-point bargaining position between the parties' opening bids. Aidan offered to pay the mortgage but his wife declined. The reason for this was that she did not want him to have some hold over her.

He believed that his wife understood how best to maximise her post-separation income by using the system. For example, she negotiated a settlement, which took into account that child maintenance was not assessed as means in determining OFP and that the State would continue to meet her mortgage repayments. As a result Aidan felt his wife did better from the separation settlement:

"I think that it was very clever the way that she knew or that her solicitor knew that if I was to give it to her direct [i.e. ex-spousal maintenance] that she wouldn't be able to claim for it [social welfare]. It was a little unfair... it should affect her allowance not because I would begrudge her any money that she is getting because I am sure like – well, I wouldn't say that she is not well off, she's comfortable, but on the day (of their separation) I'm sure I said to my sister that's very unfair" 191/15

What is particularly interesting about Aidan's case is that at the time of his interview for this study, which was approximately three years after his separation, the DSCFA had just issued him with a determination order. This happened because the Department changed its OFP assessment criteria: child maintenance became assessable as means. Consequently, the Department requested Aidan to transfer £110 per week child maintenance from his partner to them. Interestingly, the Department noted that £96.46 of the amount to be transferred would offset the mortgage repayment and the remainder would offset the OFP.

However, although Aidan agreed to transfer the maintenance provision he had mixed feelings about doing so. Although there was still a degree of enmity between the separated couple, Aidan did not want his wife to receive less income since his children would ultimately financially suffer:

"Well, as I say I wouldn't like to see her short because if she suffers the children suffer. Whatever way it works out I hope that she has enough" 647/15

The involvement of the Department appeared to become another factor influencing his perspective on paying child support. Although he acknowledged that he had a "duty" to support his children, he found it unfair that he had to work so hard in order to financially survive - which included providing for his son who was living with him - whilst his wife did not have to work at all. This feeling was reinforced by the fact his wife had instigated the separation:

"The fact that I am paying rent here – like rent here is £550 per month, her maintenance is £440 per month, that's £1000 per month, it's a lot of money for anybody to earn on their own. That's the only bitterness that I have about it is that I have to work so bloody hard to make it. But yeah, I would feel it is my duty to support my kids even though it is not going directly to them . . . To put it bluntly, she needs to get off her arse and work. She could do it. She used to work in an architect's office, she was very good at it and I don't see any reason why she can't do that. She still wouldn't be working as hard as I am, and the worse part about it was that it wasn't my idea to separate" 460/15

Therefore, it could be argued that Aidan's willingness to pay support was affected by his belief that his ex-wife could have worked which would have reduced his financial burden. Aidan paid child maintenance for a number of reasons. Although he felt that maintenance was not going directly to his children, he felt that he had a duty to pay it.

As Bradshaw et al. (1999: 217) noted child support can be paid out of recognition of the children's entitlement. In addition, by paying child maintenance he felt that he was publicly demonstrating that he was meeting his financial responsibilities to his children, which also meant that his wife could not insult him. As Finch & Mason (1993: 171) suggested, "a person's reputation is public not private property". He would also have felt "a bit not involved" if he had not been paying. And although he was resigned to letting his wife spend the provision as she sought fit by adopting a "hands-off" approach to maintenance, by paying maintenance he could "keep my foot" in the lone parent household. It was as if child support payments "were instrumental actions arising from self-interest" (see Finch, 1989:216):

"The house, her financial affairs, how she is doing, just getting a little bit of an insight that if I wasn't paying her, she wouldn't say anything about it[what's going on]. I'd feel that she doesn't need it but the fact that whenever I'm late, she chased me for it. She's comfortable alright in my eyes but in her eyes she's not" 1140/15

On the other hand, if his wife did not want the maintenance, he would agree straight away because he would not have had to work so hard, he would not be under so much pressure financially and he could save up and buy a house.

Aidan noted that although at times he found it particularly tough to financially cope as a result of his self-employment, did not legally re-negotiate the maintenance agreement because his wife would have found legal loopholes and because of the costs. In addition, it would have had negative consequences for their relationship:

"Because it is like throwing petrol in the fire, you know, things are just – I'm surviving so is she and as long as the boat isn't rocked I am going to leave it as it is. I knew I was going through a slack period and it would get better and I would be able to afford it again so I just left it alone. I'm not really the sort that goes into court and fight my – I'm not like that" 1006/15

However, the involvement of the Department did not just have consequences for destination of child maintenance payments. Aidan was afraid that it would the post-separation equilibrium that had been established. He was afraid that his wife might seek an increased maintenance award from the Court. If this happened Aidan would give up work:

"What would worry me then is that she may apply to the courts again to get maintenance out of me as well . . . I can't afford it, I'm pushing as I am, I'm up to my neck in it. There is no way that I live high, I don't socialise, very seldom anyway, I don't live above my means, definitely not. And if I was pushed anymore financially, I would just fold up the business and I would go on the dole. I'd say I would have to be forced to do that because I'd probably get one-forty, one-fifty on the dole and there would be a

revision of that, of maintenance, if I hadn't got it, how could I pay it so the social welfare would have to cough up if I wasn't giving it to her and she wasn't getting it" 725/15

Instead Aidan preferred to minimise conflict and just get on with things:

"Well, the fact that separating is such a nasty thing and it takes awhile to get over, I would prefer if it was just left alone. I'd just pay her the one-ten, I don't want anymore complications, I know it's probably a terrible way to think but like you know, . . . but there were a lot of fathers much worse off than me, some not so bad." 658/15

In conclusion, Aidan's story is interesting because it demonstrates how a non-resident father engages with the arrival of a determination order. In Aidan's case the intervention of the Department had the potential to upset the fragile child support and relationship balances in place, painstakingly established from a bitter separation. Aidan was concerned that the living standards of his children may suffer, as he would be making payment directly to the Department. He had also to entertain the possibility that his wife could in the future seek a higher level of maintenance, which he would be unable to meet. However, he welcomed the possibility that the Department's involvement may encourage his former partner to seek work. Thus Aidan's hopes and concerns illustrated the range of thoughts that a non-resident father can experience when he is faced with a financial request from the Department, which although did not seek to increase the level of maintenance provision, left Aidan wondering about its wider implications.

Aidan's story is also interesting because it shows how he distinguishes between paying maintenance for his ex-wife and his children. As Finch & Mason (1993: 179) suggest, commitments to ex-partners are likely to be weaker because the "history of particular relationships" has been broken. Subsequent commitments are less likely to be reaffirmed through reciprocal assistance and less likely to establish an individual's personal reputation and social identity (see Finch, 1989: 242). Therefore, Aidan felt less of a sense of obligation to support his ex-wife.

4.2(c) Changes in Access & Parenting Arrangements

Changes in post-separation access and parenting circumstances can affect child support arrangements. For three men in this study this was the primary reason why there was a change in child support arrangements. The three cases had one thing in common, namely a drop in child support provision occurred because their children were spending a longer period of time with them than was originally anticipated at separation. However, the reasons why children spend more time with their fathers can

be different and as the following two examples demonstrate, this can lead to child support arrangements evolving in different ways¹¹.

Example 5 – “Alex” – Changes In Parenting Arrangements Leads To A Decrease In The Level Of Child Support To Be Paid

Alex (53) had been married for 22 years. He had lived apart for 5 years and had been formally separated for 4 years. A separation settlement was reached outside of Court on the day of the judicial separation hearing. Alex and his wife worked as middle-grade civil servants. They had four children. Their two dependant daughters aged 19 & 16, lived with their mother.

At the time of the separation both parents were working in equally well-paid jobs. Alex received £25k equity from the re-mortgaging of the family home and he agreed to pay £425 per month child maintenance for his two youngest children. Flexible access arrangements were agreed because their children were sufficiently mature. For Alex, however, he felt that maintenance was also a contribution to cover the costs of his other two children aged over 21 years who were attending university:

“The maintenance, I was trying to be as generous as I could, I wanted to support them. The problem with it, to give a straight answer, it wasn’t a straight figure named against two children. I certainly had two other children who were in third level (i.e. university) in my mind so I gave as generously as I could. The figure for two was actually a figure for four” 809/27

However, Alex was unhappy with the maintenance arrangement in terms of how it was structured but he felt pressured into making a deal by his solicitor:

“I feel conned about this thing with the difference in the amounts to the two different children {i.e. £250 per month for youngest daughter, £175 per month for older daughter}. The implication, as it turned out later on, was I’d be paying a larger amount (£250) for a longer time. And it was put to me: “if you agree to this, it’ll be a deal”. But it wasn’t pointed out what would be in it (i.e. implication) and the solicitor was very anxious to get a deal rather than to do any kind of justice or fairness. The other stuff (on-going expenses, e.g. education, housing) was all right. It seemed to me practical” 598/27

¹¹ The circumstances that led to changes in child support arrangements were quite different for the three respondents. In the third case the man was concerned about the quality of his wife’s parenting. He did not feel that his wife had been looking after his three children (e.g. “she was never home”, “she was always out with her boyfriend”) with the result that his two sons ended up living with him and his daughter was allowed “to grow wild” in the family home. This resulted in a series of contentious court hearings about the purpose and level of child maintenance to be paid. This led to child support being reduced to reflect the fact that his sons were living with him. However, it still appeared that an unstable child support arrangement was in place. Seven years after his mediated separation agreement was signed the respondent was unhappy at the time of his interview with support arrangements but was reluctant to take any further court action owing to the emotional and financial toil such action was likely to generate.

However, his wife threw the older daughter out of the family home a year after they had separated and she went to live with him. Two months after his daughter came to live with him, he decided that he wanted to informally re-negotiate the maintenance level because his subsequent partner insisted that if his daughter was going to stay with them, she needed £120 per month to support her. Before discussing this with his wife, he was a few days late paying maintenance. In response his wife successfully sought a court summons against him for maintenance arrears.

This action resulted in him not paying her child support for another two months but just before the court hearing he decided to resume paying her maintenance because he was both worried about the court costs and afraid of an unwelcome court ruling. He decided to pay her £325 per month child maintenance "as a sort of half way figure per month" (i.e. approximately half way between what was contained in the original separation agreement for both children (i.e. £425) and the agreed provision for the younger child (i.e. £250)). Alex didn't negotiate or discuss this figure with his wife but she informally contacted him to indicate, "that she was going to let things lie as they were" and rescinded the court summons.

In hindsight, Alex became unhappy with this new arrangement. He believed that he should not have been paying any maintenance as each parent was looking after one dependant child, all other things being equal (e.g. similar salaries and on-goings).

Interviewer: How much child maintenance do you think you should be paying?

Alex: I'm quite clear. The courts said £425 per two children. So it would be half of that per child, give or take. And if one of the children is removed, and then presumably I'm paying for that child, then there should be no money exchanged between us. We now have one child each and equal salaries. There should be no payment. I should be paid back for all that money since that change ...so I'm overpaying by what I'm paying at the moment, £325 per month 700/27

In addition, he thought that it was unfair that she threw their daughter out of house and still expected maintenance provision even though their living standards were different:

"When the two children (i.e. his non-dependant eldest daughter also subsequently left to get married) left the house, there should have been a general improvement in the welfare of everybody, to be better off. And in fact I'm not at all better off. I'd be better off to take on her two" 110/27

However, Alex was uncertain whether he would formally re-negotiate the maintenance arrangement. On one hand he was frightened to go to court because his wife had

threatened to throw their son who was finishing his university studies out of the family home and also to seek maintenance for herself as she had recently started working part-time hours in order to study:

"She said that if this (i.e. £325 maintenance level) was reduced by a pound, she would throw him out, this eldest boy who's still studying, you know, he's paying his way and of course he doesn't want the disruption in the middle of his studies. So I'm in a bit of a dilemma because if I don't challenge it, I'm sort of saddling myself with a de facto £325 instead of £250 until this youngest girl is 25 or whatever, and it's far too high. And secondly, she's saying that she can now claim maintenance because of her part-time position she is only being paid half the amount she was and she says that she could claim maintenance against me if she wanted . . . effectively the bottom line is that I am paying for her study leave" 108/27

In addition, his solicitor advised caution because he didn't believe that he would achieve a very favourable court outcome taken into account the legal expenses involved, and also he was concerned about how a court action would affect his health given the stress he felt during previous negotiations.

However, at the same time he felt that by undertaking such an action it would be good for his self-esteem. It would be an assertive act on his part given the contempt that his wife had shown for him, their marriage and what happened after separation; he felt that his wife was responsible for the marriage break-up, the ending of their informal separation living arrangement and the post-separation difficulties over maintenance. This sense of unfairness was reinforced by his belief that he had no choice but to leave the family home, to pay legal fees and the fact that the court was not interested in who was responsible for the marriage break-up:

"I'm thinking that I should take it up (three months since solicitors letter advising caution) for one thing for the future and the second thing, her contempt through the marriage, contempt for the court and for me, having agreed something, the agreement is broken. The agreement on marriage, the agreement to pay half the rent that is broken, the agreement with force of law has been made and that has been broken. So I think almost for my own good, it might be an idea to call a halt to this breaking of agreements and with the contempt for me that is contained within the breaking of agreements, even if I actually don't get any money out of it because of the solicitors costs, it would be worth doing for that case, my own good. But I have to balance that against the stress that it would cause to me which wouldn't be good for my health. So that's a decision I haven't decided yet, I've put off that decision" 821/27

In conclusion, changes in post-separation parenting arrangements were integral to changes taking place in child support arrangements. However, the outcome arrived at was dependant on other factors such as the negotiating position adopted by Alex's wife. Ultimately this left Alex unhappy with the new arrangements and led to an unstable child support decision-making environment:

“So the position now lies that I have to decide what to do, whether to take the thing to court for the amount that I think is an overpayment, knowing that the courts are very nasty and stressful or whether to let it lie, to be paying too much money for a long, long time to come” 317/27

The next example illustrates what can happen to child support arrangements when a man's wife changes her perspective on his ability to parent.

Example 6 – “Eoin” – Lone Parent Changes Her Perspective on Her Husband's Parenting Capacity Leading To A Change In Child Support Arrangements

Eoin (38) was married for 7 years. He had been judicially separated for 6 years. Approximately 6 months after the formal separation he left the family home. At the time of his interview he worked as a teacher and his wife worked in a company. They have a son (10) who resides with his mother.

At the judicial separation hearing the Court decided that Eoin would pay the mortgage (£200 per month) on the family home and £160 per month child maintenance, and 50% of the children's ancillary costs (e.g. private health insurance, housing maintenance costs). The Court ordered that Eoin could have his child stay with him one night per week. Eoin was primarily unhappy with the separation settlement because he failed in his main objective to obtain joint custody of his son in order:

“to have an equal role in his upbringing, I wanted him to spend half his time with me and I wanted to contribute financially to everything else so it was clearly down the middle but I would be paying more for the house because I recognised I was earning more than she was” 561/24

In terms of the settlement reached Eoin believed that the decision made was gender biased, predominantly focused on financial issues and neglected his or his son's parenting needs, even though he had agreed to be psychiatrically assessed to determine his parenting capacity:

“I felt the judge didn't, he didn't know me, he didn't know her, he didn't know our son, he didn't know any of our needs, he just knew I was a man and she was a woman and I had a certain income and therefore he made the decision . . . I felt if his judgement had been that I was an incapable father, whilst I wouldn't have agreed with it I would have at least wanted to have seen where he was coming from but to me it was totally dismissive on his part simply because I was a man and I was really upset by that” 646/24

Within a matter of months Eoin took the unusual step of appealing the decision to the High Court. Eventually, 18 months after the judicial separation and after having

undergone another psychiatric assessment, Eoin's wife agreed to joint custody outside the High Court. Having achieved his primary goal Eoin argued in Court that:

"We now had joint custody and I wanted the right to be able to buy a home because then I couldn't because I was locked into paying this mortgage and I wanted to be in a position where I could have an equally nice house, we had owned it jointly, I didn't want my son to be seen coming to me in an inferior property and that we should share things and that was my decision, that's what I wanted to do" 1592/24

The judge ordered Eoin to receive £3k equity, which allowed him to put a deposit down on a new house, into which he moved shortly after the Court decision.

Eoin paid £40 per week child maintenance by direct debit to his wife for 18 months from the time of the judicial separation until joint custody arrangements were put in place. During this time whilst Eoin saw child maintenance as a source of funding to offset his wife's childminder expenses, he also felt his wife was benefiting as well as their son. He felt "bad" because it appeared to him that she had a better quality of life (e.g. whilst he was in debt his wife was going on foreign holidays). His dissatisfaction was reinforced because whilst his wife was living in the family home, he had to move in with his own mother.

However, he continued to pay child support because he believed that by doing so he would be seen to be a responsible father. In particular, paying child support would help him in his court application for joint custody.

After joint custody was agreed and Eoin moved into his own home the separated couple through face-to-face discussions agreed that for the weeks their son spent with him no child maintenance would be paid. This was because Eoin's wife recognised that he would have had to pay for a childminder for the weeks that his son stayed with him. However, even with this reduction Eoin thought that the provision of maintenance was still unfair:

"That was wrong that I would pay her maintenance while our son was with her because I felt that she got a substantial amount of equity of the home and you know I was contributing to the weeks he was with me and why should I also be contributing to her. She was still getting all the children's allowances and I had £11k legal costs" 2745/24

However, about three years after they had separated there was a gradual rapprochement between his wife and himself. This happened around the time that Eoin's mother became sick and eventually died. His wife was close to her mother-in-law and helped out around the time she was dying. The separated couple also

exchanged house keys and his wife would invite him into the house for occasional meals and cups of tea. About a month after his mother died his wife acquiesced even further with regard to child maintenance provision. She invited him in for a cup of tea and said:

“Look I think there’ll be no need to pay maintenance, you just pay, look after all the expenses, the week my son is with you” 2797/24

They also agreed to open a joint account (which he administered) and each put in a monthly contribution to pay for specific “overheads” (e.g. school books, clothes, child counselling) that came up periodically.

However, the management of this arrangement was not without problems. Both of them contributed £35 per week to a joint bank account. He noted that in the year previous to his interview, his wife had wondered as the bank account was low in funds whether Eoin had been taking money out and spending it inappropriately on their son. To rebut such charges Eoin noted:

“I kept a record of every penny I took out and went in so I produced a photocopy of my work, income and expenditure from the account to show her the balance and just handed it to her one day, this was about 8 months ago and ever since she’s continued paying so she obviously realised that she was wrong” 5116/24

In conclusion, it appeared that Eoin was happy with the revised maintenance arrangement. His wife and himself had arrived at a mutually satisfying and stable approach to the financial and emotional costs of parenting. This was dependant on two factors.

First, it was very much dependant upon both of them being in well paid jobs. Second, his wife changed her view on Eoin’s capacity to parent resulting in her voluntarily and unilaterally making a decision to forego formal maintenance provision, moving instead to an arrangement that was more flexible, but still meeting the specific and ad hoc expenditure needs of their son. Although this new child maintenance management arrangement threw up problems (e.g. queries over whether resources in the joint account were being appropriately spent), in Eoin’s words:

“I think it’s the next best thing to being together” 213/24

Eoin’s story indicates how mutually satisfactory changes in child support arrangements can occur as a result of a non-resident father’s wife changing her perception on his

ability to parent. Moreover, this outcome was remarkable and appeared unlikely given the flux of legal activity before and after their separation.

4.2(d) Changes in Men's Economic Circumstances

Changes in men's economic circumstances after separation can lead to changes in child support arrangements. By the time of their interviews two men had recommenced employment and were issued with determination orders by the DSCFA. Three other men had become unemployed after separation and stopped paying child support.

In addition to illustrating the impact of unemployment on child support arrangements "Teddy's" story which follows also highlights the fact that when a man becomes unemployed it does not necessarily mean that he will recommence paying child support once he starts working again. "Teddy's" story indicates how he developed a strategy to prevent this from happening.

Example 7 – "Teddy" – Change in a Man's Economic Circumstances Leading To A Change In Child Support Arrangements After Separation

Teddy (43) had been 6 years married (+6 years cohabitation). He had been physically separated for 4 years. There had been a mediated separation agreement in place for over 4.5 years. Teddy was a self-employed company director and his wife worked full-time when they were formally separated. They have a daughter aged 9 years who primarily resided with her mother.

Teddy and his wife negotiated a mediated separation agreement where he agreed to pay £35 per week child maintenance, to receive 50% of the housing equity, to have rigid access arrangements, and to have joint custody arrangements. The £35 represented 50% of the cost of paying for their daughter's childcare fees and was specified as such in the separation agreement.

Teddy continued to pay this maintenance for three years until he lost his job. By the time of his interview Teddy had not paid child support for over a year even though he was receiving State support and had set up a new business. However, it is interesting to note that Teddy did not only use the justifications of unemployment and requiring resources to set up a business as excuses for ceasing to pay child support. He suggested that towards the end of the period he paid support, the payment "had turned into more of a payment to her [his wife]" since his daughter had started school. He also justified this position by stating that access had become flexible, which resulted in the parents having similar financial outgoings on the child.

Teddy acknowledged that he had an obligation to support his daughter but was glad “to have got away from the so much per week situation”. He preferred to pay on an informal rather than a formal basis. This could mean him buying things for the child (e.g. clothes) or responding to his wife’s requests for funding. His preference for an informal arrangement as well as being influenced by his limited financial resources was also influenced by his preference to have some say in the decision-making over how resources were to be spent rather than giving this responsibility to someone else:

Interviewer: You mentioned there that you are happier to have an informal arrangement than have a fixed sum?

Teddy: It's as two parents, you try and bring up your child as best you can, instead of a situation where you have to, it should be done in the spirit of trying to bring up your child. It shouldn't be done in the spirit of I signed the documents therefore I write a cheque and at the moment its more like the situation where you are bringing up your daughter as two normal parents, it's like that situation now, there isn't a weekly payment . . . I'm contributing towards her, her upbringing as just opposed to just paying for her upbringing 586/17

Thus although Teddy felt he had a financial obligation towards his daughter, at the same time he preferred to contribute on an ad hoc, informal and a non-monetary basis. As Bradshaw et al. (1999:216) note, giving gifts is emblematic of intimate relationships whereas paying child support is not. Furthermore, it could be argued that in “paying for her [i.e. his daughter] upbringing”, Teddy was dependent on his ex-wife representing his presence as a provider. In doing so it might be argued that his independence as a payer had decreased and paradoxically he had become too *dependent* as a financial giver on the actions of others.

Initially this may seem different to Finch’s (1989:178) view of one of the normative guidelines as a way to understanding family obligations, namely the effect on one’s independence/ dependence as a result of receiving assistance. However, Finch & Mason (1993:58) suggest that the key question to ask is whether the provision of assistance can unbalance relationships. If it does with the result that a person gets too dependent upon someone else, “they end up in a position of subordination to that person”. This may help to explain why Teddy preferred to define his financial obligation to his daughter not in terms of “a weekly payment” to his ex-wife but by other means.

Furthermore, Teddy acknowledged that although the standard of living within the lone parent household may not have been as comfortable if “they had it” (i.e. maintenance), he suggested that his overall parenting contribution should be considered. Teddy felt that the policy regime was saying “you can abandon your child if you want as long as

you can afford to abandon your child". Thus he also rationalised not paying child support in terms of not abandoning his daughter by operating a joint custody arrangement; in fact he believed that he was living up to his responsibilities "far more than the guy who is sending off the cheque for £50 and paying the mortgage every month".

In addition, Teddy admitted "manipulating" the situation to ensure that joint custody arrangement and child support arrangements became increasingly more flexible and informal. Primarily this meant fostering good relations with his wife and her family in order to keep his "eye on the prize".

Interviewer:

So do you think that you have been lucky?

Teddy:

Extremely lucky, but having said that I have fought very hard and did every little bit of manipulating that I could do to achieve what I achieved, manipulation left, right and centre; giving jobs to her sisters, keeping in with the in-laws, making sure that appearing at family dos, making sure that there were contacts between my family and hers. An awful lot had to be done to achieve the situation and it was done very consciously and very deliberately . . . as best as one can to achieve an objective and that objective was to achieve a situation where I have a full active relationship with my daughter which I have . . . you keep your eyes on the prize 1964/ 17

As well as having a relationship with his daughter another outcome of this strategy was that as long as his wife and himself got on reasonably well together, the provision of child support would continue on an informal basis.

However, the maintenance equilibrium may get upset in the future. Teddy had fears that the DSCFA (i.e. his wife subsequently claimed OFP) or his wife may seek increased maintenance provision in the future if his business became successful. He "was not looking forward" to the involvement of the DSCFA because of their non-recognition of joint custody arrangements in terms of their determination order assessment.

In conclusion, Teddy's experience indicates that there can be a number of events—anticipated (e.g. schooling begins) and/or unforeseen (e.g. unemployment and improved relationship with separated partner) — that can result in a change in child support arrangements.

By having identified the objective of maintaining a relationship with his daughter and by creating and implementing a strategy to achieve it, Teddy successfully blurred the

distinctions between the lone parent and his own households. From Teddy's perspective, it was primarily through his design that rigid and formalised access and child support arrangements ceased over time with the result that both parents became largely responsible for supporting their daughter when she stayed with either one of them. However, future arrangements around child support provision looked less predictable given the possibility of third party – DSCFA – intervention in the wake of the respondent's business becoming more successful.

4.2(e) A Combination of Reasons leading to Changes in Child Support Arrangements

So far the influence of a number of factors on child support arrangements put in place at separation has been highlighted. However, a close reading of men's accounts would reveal that although there was a primary factor accounting for change, often there were other supporting issues affecting their child support perspectives and actions. For example, in "Teddy's" case (Example 7) although his unemployment was the main reason for a change in child support arrangements, it could be argued that issues such as his daughter starting school and his improved relations with his former wife - which led to flexible access arrangements occurring - were secondary factors supporting and sustaining the change in post-separation child support arrangements.

However, it proved impossible to identify one significant issue accounting for post-separation child support arrangements changing in one man's account. Instead it appears that there were a number of significant events and reasons for it happening.

Example 8 – Gerald - A Combination of Reasons leading to Changes in Child Support Arrangements

Gerald (42) had been married for 13 years. He had lived apart from his wife for 3.5 years. With the assistance of lawyers a deed of separation had been in place for 2 years. Gerald worked as a carpenter and a furniture restorer. His wife worked full-time as an office administrator. They had a daughter (6) who resided with her mother.

The process of separating was a difficult and drawn out process. It followed a failed attempt on Gerald's wife's part to secure a barring order. This failure resulted in her and their daughter moving out of the family home, into her parents' own home.

Mediation attempts failed, as they were unable to reach resolution on the family home. An initial judicial separation hearing followed which resulted in Gerald moving out of the

family home and his wife and child moving back into it. One year later outside Court on the day of the full hearing Gerald agreed to a separation settlement.

As part of the separation settlement Gerald agreed to pay £35 per week child maintenance to his wife. He received 25% of the housing equity of the family home. A rigid access arrangement was also put into place.

Gerald reluctantly agreed to the separation settlement because he was “put under pressure by his wife’s solicitor and by my own solicitor” and because of the effect of the separation process on him:

“The separation, the agreement with the house, the whole lot, so that it could move on, because every week it was something – it was back into court every few months, try to negotiate, allegations coming across, accusations, I was just fed up with it and I just got stronger and thought I don’t need this grief for a couple of grand, just agree to this and get the fuck away” 309/12

Five months after the deed of separation came into effect Gerald was issued with a 14-day committal order to prison for not paying maintenance for 2 months. As Beller & Graham (1993) also found, the presence of legal sanctions can encourage compliance. Consequently, Gerald paid the arrears and complied with the maintenance arrangement.

It was difficult to identify one principal reason that led to Gerald’s decision to stop complying with child support arrangements. There seemed to be a number of factors.

First, Gerald was unhappy he agreed to pay child support. He wished he had done things differently:

I was pushed into a corner; I was very vulnerable at the time. Now I would swing out of fucking Leinster House (i.e. Irish Parliament) if it had been the same thing...If I had a good solicitor I wouldn’t have had to pay maintenance, he would have fought that 969/12

Second, he believed that his wife did not need child maintenance because she had an income. At times he also felt his wife and not his child was the main beneficiary:

I feel that Nora (his wife) earns enough to be able to look after Ann (his daughter) financially. If the shoe was on the other foot, I’d be doing it, I wouldn’t be expecting it off Nora if I had got Ann...I suppose there are times that I don’t want to give it to Nora because I think it’s going into Nora’s contribution 214/12

Third, his dissatisfaction about how little child support provision benefited his daughter was strengthened because at times he found it difficult to make payments and by the fact he was spending money directly on Ann:

I realise that I have to pay towards my daughter's upkeep but there are weeks because I have set up the business with – I've paid off my debts, eh, and set up this business. There are times when I can't afford it but I keep paying. It's costing me more than £35 per week. It's costing, on average, I'd say, £55 a week. Having Ann overnight or buying her stuff like- buying her shoes or buying her bits and pieces 190/12

Fourth, his wife reneged on the rigid access arrangements in place, which Gerald also found unsatisfactory because of the level of his pre-separation involvement with his daughter. In fact from Gerald's perspective, child support was a "bribe" to see his daughter:

Because I am paying for the child and I'm not getting the access to her...it was broken when I was paying the access... Child support is a bribe, that's all what it is really. Yeah, basically that is what you are paying for. You're paying for the privilege of seeing your daughter 637/12

As Bradshaw et al. (1999:202) illustrated, some men can withdraw paying maintenance when they judge their ex-partners to have prevented them from seeing their children. One reason for this is that a husband and wife can implicitly or explicitly negotiate a commitment whereby the "proper thing to do" is for her to enable father-child contact and for him it is to pay child support (see Bradshaw et al. (1999:202,208). As Finch (1989:178) appears to indicate, if the "patterns of exchange" which have operated in the past break down, in other words a normative guideline, a person's sense of obligation may weaken.

Fifth, Gerald noted that not paying child support made it easier for him to get his business going again, which in turn made it easier for him to buy another home. Both developments would ultimately benefit his daughter:

If I didn't have to pay anything I would find it much easier to get back on my feet and get my own home for Ann, that could be my contribution to Ann, if it had been worked out properly...I don't really mind paying, but there are times when I'm fucking saying what the fuck am I paying child welfare to live in the house (his private rented accommodation) there 258/12

Although Gerald acknowledged that he had a financial duty to support his daughter it would appear that for him child support was not the best way to express his commitment. Instead Gerald would have preferred to invest in resources (e.g. his business, housing) for the longer-term benefit of his daughter. Moreover, Gerald would

have preferred to buy goods for his daughter rather than pay child support because his wife already had sufficient income and because he believed such actions helped to sustain his relationship with daughter.

Gerald agreed to comply with child support arrangements because he did not want to go to prison. However, Gerald felt that supporting their daughter was the financial responsibility of both the parents. For example, he noted his unwillingness to pay a higher level of support even if his income increased in the future. On the other hand, if his wife lost her job or was financially struggling he would be willing to pay more support if his income increased and if access was not problematic.

To conclude, in Gerald's case it was difficult to identify one significant reason accounting for why he stopped paying child support. In the end, Gerald's fear of prison was the best incentive for him to recommence paying.

4.2(f) Changes In Child Support Arrangements Due To Children Coming Of

Age

When children come of age men are no longer legally required to pay formal child support to support them. This can be seen as a "natural change" in child support arrangements in the sense that maintenance ceases either when a child reached 18 years or until s/he completed full-time education.

This situation occurred for three respondents in this study. They generally welcomed the reduction because it gave them additional resources to spend as they saw fit – including on their children. However, even though they continued paying child support often for considerable lengths of time, this did not necessarily mean that they were happy to do so. This issue will be addressed more fully in section 4.3.

4.2(g) Summary

This section demonstrated that there were a number of factors that led to changes in child support arrangements after separation. These changes could be in terms of the level of support paid by men or to whom men paid support.

These factors included the emergence of new relationships; the intervention of the DSCFA; changes in access & parenting arrangements; changes in men's economic circumstances; and children coming of age. In most cases it was possible to identify a significant reason for change. A summary of the main factors, which led to changes in

child support arrangements at the time of the respondent's interview, is highlighted in Table 4.2.

Table 4.2 Overview of the Main Factors leading to Changes¹² in the Level of Child Support Paid at the Time¹³ of the Respondent's Interview

Main Factors Leading to a Change in Child Support Arrangements after Separation	Changes to Level of Child Support Paid	Increased Child Support	Decreased Child Support
Post-Separation Relationships	1	0	1
Changes in Access & Parenting Arrangements	3	0	3
Changes in Men's Economic Circumstances	5	2 ¹⁴	3
Children Coming of Age	3	0	3
No. of Respondents	12	2	10

4.3 No Change in Level of Child Support Paid After Legal Separation

At the time of their interviews thirteen men were paying the level of child support that was determined¹⁵ at the time they were legally separated. The experiences of these *thirteen* men can be categorised under four headings.

First, although six men originally transferred¹⁶ maintenance arrangements to the DSCFA subsequent to their former wives' successful claim for OFP, only *four* of them at their interviews were paying the same level of child support put in place at separation. The reason for the reduction was that some of their children had come of age.

Second, following either the threat of or the activation of enforcement procedures, *three* men¹⁷ had recommenced paying child support arrangements put in place at separation, by the time of their interviews. As Bradshaw et al. (1999:210) note, "legal expectations and the threat of enforcement" can be contingent factors related to men's willingness to pay child support.

Third, for *four* other respondents although there had been no changes to child support arrangements since their separation it seemed likely that future changes were possible. However, change was unlikely to occur due to their children coming of age.

¹² Excluding RPI changes.

¹³ Table 4.2 does not address interim changes in post-separation support arrangements. The table compares the level of child support put in place at separation with the level men were paying at the time of their interviews for this study. Therefore, the table does not include the case of the man where it was impossible to identify one significant factor that led to changes in child support arrangements because by the time of his interview he had started paying child support again, at the level agreed at separation.

¹⁴ The DSCFA intervened after men returned to work in two cases.

¹⁵ Including RPI changes.

¹⁶ In one case this was about to happen at the time of the man's interview.

¹⁷ For example, see example 1("Bill") and example 8("Gerald") in this chapter.

Four, it appeared from the accounts of two fathers that the only significant change in child support arrangements was likely to be as a result of their children coming of age.

This section examines the experiences of men in the later two categories and also the experiences of men where no child support arrangements were put in place at their legal separation.

4.3(a) Changes Unlikely in the Future

Two men continued to comply with child support arrangements put in place at separation and for them it appeared that changes in arrangements would only come about when their children came of age. This was also the reason given by three other men to explain why their arrangements had reduced since separation. However, continuing to pay child support does not mean that men are happy to do so. Although all of these men acknowledged a financial responsibility to their children, at the same time a number of other factors influenced their perspective on paying support¹⁸.

¹⁸ One father (described in greater detail below) felt that paying child support made no impact to his children's quality of life when they resided with their mother but reduced their lifestyle opportunities when they lived with him. For him child support provision did not feel like an expression of his financial responsibility but limited what he could directly offer them.

However, for another man the provision of child support did express his financial responsibility and he felt happier paying it. He felt that it was money made available to his partner to raise their children, "throwing in an extra few bob when I have it because they are my kids".

Whilst paying child support may (or may not) be an expression of a non-resident father's financial responsibility towards his children, other issues can affect their perspective on paying it. For example, one man felt that his wife could have increased her part-time work hours since she did not need to be at home as much since their children were old enough to look after themselves. Because of this he felt that an unfair financial burden had been placed on him.

On the other hand, another man felt that the level he paid was fair and whilst he did not expect his wife to work outside the home, at the same time he was not happy with the arrangement because it formed part of a separation settlement that resulted in a reduction in his quality of life.

The fact that men also vary in their need for resources also influences their perspective on paying support. For one man his need for resources was very much tied up with his housing aspirations. He felt that paying support put undue pressure on meeting his housing costs. In contrast, one man expressed no desire to buy another home.

Men also have to consider the wider consequences of not paying child support. Men continued complying with child support arrangements because it was better "to leave sleeping dogs lie". This was preferable to upsetting the post-separation financial and emotional equilibrium (e.g. their relationship with their wives and children), particularly if the latter had been painstakingly established.

In addition, men felt the Court would not look favourably at their applications for a reduction in the level of maintenance to be paid. They feared the outcome of intervention either because their incomes had increased or because their wives could "be shown to be poor on paper". They

Therefore, while there were men who stopped paying child support because of inadequate father-child contact, there were also men with adequate contact who were far from willing payers for other reasons.

The post-separation child support experiences of “Kevin” who became increasingly unhappy over time with child support arrangements, but continued to make provision will now be examined.

Example 9 – “Kevin” – A Non-Resident Fathers Justifies Continuing To Pay Child Support Even Though He Was Unhappy With The Arrangements In Place

Kevin(41) had been married for 13 years. He had been separated for 7 years and moved out of the family home just after separation. Kevin worked full-time as a social worker. His wife studied and worked part-time at the time of their separation. They had two children: a daughter aged 19 and a son aged 16.5. Both children lived with their mother.

Kevin established a mediated (with the support of a solicitor) separation agreement with his wife in which he received £18.5k for his share of the family home and agreed to pay £250 per month child maintenance. A joint custody arrangement was also agreed.

At all costs during the negotiations Kevin wanted to avoid going to court because he felt that a judge would not favourably support his requests either for joint custody or “to survive financially” -particularly his desire to buy a house in order to enhance child contact. At the same time his aim during the separation negotiations was that the settlement reached would leave both post-separation households with a similar standard of living.

Kevin had mixed feelings about the child support arrangement. Although he did not feel “happy” with the child maintenance arrangement reached he felt that it was “survivable”. However, since they had arrived at a joint custody arrangement he questioned why he had to pay any child support. He acquiesced to avoid Court adjudication.

also justified continuing to pay support by noting that child support arrangements were of a limited duration.

However, his perspective on child support changed after separation. Kevin felt that paying maintenance did not significantly add to his children's well-being in the lone parent family but undermined his own parenting role. This was because his wife's household was also subsidised by her father. Paying support instead had a negative impact on the quality of life he could offer his children because it meant that he had fewer resources to spend directly on them:

"You see my maintenance from the way I see it doesn't make any difference to the standard of living of my children in as much as what isn't coming from me, granddad writes the cheque for anyway. Up to the separation the children were in private schools but we never paid, granddad wrote the cheque. As far as I know Granddad could still be writing the cheque. So to some extent what I did had no direct bearing on the standard of living that the children have. All it has a bearing on is what I can provide for here because it takes out a bit of that chunk. This place {his house} isn't as comfortable as hers." 551/1

This resentment was reinforced by his dissatisfaction with his wife's lack of interest in getting a work qualification during their marriage compared to him. This made a difference in terms of their ability to obtain well-paid work. It could not be excused by pre-separation childcare commitments, as he was more than equally involved:

"Where is the justice if you haven't got a rich family and you are fleeced because you have happened to get yourself a good job where your partner because she has got a rich family she is messing around college and got a mediocre job. Where is the equity in you getting, gaining – I think as a general rule the court should aim to have both households to an equal living standard and that involves both suffering as opposed to trying to make one household safe proof against the effects of separation which is what I think they do" 1550/1

The presence of his father-in-law's subsidy disrupted Kevin's principle that both post-separation households should have, as far as possible, an equal standard of living. For him both post-separation homes should be equally surviving or suffering, rather than "income-proofing" one household at the expense of another:

For him the provision of child maintenance contributed to the inequitable living standards in the post-separation households, which he found to be unjust in terms of his capability to parent. In fact he argued that it would be better to have the two post-separation households with a similar but lower standard of living rather than safeguarding the lone parent household. Even though this may have some negative effects for the children, it would be better for them in the long run because it would increase a father's capacity to parent:

"I think that the reality is that the damage of divorce needs to be more equitably spread and that includes the kids unfortunately...because they are damaged by divorce

anyway. I don't think that by reducing the father to the margins with him living in a bedsit and not being able to have the kids stay because he doesn't have the room to put them up, being poor whereas the mother is reasonably ok, I don't think that does the kids any good seeing that". 1114/1

Therefore, it would appear that the unacknowledged financial costs of Kevin's direct involvement with his offspring, which had a tendency to increase as a result of access arrangements becoming more flexible affected his willingness to pay child support. It could also be argued that this position was informed by the nature and the history of his active and involved pre-separation interpersonal relationship with his children, which in turn formed the basis of the "anticipated future" (see Finch, 1989:241) of this relationship.

In addition, Kevin resented the effort he had to make to preserve a quality of life for his children similar to what his wife could offer them. He feared that if he was unable to do so, his children would be less likely to visit him. He particularly resented paying maintenance when he felt that she did not need it:

"When I was going to the wall, I mean two months after buying this interest rates went up 3% and so I ended up with two students, so it was at times like that I resented paying it when extensions were being built up at her house and they were going to Canada on their holidays. I suppose if I felt that she needed it then I wouldn't have felt as resentful. If the only money in the equation was what she was earning and what I was earning then I think we would have done, I wouldn't have felt that I was, if you like being punished in some way by her. Like I said in all honesty I don't think that it would have make that big a difference, if I wasn't paying, the money would still be there"
1637/1

Although Kevin found it difficult to financially cope he decided not to re-negotiate the child maintenance arrangements with his wife. Interestingly, it appears that he used different reasons at different points in the post-separation period to justify this position. Early on in the post-separation period this belief was justified because as he was a court official he was afraid that a judge would tell him to sell his house as his children's needs came first and he feared being in a rental trap, whereby he wouldn't have sufficient funds for a house deposit. For Kevin going to court was too risky an option since he also felt that his wife could appear to third parties to be in need of resources:

"The judge would say: "your children come first, this is what your children need, if that means you can't afford to pay £450 for a mortgage you can't", and then I'm sunk, I have to sell. At that stage the house is worth barely more than the mortgage and I would have been back into a rental trap. I was afraid of court because I knew on paper that my ex-wife could afford to appear very poor in court and I couldn't tell them anything I was doing" 715/1

As the post-separation period progressed Kevin noted that although he was still unhappy with the maintenance provision, he was still unwilling to re-negotiate. In addition to making a decision to avoid conflict with his partner in order to reduce the risk of court involvement or his parenting arrangement becoming unstable (i.e. "I'm happy with the routine in place"), he decided to pay child support until the children reached majority which at the time of the interview would only be in a couple of years time, depending on whether or for how long his children would attend university. Thereafter, he would start addressing his own needs:

"I've done what I set out to do. They are more or less reared. The way that I see it is that I've been in a financial straitjacket for ten years, now I'll continue to pay the maintenance until they are through college. Its time to put me up that priority list a bit more and so that's probably what I'm going to do" 880/1

In conclusion, Kevin's account is interesting because it shows how some non-resident fathers justify continuing to pay child support even if they are dissatisfied with the maintenance arrangement put in place. Kevin was unhappy paying child support but continued to pay it because he feared the court's involvement; he preferred to maintain harmonious post-separation relations and he observed that child support commitments would not last forever.

He was also unhappy paying child support because it affected the level of resources he could directly spend on his children and the quality of life he could offer them, and because it did not make much difference to the quality of his children's life in the lone parent family unit because of his father-in-law's financial subsidy. His dissatisfaction was reinforced because of the sacrifices he -and not his wife -made during the marriage to obtain a work qualification despite not avoiding his childcare responsibilities. This resulted in him and not his wife obtaining a well-paid job, which in turn was a factor influencing the child support arrangement put in place. To repeat, although he did not feel "happy" with the child maintenance arrangement reached he felt that it was "survivable".

4.3 (b) Changes Likely in the Future

For four respondents there had been no changes in child support arrangements since their separation. Although the reasons for the absence of change were the same as those for men noted in the previous sub-section, there was a significant difference in how they saw the evolution of future arrangements. The main difference being that

they expected child support arrangements to change for reasons other than their children coming of age¹⁹.

In the case of “Robert”, an increased demand on his resources led to him re-considering the level of non-specific children’s expenses that he was prepared to meet.

Example 10 – “Robert” – Future Changes Likely in Ancillary Child Support Arrangements

Robert (51) was married for 20(+5 years cohabitation) years. He had been separated for two years and moved out of the family home shortly afterwards. Both parents worked as full-time professionals in the public sector. They had four children: two sons aged 21 & 18; two daughters aged 15 & 12. The children lived with their mother.

Robert and his wife negotiated a mediated separation agreement. They met 6 times over a 3-month period using the State’s mediation service. Robert agreed to pay £400 per month child maintenance for his four children, to meet their private health insurance costs and both parents agreed to have an “equal involvement” in terms of meeting the children’s educational costs. The main stumbling block to reaching a mediated separation settlement was resolving the issue of housing and this was overcome when Robert’s wife agreed to buy him out of the family home. For Robert it was important to have a clean-break housing settlement:

“I was able to go off on my own and have a house which was extremely important and that was a very defining thing for me, that I was breaking the bond, I could get a house

¹⁹ First, separated wives may seek increased provision. For example, one respondent expected his wife to seek a higher level of maintenance as a result of his business improving and owing to her inability to properly manage her household budget. He feared that this would put him into a maintenance trap whereby however hard he worked, he would always be financially struggling because “she can earn what she wants and can still draw money from me, which is unfair”; this in turn would affect his motivation to work. Although he would prefer to resolve any possible demands for increased resources by offering to look after the children for an extra day, he was resigned to the possibility that the court would award an increased level of maintenance for his children. He would find this both unfair and a struggle to afford.

Second, the basis on which a separation settlement has been resolved may later be found to be unsound. For example, although a couple initially reached an amicable separation agreement whereby both of them decided to live in separate parts of the family home, it later transpired that the respondent’s wife had been conducting an affair, which destabilised this arrangement. Although they agreed to move apart, they could not agree how to re-distribute the family resources. Therefore, at the interview the respondent anticipated that the court would eventually make a ruling as to how the needs of the children would be met.

Third, men may want to re-negotiate irregular maintenance provision. Two men wanted to reduce meeting episodic child-related costs (e.g. schooling and clothing) but not regular provision.

of my own and the kids could have access to me, that was extremely important, the kids could live with me or come to me any time they wanted” 2638/21

It is interesting to note that child maintenance was not calculated in a systematic manner. A pivotal reason why Robert agreed to this figure was because a friend informed him that he was entitled to a single parent's tax allowance. Robert indicated that his wife was looking for £500 per month, he was offering £300 per month, and they eventually agreed £400 per month:

“It was plucked out of the air . . . it wasn't based on: “how much it would cost us so much for the children”; £100 a week sounds reasonable as a round figure, sounds reasonable for the kids, given that I used to pay a lot of the bills and so I really used to, to feed the family at the time it cost about £400 in food, and it was what I could afford, there doesn't seem to be any rule of thumb at mediation, it seemed that £100 a week just came out of a bargaining situation, what I think I could afford to survive on my own and then contribute towards them” 1568/21

Although Robert initially welcomed the settlement because he felt that it was the only realistic option at the time. It enabled him to leave the family home with some housing equity so he was in a position to buy his own home and it ensured that his children could remain living in the family home.

However, in hindsight he was unhappy with the settlement. Robert felt that the maintenance arrangement was unfair for a number of reasons. These included that he was the family member making most of the material and emotional separation “adjustments” by leaving the family home, particularly as he did not want to originally separate:

“You're separated, you're the man outside of it” 119/21

In addition, he felt that it was unfair to transfer the level of maintenance to his wife since both of them were earning similar incomes. This unfairness was re-enforced by a belief that his wife was in a better financial position and that he was finding it “tight” to survive and that he did not receive the agreed equity that he was due:

“Its just difficult at the moment, because with £450 going for the house and £400 child maintenance it's tight. It's tight but I've lived tightly before. I have a house and I'm moving forward” 466/21

Although Robert was finding it difficult to financially cope he had mixed feelings about formally renegotiating the separation agreement. On one hand he was wary of accruing legal costs and an unpredictable outcome. He was also banking on his

financial position improving. He had already witnessed a £100 per month maintenance reduction as a result of one of his children reaching 23 years of age and he was biding his time for a future pay rise.

On the other hand owing to his then financial position he was tempted to renegotiate:

“Over the past week or two I’ve been depressed about the situation and the money of course. I’m very insecure about money, not having enough money, that’s one of the things I’ve always been insecure about, so that’s made me feel depressed, and I’ve thought about it. I looked at the actual separation agreement, it’s in the drawer there, the other night, and that’s in it about I could always go back to court to alter the maintenance. If things got really rough, I think I probably would” 496/21

However, rather than taking drastic action over child support, Robert had decided to take an alternative course of action. He noted that he was planning to adopt a more pro-active stance in relation to his children’s educational costs. For example, in the year prior to his interview for this study his wife had issued him with an education bill for £2000— originally she had been looking for £6000- which he was able to pay as he had not bought his house:

“last year I had money, because I didn’t have a mortgage, I was living with my mother. There were lots of things {requests for funding}, I had some extra money and so I didn’t mind. I did it at the time and I was feeling guilty about, about the kids, where money and the kids and myself and Geraldine are, I’d feel guilty, I would always pay it” 584/21

However, as a result of entering into a mortgage he subsequently had less money available to meet these costs. As a result he planned to meet his wife *before* the next bill was due:

“The separation agreement doesn’t say what of the education, it just says there’d be expenses around it, but we have to agree what the expenses around it are, and my feelings of it are, it’ll be easy to be conservative. I have a ball park figure of £800 that I won’t be able to go above. I’d normally pay the music fees and the university fees for the two boys and that would probably come to about that, and that will be it, I couldn’t give her any more. That’ll discharge my duty” 601/21

By planning to discuss less contentious (i.e. ancillary arrangements rather than child support) changes with his ex-wife, it could be said that Robert was “ritually” signalling his intentions. By invoking established procedures for action (e.g. a meeting, a subject for debate) Robert wanted to act assertively and minimise major upheavals and friction. As Finch (1989:199) indicated, “rituals are patterned actions which have symbolic significance, and which enable changes in relationships to be managed satisfactorily”. In addition, if his wife as a result of this action sought a higher level of child maintenance, Robert’s position would be to cut back on other ancillary provisions:

"I can't afford to pay any more, and if my wife wants more out of me, I'm going to pay less on the VHI[private health insurance] if we're going to balance that out. My view on it is at this stage, this is as much as I can actually pay and you can't get blood out of a stone" 764/21

Child support for Robert may have held the meanings of "compensatory maintenance" (i.e. "feeling guilty" about the children) or "entitled maintenance" (i.e. meeting children's needs) as put forward by Bradshaw et al. (1999:219). Robert may have felt obliged to pay support as he may have been operating under a normative guideline of "considering who the person is; what their relationship is to" him (see Finch, 1989:178). A sense of compensation for past failings, for not being there or recognition of his children's entitlement may have informed this sense of obligation. In doing so Robert applied this guideline to his children and not his ex-partner.

Nevertheless, for Robert it also appears that maintenance did not fulfil a *primary* role in conveying his feelings "of love "for" or "to"" (see Bradshaw et al. (1999:219) his children. Instead Robert had access to other resources that could be used as a means to facilitate contact and to convey his parental love. He owned a home where *"the kids could live with me or come to me any time they wanted"*.

In addition, because his children were old enough to make up their own minds about whether they wanted to see him, it seems that his former wife had little input over father-child contact. Robert's lack of dependence on his former partner to facilitate contact was also aided by the fact that he had already established a lengthy, positive bond with his children and because he had a home to underpin the continuation of post-separation relations.

Therefore, unlike Bradshaw et al. (1999:192), maintenance can be paid even though it is not necessarily "useful" in helping to sustain father-child relations. Older children can be active participants in deciding whether they want to have contact with their fathers. In such circumstances men's ex-partners can play a less central role in shaping father-child relations.

At the same time Robert felt it was unfair to pay the level of maintenance he did in light of the overall separation settlement, because his wife was working and because he had bought a house. Therefore, why did he continue to pay maintenance when he judged it to be unfair and when it appeared to be of little influence on contact arrangements?

He did so for a number of reasons. He compensated his children for the marriage break-up and for not living with them, and because he felt they were entitled to be

supported by him. He was also afraid of confronting his ex-wife, the legal costs, and the Court's response if he applied for a maintenance reduction. However, it is worth speculating about whether Robert could have continued a relationship with his children *irrespective* of whether maintenance was paid.

In conclusion, Robert's case is interesting because his account highlights how some fathers although they may not renegotiate formal child support arrangements, may reduce the cost of shouldering on-going, ancillary children's expenses in light of other demands on their post-separation income.

Although Robert – at the time of the interview – had not actually reduced funding on these ancillary costs, to do so offered him a legally permissible way to express his dissatisfaction with the overall separation settlement, given his wife's access to other resources. This was because whilst the separation agreement made reference to both parents "equally sharing" the costs of education, no exact figures were specified. This course of action appeared to be less risky than reopening maintenance negotiations. However, in reviewing Robert's account it is possible to suggest that such a course of action may also be a form of wishful thinking, given the fact that he would have had to confront his ex-wife which he appeared reluctant to do.

4.3(c) No Child Support Arrangements Put in Place At Separation

If the conditions persist after separation that led to no child support arrangements being put in place, it is unlikely that child support arrangements will thereafter be put in place²⁰.

Although unemployment was the main reason cited for the continued absence of support arrangements, men highlighted a number of other reasons why they were not paying support. These included their health difficulties; lump sum or in lieu provision and the responsibility of their wives to support their children. Men were more likely to note this latter point where their ex-wives had instigated separation proceedings; their ex-wives were working or their ex-wives had refused payment.

The men who remained unemployed also referred to the duty of the state to support their families. They also noted that even though they were not making formal maintenance provision they still were contributing to their children's welfare. However, they varied in terms of how they contributed.

²⁰ At the time of their interviews, four men continued to be unemployed, one man remained disabled and the wife of another man continued to refuse to accept maintenance.

Some fathers provided informal support but had to overcome the objections of their wives who initially refused to accept any provision from them. They felt their wives refused maintenance because their independence would have been compromised. Instead they developed strategies by spending directly on the children (e.g. buying them clothes). One man asked his wife “to mind some money for him” as their post-separation relationship improved.

However, one man did not trust his wife to spend informal maintenance provision properly. Although he did not want her “to starve” he didn’t want her to acquire her marriage standard of living at his expense. Instead he preferred to spend directly on his sons in terms of providing them with pocket money, buying them goods and giving them holidays.

For the disabled father although he was very much involved in his son’s life, he spent very little money on him. There were a number of reasons for this. In the separation settlement he had handed over housing equity in lieu of child maintenance. Also his wife had a well-paid job whereas his income was limited and would remain so as a result of chronic mental health difficulties.

However, if the conditions that lead to no child support arrangements being put in place at separation no longer persist after separation, this does not mean that child support arrangements will be put into place. For example, although changes in men’s economic circumstances can lead to changes in child support arrangements, for one non-resident father who started work after separation it did not lead to a formal child support arrangement being put in place. The account of “Fred” who did not pay support will be examined as it provides details of how men can justify not paying child support when there may be a case to answer.

Example 11 – “Fred” - A Non-Resident Father Justifies His Continued Non-Provision Of Child Support After Recommencing Work

Fred (45) had been married for 12 years (+12 years cohabitation). He had been formally separated for 3.5 years. He moved out of the family home just after the deed of separation was signed. At the time of the separation the couple had a son (20) and a daughter (23) who initially went to live with their mother.

Fred who was unemployed at the time of the separation negotiated with his wife who was in a well-paid job, with the aid of solicitors, an apparently straightforward

separation agreement. The main issue was a 50:50 re-distribution of the housing equity. Because he was not working, no maintenance arrangements were put in place. No access arrangements were put in place because their children were old enough to make contact.

Initially Fred was fairly satisfied with the separation settlement but in hindsight felt it was unfair because:

"I think things could have been done a little bit better, we could have evened things out, she could have kept the house, given me x amount, whatever. I could have kept the house, gave her x amount, to buy the house. Just on the financial end it wasn't done right. On one side it was all right, the other person had to struggle. Then you had to be a parent, right as well like support the children, being the father I was, that didn't happen, it just didn't happen. I didn't feel that I was able to ..." 951/2

Six months after separation Fred found a well-paid job and decided to use his income to buy a house rather than pay maintenance for his son. Although he acknowledged a financial responsibility to support his son, he justified not paying support by noting his wife "was getting the better end of the stick like regards a home"; that she could afford to maintain their son and that he "couldn't have survived if I was paying maintenance".

It would appear that Fred's capability to achieve well-being was very much tied up with succeeding in his aim of owning his own home. This would provide him with some stability but owing to the recent upward trend in the cost of property in Ireland it became very difficult to achieve this goal. This in turn affected his perspective on child support provision. Fred would not have been able to afford a mortgage if he had to pay maintenance; in other words, he would have found himself in a maintenance trap:

"The cost of housing I was more concerned about than the paying of maintenance. I'm not afraid to pay maintenance. I have always looked after my family, 100% but at the same time my wife also has a good job and can support them irrespective of me. But she knew my situation, she knew that I was actually looking for a place; she knew what was happening in the housing market. If she coupled the children on top of me because she had the power to do it like throw them out of the house, that concerned me if I didn't have a place so maintenance wasn't really – yes it was a concern at the time because if I had down [for mortgage application] that I was paying maintenance, I certainly wouldn't be able to buy a house." 424/2

Interestingly, Fred admitted that he had some resources available as a result of the separation agreement (i.e. housing equity) but that he was not willing to spend this on child maintenance because he had set this money aside for a deposit on a house. Fred felt that one outcome of separation was that the material quality of children's lives should not automatically be protected in light of the needs of all the separated parties.

Fred's actions were also influenced by the fact that his wife had thrown their elder daughter out of the family home:

Interviewer: What was your priority to provide for your children or to get yourself a house?

Fred: She's fairly comfortably off, job-wise or stuff like that [she was promoted after separation]. He [his son] wasn't going to starve but I mean he could of starved if she had dumped him out of the house. Yes, I would have had to look after him, I ignored it up to a point" 466/2

For Finch (1989:210) and Finch and Mason (1993:97), Fred's explanation may demonstrate an example of a "legitimate excuse"²¹ not to provide maintenance. In order to be seen as a caring father and thus sustain his moral reputation while not paying child support, Fred suggested that he prioritised buying a home to reduce the risk to his son if his ex-wife made him homeless. He also affirmed his moral credibility by noting that his ex-wife had access to other resources and that she was "fairly comfortably off".

In doing so, Fred could also be said to be operating under a central guiding principle of "fairness" (see Finch, 1989:152) or a guideline of financial equity across two households (see Bradshaw et al. (1999: 197). At the same time, it also appears that Fred recognised a financial responsibility towards his son but choose to minimise it ("I ignored it"). He did so in order to avoid cognitive dissonance and perhaps also self-criticism of his moral identity (see Finch & Mason, 1993:127).

Fred also justified his position by noting his wife had not sought a maintenance order. This suited him fine because he wanted to have some control over his own life and to get it back into order:

"If there wasn't a claim made against me, I wasn't going to do much about it . . . simply because I wanted to get back my own life and I also wanted control of my own kids. Control where my kids come freely to me, right, without any problems from another partner where there was an agreement made, You know I couldn't freely go along to her house". 450/2

At the time of his interview Fred felt more in control of his life since he had separated three and a half years previously. This was because he had just bought a home. It had given him some stability and it also gave him the space to parent. His elder daughter was living with him and he was hopeful that his son could visit and stay.

In conclusion, the case of respondent "Fred" is interesting because it shows how a non-resident father can justify the non-provision of child support even after he restarts

²¹ The term "legitimate excuses" is actually used.

working because to do so would affect his capability to achieve well-being which ultimately meant owning his own home. Doing so would provide the platform for satisfactory parenting.

Fred prioritised owning his home over paying child support. He justified this position using a number of reasons, including his wife's access to a good income to support their son; that she did better out of the separation settlement; his need to provide shelter for his daughter- interestingly, she was past the age of legal dependency-; his view that it was justifiable for his son to have a drop in his quality of life- in other words, the material needs of his children should not be examined in isolation from the material needs of others; that no maintenance order was sought; and if a maintenance arrangement was put in place he would not have been able to afford a home. Fred felt fortunate that he was not living in a bedsit and paying child support.

In some ways Fred's story is an example of how a non-paying father - as Bradshaw et al. (1999) and Simpson et al. (1995) also observed - can postpone a relationship with his children to some future date because he has been saving. As Finch (1989:178) might suggest, Fred used the normative guideline of it not being the right time in his life to offer support. This reduced his sense of immediate financial obligation.

Fred saved money to buy a home in order to develop and secure a relationship with his children without having to engage with his former partner. In this he was helped by the fact his children were old enough and willing to respond to him. Fred's actions support Bradshaw et al.'s (1999:214) view that some fathers can reassign a societal expectation to pay maintenance into another form. At the same time they can deny to themselves and to others that they have not reneged on their financial responsibilities.

4.3(d) Summary

Men paid child support for a number of reasons: they felt that child support expressed their financial responsibility to their children – usually accompanied by a (i.e. their) hands-off parenting role; they felt responsible for the marriage breakdown; they feared the consequences of enforcement procedures; they felt compelled to comply with arrangements; they were aware that child support commitments were of a limited duration; and they were unwillingness to destabilise post-separation relationships (e.g. access being maintained). Thus men's on-going willingness to pay child support does not imply that they are satisfied with those arrangements put in place.

However, some men noted that despite having complied with child support arrangements since separation, they anticipated changes to support arrangements – including ancillary provision- in the future. The main reason for this revolved around a change in the supply and demand of resources in the post-separation households.

Finally, if the conditions that prevented arrangements being put in place persisted after separation it was unlikely that child support arrangements would subsequently be put into place.

It appears that what happens to child support arrangements after separation is a complicated process involving the interaction of a number of different elements. An explanatory model to explicate how these elements can come together is provided in the next section.

4.4 Discussion on Child Support Decision-Making After Legal Separation

The last two sections examined from men's perspectives why child support arrangements did or did not change after separation. Again drawing from Pruitt & Carnevale's (1993) work on negotiation theory, an elementary model is provided to contextualise men's post-separation child support experiences. The model is far from perfect and can be seen as a preliminary framework for further research.

The Effect of Factors Emerging After Separation on Men's Motivations, Perceptions and Cognitions

New relationships, changes in parenting and access arrangements introduce a new set of dynamics into the post-separation environment. Extrapolating from Pruitt & Carnevale (1993:8), it appears that such conditions can affect men's post-separation motives, perceptions, and cognitions. In practice, they can lead to non-resident fathers reconsidering the requirements of post-separation households. This in turn can lead to child support arrangements coming under review and can result in changes to arrangements.

Changes in arrangements can come about if either separated party enters into a new relationship. For example, one of the reasons Bill (Example Two) paid less child support was because he did not want his wife's new partner benefiting from it. He also reduced maintenance in order to retaliate against the restrictions placed on his capacity to parent as a result of his wife's new relationship. In Sean's case (Example Three) he negotiated a reduction in child support because there was an increased demand on his

resources as a result of his subsequent relationship. Therefore, men reconsider child support arrangements in light of changes occurring to their post-separation motivations, perceptions and cognitions that arise from new relationships.

Changes in parenting and access arrangements can lead to men questioning the level of support paid, particularly if children spend longer periods of time with them or if access is restricted. For example, in Alex's (Example Five) case his daughter moved out of her mother's home to live with him. Her action led to less child support being paid. In Gerald's case (Example Eight) access restrictions was one reason why he stopped paying child support. As Bradshaw et al (1999:202) observed, some men questioned why maintenance should be paid to their ex-partner "when she would not reciprocate by "allowing" them some parental responsibilities in terms of caring" for their children, a point that will be returned to in chapter 5.3(a). Thus men can change their thinking about child support provision and the level of resources required by them if there are changes in the amount of time they spend with their children.

However, while the emergence of post-separation conditions can affect men's motivations and aspirations; can lead to men perceiving child support differently and can lead to child support changes, it does not necessarily follow that changes to arrangements do materialise. This is because men consider other issues such as the legal and social environment in which change takes place and the potential effect of not paying support on their overall self-interest.

Legal Framework

More often than not, men were reluctant to use the Irish Family Law System to seek a variation in child support arrangements after separation. Reasons included the cost of undertaking such actions and the belief that the Court would be unsympathetic to such requests. Men were reluctant to risk legal action given the absence of detailed judicial guidelines.

In addition, they feared that by not paying support the use of enforcement procedures could be triggered. This could have negative consequences for their wider self-interest.

Self-Interest and Social Norms

Men continue to comply with child support arrangements because it was in their overall self-interest to do so. Pruitt & Carnevale (1993) suggest that men's self-interest refers not only to their financial welfare and it can have a number of dimensions.

It may be in payers' self-interest to protect their identities as "moral beings". Finch & Mason (1993) suggest that responsibilities are created through a process of negotiation and are not pre-determined. They suggest that people's identities as moral beings are bound up in these exchanges of support and the processes through which they get negotiated. This can be in terms of their reputations, their self-conceptions and their psychological investments.

Thus it would appear that the more a man feels involved in the process of negotiating a child support arrangement and the less he feels such an arrangement has been imposed, the more likely his identity as a moral being is tied up with paying support. In other words, some men feel obliged to fulfil the child support conditions of a separation settlement because they agreed to do so – paying child support is analogous to meeting their financial responsibilities as fathers.

This may partly explain why the emergence of post-separation conditions although altering men's thinking about child support arrangements do not automatically lead to changes in arrangements. Similarly, it may also help to explain why men continue to pay child support when they are finding it difficult to make ends meet.

For example, Barry (not examined in this chapter) who made a child maintenance offer during his mediated separation negotiations, felt morally obliged to honour this commitment even though he felt he was just financially surviving. For him child support was an expression of his financial responsibility to his children:

It's a bit of a moral thing over that. I feel morally obliged to pay. I didn't get great pleasure out of it (i.e. he reduced payment when oldest children turned 18 years), you know, I just said, because I do have to fucking live, you know...my quality of life is determined by the children's, at the end of the day 878/22

For Finch (1989:204), Barry's position reflects how he defines his moral self. She suggests that a man's moral identity "can be understood as the sum of ...[his] commitments". In other words, while maintenance commitments affected the quality of his life, Barry's moral integrity was sustained when he continued to pay, because his sense of self remained intact.

Similarly, withdrawing from commitments may be "too expensive" (see Finch & Mason, 1993:168) an act. It can lead to a man believing that his moral integrity has been undermined. For example, Sean (Example Two) felt compelled to honour a child

support arrangement he offered at separation²² even though he became unhappy with the amount paid as a result of entering into a new relationship. He felt obliged to honour the “contract” he signed. Paradoxically, while Sean –and also Barry- would have materially benefited from withdrawing maintenance, there would also have been a cost “calculated in terms of people’s personal identities and their moral standing in their kin group and in the eyes of the world at large” (Finch & Mason, 1993:168).

However, such “pure” cases are the exception. This is because in the Irish Family Law Regime the issue of child support gets resolved at separation alongside other issues. Unless imposed by the Court, men in this study generally compromised in reaching separation settlements. Part of this compromise took the form of men agreeing to certain child support arrangements in exchange for other considerations (e.g. housing or access arrangements). Other issues such as the tax and legal regime; their willingness to separate; their partners and their own capacity to work; and the intervention of third parties (e.g. mediators, solicitors), etc., also informed both how the overall settlement was reached and the terms of the child support arrangements.

Therefore, whilst some men appear to be morally obliged to pay child support because it represents their financial responsibility towards their children, for other men this may be an overstatement. This is because child support is not ring-fenced from the resolution of other issues – a child support commitment cannot be simply interpreted as an expression of a man’s financial responsibility²³ towards his children.

If this is the case why do not more men stop complying with child support arrangements after separation? This is because other aspects of men’s “self-interest” would be affected.

Men were unwilling to undertake remedial action on child support arrangements because they feared it could lead to access problems; legal involvement; an unsettling of their post-separation living arrangements; and difficulties with their former partners. Other reasons noted for persisting with child support arrangements included that they were of limited duration; that as older children reached maturity there would be reductions in payments and that their incomes would rise over time.

²² Although he negotiated a slight reduction in the level to pay, Sean still felt compelled to pay a greater amount than he would have liked.

²³ Furthermore, financial responsibilities can be expressed (and men would prefer to express them in other ways); housing arrangements put in place at separation; maintenance for partner (e.g. tax considerations), their own direct and indirect (e.g. the cost of their own housing) expenditure on their children; ad hoc requests (e.g. school clothes, school books, dentistry bills).

Other dimensions of their “self-interest” include their children’s and to a lesser extent their former partners. For example, the provision of child support *does* make a difference to the quality of their children’s lives in the lone parent household. Its removal in addition to triggering conflict may also affect the psychological (e.g. access restricted) and material welfare of children. Furthermore, on-going provision was also seen as a way by which lone parents can look after the children.

In addition, the meaning that actions convey to other people is important. For some men even though they were dissatisfied with paying child support and even though they believed that support arrangements did not fully convey either their preferred method of meeting their financial responsibilities to their children or the full extent of their child-related expenditure (and thus did not fully reflect the level of their financial responsibility), they continued to make child support provision. This was because in addition to potential legal, compensatory and relationship problems arising from not paying child support, their “moral standing” as fathers could also be undermined. This moral standing may be informed by society’s expectations about on-going child support compliance.

For example, Aidan (Example Four) noted that whilst he was unhappy with the level of support paid, given that his wife could work outside the home and the number of hours he worked, at the same time he feared his wife would insult him in front of their friends if he stopped complying with arrangements. Aidan did not want to be seen as a financially irresponsible father even though he was unhappy with his child support arrangement and believed his wife did not really need the support:

I feel she doesn't need it (i.e. the level of child support) – but the fact that whenever I am late, she chased me for it- She's comfortable in my eyes but in her eyes she's not... If I wasn't paying her, I suppose my first reaction would be to say it wouldn't make any difference, but it would because I feel that by paying every week, I still have that little bit of...(short pause) responsibility, you know, that I am giving the kids. If I was giving them nothing I think that it would lead her very open to- insult me in front of friends 1104/15

Conditional Factors

In section 4.2 a number of factors were identified which lead to child support arrangements changing after separation. However, these factors do not always result in change. For example, the fact that new relationships occurred after separation did not mean that child support arrangements changed or if they did, such relationships were a cause.

This is because while post-separation relationships can change men's perspectives on child support arrangements, whether they affect men's actions is another question. In only two cases could the emergence of post-separation relationships be seen to be a factor accounting for change in provision.

With the emergence of post-separation relationships there were a number of reasons why men continued to comply with child support arrangements even though they were unhappy to do so. They continued paying because enforcement procedures were feared and because support arrangements were of a limited duration. Other reasons cited by men included feeling an on-going responsibility to support their children and the fear of upsetting spousal and parenting relations.

However, there were also a number of cases where a subsequent relationship did not appear to have a significant effect on non-resident fathers' child support actions, even though child support arrangements altered after separation. This was because it was observed that other factors were more likely to account for change. These factors included changes in parenting arrangements; subsequent involvement of third party agencies (e.g. DSCFA) and changes in employment status.

Similarly, there were a number of cases where changes in access and parenting arrangements took place after separation but support conditions remained the same or if change did occur, changes in parenting and access arrangements were not seen as grounds.

Generally speaking, where access arrangements became more informal and flexible after separation with the result that children spent longer periods of time with their fathers, this did not result in them paying less child support. Men judged that in order for such flexible arrangements to take place and to continue over time, it was better to comply with support arrangements put in place at separation. Although their financial outgoings increased from having more direct contact with their children, they were unwillingness to offset these costs by reducing the level of support paid, because such actions could prompt their partners to withdraw their improved but not legally established access arrangements.

"Legitimate Excuses"

Men always justified not paying child support. Finch & Mason (1993) use the term "legitimate excuses" to label such actions. In other words, men justified their actions in order to counteract the judgement or minimise the risk of being seen to be a financially

irresponsible father, even though their conception of their financial responsibility may not entirely be in terms of child support provision.

Excuses included that men required a financial breathing space in order to re-establish themselves; that they were unable to afford payments; changes in parenting arrangements and access restrictions. Only in one case did a man use the excuse that his wife was not spending child support on his children as a secondary reason for seeking a reduction in how much he paid.

For example, in Dave's case (Example Three) he justified not paying support by noting that he was investing in his business to secure the long-term future of his daughter. In the short term, his child's mother could meet her needs because she had the capacity to do so; at the same time he was willing to have an informal and ad hoc financial role in his child's life. Child support was a flexible option for him.

Summary

As Beck & Beck-Gernsheim (2002:84-85) might say, this chapter saw "the many different shades in the niches" beyond the traditional family, revealing the "contours of a post-familial family" taking shape. New conditions may emerge after separation that can lead to men reconsidering child support arrangements and the wider separation settlement. In some cases these conditions are sufficient for men to stop paying child support, either with or without their former partners' acquiescence or knowledge. For men these factors form the basis of "legitimate excuses" to alter those separation support arrangements.

Whilst the emergence of post-separation conditions can affect men's motivations and aspirations; can lead to men perceiving child support differently and can lead to child support changes, it does not necessarily follow that changes to arrangements do materialise. This is because men consider other issues such as the legal and social environment in which change takes place and the potential effect of not paying support on their overall self-interest and their children's interests. In addition, these interests are rarely defined solely in terms of financial considerations.

An elementary model demonstrating the interactive nature of the issues affecting non-resident fathers' child support perspectives and actions after separation is highlighted in Figure 4.1²⁴.

²⁴ Drawing from Pruitt & Carnevale's (1993) work on negotiation theory.

Figure 4.1 Elementary Model Demonstrating The Interactive Nature Of The Factors Affecting Non-Resident Fathers' Child Support Perspectives and Actions After Legal Separation

Formalised Child Support Arrangement as part of a Separation Settlement
Evaluation of Outcome

New Conditions arising after Separation

New Relationships

Involvement of DSCFA

Changes in Access or Parenting Arrangements -includes perceptions on how child support is being spent

Changes in Men's Economic Circumstances

>Changes in the source and level of resources and demand on resources

>Psychological states

Cognitions and perceptions – self-reflective and decision-making abilities

Motivations-re-conceptualising future capabilities, aspirations, goals

>Social norms (e.g. a sense of fairness) – renewed evaluation of the effects of child support & separation settlement

>Self-interest considerations–(e.g. bearing in mind legal & social constraints)

>Adjusted strategies/tactics

>Response of other parties

>Changes or No Changes in Child Support Arrangements

<_____Time dimensions_____>

4.5 Conclusion

The purpose of this chapter was to examine men's experiences of child support arrangements after separation. The first part of the chapter identified the emergence of a number of post-separation factors that were seen to have an impact on child support arrangements. Thereafter, the experiences of non-resident fathers who continued to pay child support after their legal separation were examined.

The final part of the chapter put forward an elementary model by which to contextualise men's post-separation child support accounts. It was suggested that the emergence of post-separation conditions can have an influence on how men consider child support arrangements. However, in practice their response to these conditions is best understood in relation to the psychological, relationship, resource, normative, and the wider social and legal dimensions of their lives. Thus child support arrangements can be affected, sometimes in ambiguous and contradictory ways.

Chapter 5 – Compliance

In Chapter 4 men's experiences of child support arrangements after separation were examined with attention paid to understanding how child support arrangements changed (or did not change) after separation.

The purpose of this chapter is to examine men's experiences after legal separation in relation to the five factors outlined in chapter one (section 1.4) which other researchers have explored in relation to child support compliance.

The five factors are:

- Men's Ability To Pay Child Support;
- The Strength Of Family Ties;
- The Economic Needs Of Mothers And Their Children;
- Men's Willingness To Pay Child Support;
- The Enforcement System In Place.

The five factors are considered in sections 5.2-5.6. The chapter starts with an overview of men's compliance.

5.1 Overview of Compliance/Non-Compliance after Separation

For the purposes of this study, compliance with child support arrangements is understood to mean those cases where men were fulfilling the terms of the child support arrangement put in place at their legal separation, at the time of their interviews for this study¹. Non-compliance refers to those situations where men at the time of their interviews for this study were not fulfilling the terms of the child support arrangements put in place at their legal separation.

Table 5.1 provides an overview of men's compliance/non-compliance with child support arrangements put in place at their legal separation, at the time of their interviews for this research².

¹ Thus in those three cases where men reduced the level of child support they were paying after separation solely as a result of their children coming of age, they were seen to be complying with the terms of their child support arrangements.

² It does not address those cases where men had not been legally separated at the time of their interviews for this study or those men who had been legally separated but where no child support arrangement had been put in place at their legal separation.

Table 5.1 Overview of Men’s Compliance/Non-Compliance³ with Child Support Arrangements Put in Place at Legal Separation

Pathways Used By Respondents To Complete Separation	Compliance with Child Support Arrangements Put in Place at Separation	Non-Compliance with Child Support Arrangements Put in Place at Separation	Number Of Men With Child Support Arrangements As Part Of Separation Settlement
Mediation	7	3	10
Lawyer Aided	7	2	9
Judicial Separation	2	2	4
No. Of Respondents	16	7	23

While there does not appear to be a statistically significant relationship⁴ between the variables, Table 5.1 suggests that men in this study who used the mediation and lawyer-aided pathways to complete their legal separation were more likely to comply with child support arrangements than those who were judicially separated.

5.2 Men’s Ability To Pay Child Support

Men’s ability to pay child support has been identified⁵ as a possible factor that can have a bearing on child support compliance rates. As noted in chapter 3.3(b) probably the most obvious factor affecting the resolution of child support arrangements relates to men’s employment status. In this study when men were not working at separation⁶, ongoing child support arrangements were not put in place as part of the separation settlement. As Bradshaw et al. (1999:144) also found, the main reason given by men who were not paying child support was that they were unemployed or could not afford to pay.

In sections 5.2(a) and 5.2(b) compliance is examined⁷ in relation to work-related variables.

³ At the time of their interviews for this study.

⁴ Degrees of freedom: 2

Chi-square = 1.011

For significance at the .05 level, chi-square should be greater than or equal to 5.99.

The chi-square value is not statistically significant.

⁵ See Chapter 1.3(b).

⁶ Changes in men’s employment circumstances after separation can lead to changes in child support arrangements. By the time of their interviews two men had recommenced employment and were issued with determination orders by the DSCFA. Three other men had become unemployed after separation and stopped paying child support.

⁷ The conclusions drawn should be treated with caution because of the limited number of cases available for analysis and because of nonprobability sampling.

5.2(a) Men's Net Income

Table 5.2 provides an overview of whether men at the time of their interviews for this study were complying with child support arrangements put in place at their legal separation vis-à-vis the level of their net income (per annum) at separation. While there does not appear to be a statistically significant relationship⁸, Table 5.2 suggests that men with lower net incomes at legal separation were no more likely not to comply with child support arrangements than men with higher net incomes. This is at odds with findings from some other studies (e.g. Garfinkel & Klawitter, 1990).

Table 5.2 Men's Income⁹ at Legal Separation and Child Support Compliance¹⁰

Non-Resident Father's Net Income (Per Annum) at the Time of Legal Separation	Compliance with Child Support Arrangements Put in Place at Separation	Non-Compliance with Child Support Arrangements Put in Place at Separation
£3000-£13000	4	2
£13001-£17000	5	2
£17001-£20000	4	1
£20001-£28000	3	2
Number of Men	16	7

5.2(b) Men's Occupational Status

Public sector employed non-resident fathers were more likely to comply with child support arrangements than private sector or self-employed men, as can be seen from Table 5.3.

Table 5.3 Men's Occupational Status at Legal Separation and Child Support Compliance¹¹

Men's Occupational Status at the Time of Legal Separation	Compliance with Child Support Arrangements Put in Place at Separation	Non-Compliance with Child Support Arrangements Put in Place at Separation
Public Sector	10	3
Self-Employed	5	3
Private Sector	1	1
Number of Men	16	7

Excluding other possible explanations, it would appear that by having a regular, secure and verifiable source of income, men in this study who were public sector employees

⁸ Degrees of freedom: 3

Chi-square = 0.509

For significance at the .05 level, chi-square should be greater than or equal to 7.82.

The chi-square value is not statistically significant.

⁹ Men's net income (per annum).

¹⁰ At the time of their interviews for this study.

¹¹ At the time of their interviews for this study.

inhabited a working environment that was more conducive to child support compliance¹².

5.2(c) The Percentage of Non-Resident Fathers' Income Owed in Child Support & On-going Separation Settlement Commitments

The relationship between differences in the percentage of men's net income at separation owed in child support and changes in child support arrangements at the time of men's interviews for this study¹³ is examined in Table 5.4.

Table 5.4 Level¹⁴ of Child Support and Child Support Compliance¹⁵

Proportion of Men's Net Income at Legal Separation to be paid in Child Support (%)	Compliance with Child Support Arrangements Put in Place at Separation	Non-Compliance with Child Support Arrangements Put in Place at Separation
1-9%	1	1
10-19%	8	1
20-24%	5	4
25+%	2	1
Number of Men	16	7

The observed cell frequencies do not reveal a statistically significant relationship between the variables in the wider population¹⁶. However, excluding other possible explanations, the evidence from Table 5.4 would suggest that men who pay less than 20% of their net income at separation in child support were less likely not to comply with support arrangements than men who pay more than 20% of their net income.

In reality what men actually pay in child support is influenced by the nature of the child support regime in place. In Ireland this means that child support arrangements at separation are not usually put in place in isolation from the resolution of other issues – financial, housing or parenting. Therefore, data pertaining to the relationship between

¹²However, there is not a statistically significant relationship.

Degrees of freedom: 2

Chi-square = 0.883

For significance at the .05 level, chi-square should be greater than or equal to 5.99.

The chi-square value is not statistically significant.

¹³ In chapter one it was noted that the percentage of non-resident fathers' income to be paid in child support has been used as a proxy to research the association between men's ability to pay child support and child support compliance.

¹⁴ Percentage of Men's Net Income at Legal Separation to be paid in Child Support.

¹⁵ At the time of their interviews for this study.

¹⁶ Degrees of freedom: 3

Chi-square = 0.415

For significance at the .05 level, chi-square should be greater than or equal to 7.82.

The chi-square value is not statistically significant.

the percentage of a non-resident father's income paid in child support and child support compliance should be treated with caution¹⁷.

For instance, men can arrive at separation settlements where a sizeable proportion of the overall maintenance arrangement is set-aside for their former partners. This can be done for a number of reasons (e.g. tax deductible¹⁸; a sense of obligation¹⁹, court orders; non-differentiation in men's minds in respect of child and spousal maintenance (i.e. financial support for lone parent family unit); economic inactivity of their former partners, etc.). Irrespective of whether men agree or disagree with paying spousal support, one consequence is that the resolution of child support arrangements can be affected²⁰.

Table 5.5 displays the evidence for the differences in the percentage of men's net income at separation to be paid as an on-going separation settlement commitment (e.g. child & spousal maintenance, mortgage for lone parent household) and changes in child support arrangements at the time of the respondent's interview.

¹⁷ In addition, this study follows Bradshaw et al. (1999) position in not systematically counting the actual amounts of child support paid by men. This decision was taken to avoid the situation where non-resident fathers who are seen to be paying the most are judged to be the most committed to their children. Bradshaw et al. (1999: 188) call this a "moral hierarchy".

¹⁸ Ex-spousal maintenance is tax-deductible; child maintenance is not.

¹⁹ Using Finch's (1989) framework about how a sense of obligation develops it was demonstrated in chapters three and four, and will be shown in this chapter and chapter eight that principles to do with justice and fairness and normative guidelines –e.g. reciprocity, independence, and timing –may be influential in working out what to do. Primarily these guidelines were discussed in relation to men's sense of their financial obligation to their children. In terms of men's obligations to their former partners, it was suggested, for example, that Sean in Chapter 3.3(a) felt it was fair to compensate his ex-wife for leaving his marriage. On the other hand, it was also shown in Chapter 4.2(b) that because separation results in the breaking up of a "history of particular relationships" (Finch & Mason, 1993:179), men may feel less of a sense of obligation to support their ex-partners compared to their children.

²⁰ For example, in the case of Jack he noted his ability to pay child support was limited because he had to pay spousal maintenance as a result of his former wife not working:

Interviewer:

How do you square that you were only paying limited child support?

Jack:

How do you square it that the cake doesn't change size or composition when you move from being a two-parent household to single parent households? If the cake doesn't change, if there's only one person earning well then what you need is a second person earning. 1275/39

In addition, a number of men arrived at separation settlements where in-kind arrangements (e.g. giving up housing equity) were put in place to partially reduce or offset future child support obligations for either a specified or unspecified time period.

Therefore, the ability of men to pay child support has to be seen in terms of the overall re-distribution of resources and any on-going financial commitments put in place at separation.

Table 5.5 Level²¹ of Separation Settlement and Child Support Compliance²²

Proportion of Men's Net Income at Legal Separation to be paid as an On-going Separation Settlement ²³ Commitment (%)	Compliance with Child Support Arrangements Put in Place at Separation	Non-Compliance with Child Support Arrangements Put in Place at Separation
1-9%	1	1
10-19%	2	0
20-29%	8	3
30-39%	1	1
40+%	4	2
Number of Men	16	7

There is not a statistically significant relationship between the variables²⁴. However, it can be seen that men in the (10-19%), (20-29%) and (40%+) income-owed categories were more likely to comply than not comply with child support arrangements put in place at separation.

In conclusion, the evidence from this research in relation to the association between men's ability to pay child support and child support compliance was reviewed in this section. Men's ability to pay child support was operationalised in a number of ways and a number of observations were noted²⁵.

5.3 Strength Of Family Ties

In chapter one it was shown that researchers have examined the association between the strength of family ties and child support compliance in a number of different ways.

²¹ Percentage of Men's Net Income at Legal Separation to be paid as an On-going Separation Settlement Commitment

²² At the time of their interviews for this study.

²³ Excludes one-off, lump sum or in-kind payments made at legal separation.

²⁴ Degrees of freedom: 4

Chi-square = 1.674

For significance at the .05 level, chi-square should be greater than or equal to 9.49.

The chi-square value is not statistically significant.

²⁵ First, there was little evidence to suggest that men with lower net incomes at legal separation were more likely not to comply with child support arrangements compared to men with higher net incomes. Second, men who were working at separation in the public sector were more likely to comply with child support arrangements. Third, men who pay less than 20% of their net income at separation in child support were less likely not to comply with support arrangements than men who pay more than 20% of their net income. Fourth, no straightforward conclusion can be drawn between the percentage of men's net income at legal separation to be paid as an on-going separation settlement commitment and child support compliance.

It should be noted that these conclusions should be treated with caution because of nonprobability sampling and the limited number of cases available for analysis. In addition, other possible explanations may need to be considered.

These included father-child contact; men's relations with former partners; their distance apart from children; remarriage; and the length of time since separation.

5.3(a) Father-Child Contact

There were examples in this study to support Bradshaw et al.'s (1999:226) suggestion that father-child contact can be closely associated with whether child support is paid. For example, it was shown in Teddy's story²⁶ that he negotiated a specific child support arrangement in exchange for particular access arrangements. In such situations, as Bradshaw et al. (1999:219) suggest, maintenance can be useful for it can "ease parental relations and act as a guarantee for contact". Bill's story²⁷ also revealed that the history of a man's relationship with his children may be a contingent factor related to his willingness to pay child support (see Bradshaw et al. (1999:210)).

However, the quality and quantity of father-child contact is open to change after separation. In this study actual or perceived changes in father-child contact arrangements from men's perspectives lead to five of them not complying with child support arrangements put in place at separation.

For three men they paid less support because their children spent more time living with them. In these cases lower payments emerged as a result of negotiations between the separated parties (or their advisors) or through Court adjudication.

For two others they perceived restrictions being placed on contact arrangements put in place at separation. Their dissatisfaction with these perceived restrictions alongside other reasons prompted them to pay less support, without negotiating with or the consent of their former partners. The accounts of these men - "Bill" and "Gerald"- as noted in chapter four, support Bradshaw et al.'s (1999:202) finding that some men can withhold paying maintenance when mothers do not "ease the fathers' relationships with their children".

Bradshaw et al. (1999:187) examined how child support commitments were developed. In their second qualitative study which focused on fathers' financial obligations, they suggested that there was a difference between willing child support payers on one hand, and enforced and non-payers payers on the other hand. This difference was related to the presence or absence of father-child contact. Broadly speaking, they

²⁶ See Chapter 3.3(g)(ii).

²⁷ See Chapter 4.2(a).

observed that willing payers had contact and that enforced and non-payers did not (see p203-204).

However, the evidence from this study suggests that it may not be always possible to associate the degree of a man's willingness to pay maintenance with the presence or absence of child contact. While there was evidence in chapter four to indicate that men can stop paying support because of inadequate father-child contact, it was also shown that other men with contact who were far from willing²⁸ payers for reasons including:

- considering²⁹ child support to be part of a wider set of resources (e.g. housing) to support children. Subsequently, unfavourable quality of life comparisons between the post-separation households could be made, in turn affecting men's view of child support arrangements. Fathers' judgements being informed by their post-separation aspirations;
- unacknowledged³⁰ financial costs of men's direct involvement with their offspring, which had a tendency to increase as a result of access arrangements becoming more flexible;
- expectations³¹ by some but not all men that their former partners could generate more resources by other means (e.g. working), so reducing the father's financial burden.

For example, the respondent "Kevin"³² had contact with his children and had not reneged on paying child support. He felt a responsibility to look after his children but was unhappy paying support because it affected the level of resources he could directly spend on his children and the quality of life he could offer them. He felt that paying child support was unfair because of a range of factors beyond his influence.

For instance, Kevin argued that child support made little difference to the quality of his children's life in the lone parent family unit. This was because the family was subsidised by his father-in-law. In addition, he suggested that he had made sacrifices during the marriage to obtain a work qualification while his ex-wife was "messing around college". This resulted in him and not his ex-wife obtaining a well-paid job, which in turn was a factor influencing the type of child support arrangement put in place. At the same time the level of child support could not be excused by her pre-

²⁸ For example, see Chapter 4.3(a).

²⁹ For example, see Dave's story in Chapter 4.2(b).

³⁰ For example, see Kevin's story in Chapter 4.3(a).

³¹ For example, see Aidan's story in Chapter 4.2(b).

³² See Chapter 4.3 (a), Example 9 for a fuller account.

separation childcare involvement, as he suggested he was more than an equally involved parent. With limited resources he bought a home in order to have a place where his children could stay. To pay for a mortgage he had to take in lodgers.

He continued to pay support because he had made a commitment to do so; he preferred to maintain harmonious post-separation relations with his ex-wife; he observed that child support commitments would not last forever and he feared the court's response to non-provision:

"I've done what I set out to do. They are more or less reared. The way that I see it is that I've been in a financial straitjacket for ten years, now I'll continue to pay the maintenance until they are through college. Its time to put me up that priority list a bit more and so that's probably what I'm going to do" 880/1

Therefore, despite acknowledging and complying with his child support commitment, prioritising his children's needs and having contact with them, it cannot be concluded that Kevin was a willing payer of child support. Equally, Kevin's children were of an age whereby if he stopped paying support, it was unlikely that contact with them would be jeopardised. While he wanted to get on with his ex-partner, it was primarily up Kevin's children whether he had contact with them. Therefore, factors other than contact influenced his position on paying support. Accordingly, Bradshaw et al. (1999:227) may have overstated the role of mothers in facilitating father-child contact, and thus the position of maintenance provision in easing father-child contact.

Instead it could be argued that Kevin was in a state of cognitive dissonance about paying child support. On the one hand, continuing to pay child support was an indicator that he was sustaining a commitment to his children: *"I've done what I set out to do. They are more or less reared"*. In doing so, Kevin may have invested in his social identity and reputation by consistently paying support, "which means that a point is eventually reached where it becomes too "expensive" to withdraw from the particular course of action (i.e. child support compliance), because too much has been invested in it" (Finch, 1989:204).

On the other hand, issues little to do with contact resulted in Kevin being a reluctant child support payer for he felt he was left in an unfair position. Because he saw child support as part of a wider financial settlement, he felt that he was left with inadequate resources and life choices, including having the means to facilitate a better relationship with his children as he wished.

Hence, distinguishing between willing child support payers on the one hand, and enforced and non-payers payers on the other hand, primarily in relation to the presence or absence of father-child contact, may have limited value. Of course some men may not pay support because they are not allowed to see their children. But to say that men are more likely to be willing payers because they are in contact with their children may underestimate the influence of other factors forming their child support perspectives and actions. Equally, unlike Bradshaw et al.'s evidence (see 1999:195, Table 11.6), it could be argued that "enforced"³³ payers like Kevin can be in contact with their children but can also be reluctant to pay child support for reasons other than contact.

Bradshaw et al. may have classified Kevin as an "enforced payer" because of his fear of the court's response to non-compliance. However, unlike their "enforced payers", Kevin also had some characteristics of a "willing payer". Specifically, he had contact with his children, he wanted to continue to honour a commitment to his children, and maintenance eased relations with his ex-wife. Therefore, it could be argued that people like Kevin do not easily fit into Bradshaw et al.'s classification of men's child support actions. Perhaps instead of classifying men either as willing payers or enforced and non-payers it may be more useful to consider men's child support actions as forming part of a continuum of responses³⁴.

In some ways this may be the price that men like Kevin have to pay or what they have to endure in order to obtain a somewhat satisfactory relationship with their children after separation. As Beck & Beck-Gernsheim (2002: 96) note, in post-separation families it is no longer the traditional rules of ascription (descent & marriage) that determine the family bond. Instead family links are no longer a matter of course but are rather freely chosen acts. Kinship is worked out anew in deference to the principles of choice and personal inclination; it takes the form of "elective affinities". He notes, "as it [kinship] is no longer given as a destiny, it requires a greater personal contribution, more active care (p96)".

Thus for some in order to achieve "their freely chosen acts" they are willing to make a "greater personal contribution" by complying with unsatisfactory child support arrangements. On the other hand, their "elective affinities" to have a relationship can be

³³ Bradshaw et al (1999:187-188) classify payers into two groups: "those who paying as a result of enforcement and those who were apparently paying willingly". They define enforcement as those fathers who said that they would not have paid if child support had not been deducted at source or if "there was not the threat of legal action for non-payment" (p196).

³⁴ Another possible drawback with their approach was that insufficient attention was given to the difference between men's willingness to pay child support and their satisfaction with child support arrangements.

constrained by the actions of their ex-partners. If this constraint is too much, men can respond by threatening to or actually withdrawing from child support arrangements.

Therefore, two fathers'³⁵ dissatisfaction with perceived access restrictions was noted as a contributory factor in their decision to unilaterally reduce the level of support they paid³⁶.

Nevertheless, modest father-child contact may or may not necessarily lead to child support compliance difficulties. On one hand, there were two men who had no contact with their children in this study. Both stopped³⁷ paying child support because they could not afford to pay and not because access was hampered.

On the other hand, there were fathers who had little contact/involvement with their children and they continued to pay child support. They subscribed to a traditional breadwinner role model and the provision of child support was a kernel part of their parenting role. It was if they could maintain an "investment" role without requiring an "involvement" role with their children^{38,39}. In conclusion, there was evidence in this

³⁵ The cases of "Bill" and "Gerald", described in chapter four.

³⁶ For example, Gerald who had previously stopped paying child support because his ex-wife hindered access, implicitly threatened to do so once more if contact arrangements were again breached:

...if everything is right, I see my daughter and I'm supposed to see her, there is no problem, like I'll force myself to go down to the fucking court if I have to, stick it in an envelope and lob it into the hatch 845/12

Moreover, the fact that both had an active pre-separation involvement with their children informed the breadth of their post-separation contact aspirations:

If I was to retrace my steps, I wouldn't have moved away from my job as the father of those three infant children...I thought that the separation agreement in my naivety meant that we just – we were bringing up the children together, we just weren't living in the same home 1160/20 (Bill)

As Bradshaw et al. (1999:210) indicate, the history of men's relationship with their children may be seen as a contingent factor related to willingness to pay. In both of these cases child support enforcement procedures were activated and by the time these men were interviewed for this study they had recommenced paying support.

³⁷ The non-provision of child support does not always imply poor father-child contact. In cases where men were unemployed or sick before separation or where men's former partners accepted a reason for non-compliance (e.g. post-separation unemployment), a father-child relationship could be maintained. In other words, it was deemed acceptable and legitimate for men not to make formal provision. In such cases and for those who did not have child support arrangements put in place at separation men still noted that they had a financial responsibility for their children. Although these responsibilities were limited because of their own financial circumstances, they could be executed by supporting, where possible, their ex-partners' financial requests to meet specific children's needs, children's requests for funding or through their own initiative.

³⁸ Lewis (2000:6) suggests that modern parenthood increasingly sees men having an investment (i.e. financial) as well as an involvement (i.e. caring) role with their children.

research to support Bradshaw et al.'s (1999:226) finding that father-child contact can be associated with child support being paid. For example, two men in this study said they stopped paying child support when they perceived access restrictions. However, the evidence from this study suggests that it may not be always possible to associate the degree of a man's willingness to pay maintenance with the presence or absence of child contact.

Evidence from men's accounts such as Kevin's highlighted in this section, and the use of Pruitt and Carnevale's (1993) framework in chapters three and four, indicated that other factors inform men's views about if not their commitment to pay support. Specifically, it was shown that an "enforced payer"⁴⁰ such as Kevin had contact with his children but was still reluctant to pay child support. It was suggested that people like Kevin do not easily fit into Bradshaw et al.'s classification of men's child support actions. Perhaps instead of classifying men either as willing payers or enforced and non-payers it may be more useful to consider men's child support actions as forming part of a continuum of responses.

In addition, it may not be concluded that in situations where men are dissatisfied with contact or child support arrangements, non-compliance actions will follow. This is because men consider other issues such as the legal and social environment in which non-compliance actions take place and the potential effect of such actions on their own and their children's self-interest.

5.3(b) Relations with Former Partners

As was demonstrated in the last section, the relationship between maintenance and access involves the separated parents. It was suggested that where the relationship between a separated couple is poor, this can be accompanied by poor father-child contact arrangements and poor child support compliance. However, because the *relationships* between separated parties can be complex, irrational, open to change

³⁹ For example, in the case of Jack he defined his responsibilities primarily in terms of the financial provision he provided while at the same time acknowledging that he was responsible for not having a good relationship with his children:

Interviewer:

Right tell me about your access arrangements, how do they work out?

Jack:

Well mine are particularly poor, that's probably largely my own fault. My older children it's up to themselves like they're 20 and 18, there's nothing you can, they're far more interested in their boyfriends/girlfriends, social life, this thing, that thing, the other thing and if they want something out of me they come and ask and it's usually just money ...I mean like the children still have to be paid for, the house has to be paid for, the food has to be put on the table, school books all that kind of stuff and that all has to be done. 826/39

⁴⁰ Using Bradshaw et al.'s (1999:188) definition.

and vary in quality, there can also be unanticipated effects on child support arrangements⁴¹.

In most situations where an improved relationship developed between the couple and lead to more flexible childcare arrangements, there was not a re-ordering of child support arrangements. This was generally seen by men to be unfair not least because of the increased costs associated with greater father-child contact. Nevertheless they were willing to put up with this. To stop complying ran the risks of re-enacting conflict with their former partners, threatening father-child relations⁴² and having to deal with the consequences of enforcement procedures.

However, there was one case where child support arrangements did change subsequent to a man's relationship with his former partner improving. It also has to be said that there were also a number of other conditions present that allowed change to happen. These included the lone parent seeing the benefit of a fathering role for their children and his readiness to fulfil it, her children willing to spend more time with their father and the lone parent having access to an independent source of income. Therefore, a change in child support arrangements can come about not as a result of a man being an active agent but *at the lone parent's instigation*⁴³:

She [his ex-wife] was sitting in my kitchen one day having a cup of tea or whatever and she just said to me, out of the blue she just said "look I think there'll be no need to pay maintenance, you just pay, look after all the expenses, the week my son is with you", and she said, "perhaps we'd open a joint bank account and put a contribution in each month to pay overheads like schools and those fixed kind of overheads that come up every now and again" and we've been doing that ever since 2800/24 (Eoin)

It appears that a poor relationship with an ex-partner may or may not affect child support compliance. On one hand, in those two cases where men felt that their access arrangements were restricted by their former partners, which lead to non-compliance actions and the activation of enforcement procedures, a degree of conflict with their former partners was also present.

⁴¹ For example, if the wounds of separation heal, many separated couples can go on to improve their relationships over time. While such improvements often went hand in hand with more flexible access arrangements, possibly reinforced by "children moving with their feet" as they grew older, child support arrangements may or may not change.

⁴² See Arendell (1995:205) for similar finding.

⁴³ In other words, when the lone parent initiated giving up formal child support payments there was already in place a level of communication between the separated parties. This provided the basis for a shared understanding to emerge about how the needs of their children were to be subsequently met. In Eoin's case this resulted in a new income & expenditure strategy to meet these needs (e.g. a joint income & expense account for their children) related to the time the children spend with either parent, taking into account both parents overall level of income.

On the other hand, a poor relationship may not affect compliance. This is because non-resident fathers can acknowledge the difference between the negative feelings that they may have for their ex-partners while at the same time recognising them as good mothers. Thus as long as their children are being looked after they have adequate contact, non-resident fathers are willing to put up with unsatisfactory relations with their ex-partners. This includes their acceptance⁴⁴ of not being appropriately consulted about parenting decisions, as in the case of Tim:

Tim: There were no discussions about anything. I had to ask through the courts where she was living, where the children were living. I wasn't informed of what school that they were going to. So I wasn't been told anything and I'm still not really told anything...

Interviewer: In terms of her relationship with the children, do you think that she is a good mother then?

Tim: Ah, I think so. 1302/8

However, the background to separation and men's judgement on how their former partners spend money can influence if not their compliance with child support arrangements already in place, their response to additional financial demands:

As regards medical expenses when I do have money I will help but I demanded one thing and I haven't heard anything back recently since I said that I'd like to see receipts of what are the medical expenses paid out on my daughter. I said I'm not going to take things verbatim, I can't trust you, I don't trust you, and she knows that...I have no qualms about putting money out for my daughter or saving money, whatever, no qualms about that. I would sacrifice myself for my daughter, which I have done at times, even my own health for my daughter, so just to give you an idea that there is nothing that I won't do for her. But if my ex tries to summon me or tries something like that, she's in for a bit of a – she won't get it easy, I won't give into her easy because like what she did to me that is something, that is a scar on my brain...but to her it always seems to be like a game that whatever I pay she tries to go better... 540/13 (Arthur)

In conclusion, how a non-resident father gets on with his former partner may or may not lead to child support non-compliance actions. Conflict affects relationships, but whether child support compliance is affected depends on other issues. For example, in this study where men felt that their former partners hindered access arrangements, they stopped complying with child support arrangements.

⁴⁴ It could also be argued that a form of generalised exchange occurs with men not looking for anything immediate or specific in return –except that their children are looked after - for payment of child support, a point that will be returned to later.

At the same time it is also possible for men to differentiate between how they feel about their former partners and how they see them as mothers. Hence although they may dislike their ex-partners it is still possible to judge them to be good parents.

Where relations between separated spouses improve over time, this may or may not lead to non-compliance actions. For example, improved relations were likely to result in more flexible access arrangements but for child support arrangements to change in such circumstances it would appear that there would have to be *mutual* consent between the parties. If men took unilateral action they ran the risk of destabilising relations with their former partners, leading to other complications.

5.3(c) Distance Apart From Children

The results from this study provided little insight into how differences in physical distance between non-resident fathers and their children affect child support compliance. Respondents in this study came from a narrow geographical area. After separation the vast majority of them continued to live within easy travelling distance of their children.

Men lived in close proximity (i.e. up to 25km) to their children in those four cases where there was no father-child contact or where they felt that access had been impeded and where enforcement procedures were triggered for non-payment of child support.

5.3(d) Remarriage

As noted in Chapter 4 the emergence of post-separation relationships can introduce a new set of dynamics into the child support decision-making environment. The conditions that helped bring about a child support settlement may no longer be wholly relevant.

In twenty-three of the thirty-three cases where couples separated either one or both of the parties went on to form subsequent relationships. However, the interviews for this study took place relatively shortly after divorce became legal in Ireland in 1996.

Therefore, at the time of their interviews not surprisingly none of the respondents had received an Irish divorce⁴⁵.

⁴⁵ Nine separated men went on to establish cohabiting relationships with new partners, one of which resulted in marriage. Six separated wives went on to develop cohabiting relationships with new partners, one of which also resulted in a marriage. Nine respondents and four separated wives entered into non-cohabiting relationships with new partners. Five respondents did not know whether their partners were involved in subsequent relationships.

One respondent had married after the break-up of a long-term cohabitation. The former wife of another man had re-married after they were granted an English divorce.

Therefore, it is difficult to effectively comment on the influence of remarriage on child support compliance (e.g. to verify Teachman's (1991) finding that fathers who remarried are more likely to pay child support than other men) given the absence of sufficient cases.

At the same time these two cases provide some insight into how child support decisions are taken following the formalisation of subsequent relationships.

First, in the case of the respondent who married after separation and despite both the financial difficulties arising from having a second family and his wife's misgivings, he continued to pay child support because he felt a responsibility towards his son and because it "allowed things to run smoothly" with his former partner (e.g. access arrangements). He paid support even if he felt he was overcompensating his son from his first relationship at the expense of his daughters from his second relationship:

Interviewer: Some people would say: "You're in a new relationship and have three daughters and your wife isn't working. You can't possibly support all these children and have a mortgage, etc." What would you say to that?

Ronnie: He's (i.e. his son) my responsibility and if you spoke to my wife she'd probably echo exactly what you've put there. But, no, I suppose if anything my feeling would be that I would have to kind of over-compensate even though I'd be aware of the dangers of that. You know, for the fact that in a way I'm depriving him of my presence as a father. I don't have a problem paying...the balancing act -I'm unlikely to get it absolutely right-because for me to achieve it, also unfortunately it demands control of another [...] variable, which is my wife. And if I compensate in one way and she presumes that's that overcompensation about the boy, you know, she becomes irritated with the situation, so that means in a way I have to even more overcompensate so that he doesn't feel he's unwanted or uncomfortable. So it's very hard to keep a balance. 1095/31

Bradshaw et al. (1999:192) perhaps might describe Ronnie as paying "useful" maintenance. In other words, for Ronnie there were a number of reasons (e.g. reparation for break-up, compensation for not being there, meet child's needs) why he continued to pay maintenance despite the risk of alienating his wife.

Interestingly, Ronnie's position also seems to support Finch's proposal (1989:153) that when men are faced with moral dilemmas in which there are conflicting demands, they tend "to respond by developing a set of rules which will secure a just of fair outcome, and this often entails prioritising claims". However, she infers that such an outcome may hurt people because it can create a hierarchy of priorities. In Ronnie's case, it

could be argued that a “fair outcome” for *him* was to financially overcompensate his son so “*he doesn’t feel he’s unwanted or uncomfortable*”. This took precedence over “irritating” his subsequent partner. As Beck & Beck-Gernsheim (2002: 96) note, after separation, kinship such as a father-child bond “requires a greater personal contribution, more active care”.

Second, in the only case of a respondent’s wife who remarried, it made no difference to child support compliance because no child support arrangement had been put in place at separation. This respondent’s wife refused payment, as she wanted to be independent of the child’s father.

It is difficult to effectively comment on the influence of remarriage on child support compliance given the absence of sufficient cases in this study. However, the introduction of post-separation relationships as highlighted in chapters 3 and 4 can lead to men re-evaluating the purpose and effect of making support, in light of the availability of and the wider demand for resources. For example, the case of “Mike”—see Chapter 3.3(d) – revealed a father’s view of his financial responsibilities when he perceived his ex-wife’s household income to be greater than his own as a result of her re-partnering. As Bradshaw et al. (1999:197) observed, some payers can select others to “carry” the financial responsibilities of parenthood if they perceive financial inequity between the post-separation households. Thus men such as Mike used their perceived inferior living arrangements as a justification to negotiate for more resources to fulfil their parenting role.

Mike did not expect his ex-wife and her new partner to *fully* pay for his children’s upbringing. Instead, he judged that their healthy financial position - relative to his own - should allow him access to sufficient resources to buy a house. This position was adopted so that both households could offer a similar quality of life to the children. As Bradshaw et al. (1999:197) might suggest, Mike was operating on the basis or guideline of there being financial equity across post-separation households.

Similarly, the emergence of post-separation relationships and subsequent changes in child support arrangements may not necessarily indicate that men’s commitment to their children has altered. Instead it may be more indicative of the fact that child support in Ireland gets resolved alongside other issues.

For example, “Sean” –see Chapter 4.2(a) – provided a very generous separation settlement in order to quickly leave his marriage. Although the level of child support

was a small sum in the context of the overall settlement, Sean did not differentiate between the purpose of child support and the overall settlement:

"I never thought of it as different because it doesn't go eh – all the money goes to my wife and nothing is specified, eh, like it goes to her, to take care of the house and the kids" 304/9

However, he later negotiated with his ex-wife to pay less maintenance subsequent to him entering into a new relationship. On reflection he believed that during the separation negotiations he "took the short term view" and that his "needs were not taken into account by me, so that was all self-inflicted, any shortage I had". Although he wanted to be as generous as possible to his children, Sean felt that there were insufficient resources available to adequately fund two households.

In this regard, Sean's stance can be seen as an example of what Beck & Beck-Gernsheim (2002: 90) call a move towards individualization. It was if the "traditional rhythm" of Sean's life –even if initially present after separation – was altered by the advent of a new relationship. As a result they suggest that this can lead to tension and competing demands- particularly between men and women – often amplified by an encounter with institutional controls and constraints.

Finally, although Beck & Beck-Gernsheim's (2002) theoretical concepts of "individualization" and "elective affinities" were also referred to in chapter 5.3(a) to examine the nature of post-separation father-child blood relations, more attention needs to be paid to examining the extent to which understandings of parenthood are socially constructed and changing. The main reason why this was not done in this study was because of limitations⁴⁶ in the sample and data. This constrained what could be said about the potential significance of non-resident fathers' perceptions of social parenthood.

Specifically, the research did not consider the consequences of step-parenthood and/or elective affinities for children cared for in reconstituted families, for whom fathers may experience a more immediate social responsibility than to socially distinct biological offspring. However, as noted in this section there was evidence that some men can

⁴⁶ Only one of the nine respondents -see Warren's account, Chapter 3.3(e) - who went on to form a cohabiting relationships encountered the presence of minority-aged stepchildren. However, Warren had not paid child support and had received State financial aid, as had his ex and subsequent partners. At one level, because of this, his case throws little light on how men may consider their financial responsibilities to their "biological" and "social" children. However, it was also observed that his sense of responsibility increased for his second partner and decreased for his first partner. This appears to have been triggered by the DSCFA cutting off benefits to his second partner and maintaining benefits for his first family.

prioritise the needs of their biological children from a previous relationship ahead of their biological children in a current relationship. However, for this to happen, men have to be *active* participants. As Beck & Beck-Gernsheim's (2002:96) suggest, "kinship is *worked* [my italics] out anew in accordance with the laws of choice and personal inclination – it takes the form of "elective affinities".

5.3(e) Length of Time Since Separation

In chapter one it was noted that researchers have found an association between child support compliance and the length of time since couples were separated. For example, Garfinkel and Robbins (1994) found that compliance is higher among fathers who have been divorced for a shorter time. Table 5.6 highlights men's compliance with child support arrangements in relation to the length of time since non-resident fathers were formally separated.

Table 5.6 Length of Time Since Non-Resident Fathers were Legally Separated and Child Support Compliance⁴⁷⁴⁸

Length of Time Since Non-Resident Fathers were Legally Separated	Compliance with Child Support Arrangements Put in Place at Separation	Non-Compliance with Child Support Arrangements Put in Place at Separation
1-2 years	7	0
3-5 years	5	2
6-9 years	3	4
10+ years	1	1
Number of Men	16	7

While the chi-square value for the data in Table 5.6 just falls short of statistical significance⁴⁹, it appears that men were more likely to have complied with child support arrangements, the shorter the period of time since they were legally separated. However, this judgement is based on a limited number of cases and excludes other possible explanations.

In conclusion, what seems to be evident is that both the process and act of separation fundamentally alters the organisation of everyday family life. As Beck & Beck-Gernsheim (2002:95) suggest, the post-marriage environment is witnessing much more clearly than before, confrontation between ex-partners as "individuals eager to assert their own interests and pursuits, their own wishes and rights". One consequence is a

⁴⁷ Does not address intermediate events, e.g., men who stopped complying after separation but were complying at the time of their interview for this study.

⁴⁸ At the time of their interviews for this study.

⁴⁹ Degrees of freedom: 3

Chi-square = 5.794

For significance at the .05 level, chi-square should be greater than or equal to 7.82.

The chi-square value is not statistically significant.

change in fathering expectations. As Smart (1999:109) suggests, we are witnessing a symbolic shift in fathering which means that more men want to retain an emotional relationship with their children.

Not surprisingly, if men are unable to achieve the type of relationship they want, some will use the limited instruments at their disposal, such as the retention of child support provision, to show their displeasure and/or to effect change. However, the decision to undertake such an action is not taken lightly. Men consider what might be the other consequences for their lives.

5.4 The Economic Needs Of Mothers And Their Children

In chapter one it was noted that the relationship between the economic needs of lone parent families and child support compliance had not been extensively analysed nor had the findings been consistent. A number of observations can be made about this relationship in light of the experiences of non-resident fathers interviewed in this study.

5.4(a) Lone Parents' Economic Status

In chapter one it was noted that higher custodial income has been linked to both lower (Peterson & Nord, 1990) and higher (Bartfeld & Meyer, 1994) child support compliance. However, in this study because not every respondent knew the income of his former partner, the relationship between lone parents' economic status and child support compliance was examined instead. A number of conclusions can be drawn.

First, five men undertook unilateral non-compliance actions after legally separating that resulted in enforcement procedures being activated or threatened. Men offered a number of excuses for these actions. These included the need to financially re-establish themselves, access restrictions, and an inability to afford maintenance in light of the other demands on their resources.

At the same time men did not believe that they were putting their children's welfare at risk by reneging on their child support commitments. This was because in three of these cases men's former partners were working full-time and in the other two cases the respondents judged that their former partners had the capacity to generate resources through work or social welfare. In other words, although men justified their non-compliance position by citing specific excuses, they also did not judge the

consequences of their actions to be irresponsible because their children had access to other resources⁵⁰:

Interviewer: So how did you expect your child to be provided for once you stopped paying support?

Bobby: I expected the child's mother who had been capable of earning five times my salary.

Interviewer: But did you not think you had a financial responsibility as well?

Bobby: I had...one yes. But if the state (i.e. the Court) sat on my neck so much as they did, the state gave her over half my salary, and then after that there were four young mouths to be fed (i.e. he had been a widower with young children), her capacity to earn was never taken into account... I felt that I didn't have to go that road, basically they could pick it up. 818/40

Second, Table 5.7 illustrates the association between child support compliance and lone parents' economic status, at the time of the respondents' interviews for this research. It would suggest that men are more likely to comply with child support arrangements when their former partners do not work outside the home. This supports Fahey & Lyons (1995) finding from an Irish study that maintenance is more likely to be paid when a man is working and his ex-wife is not.

Table 5.7 Economic Status of Lone Parents and Child Support Compliance⁵¹

Economic Status of Lone Parents at the Time of the Respondents' Interview	Compliance with Child Support Arrangements Put in Place at Sep.	Non-Compliance with Child Support Arrangements Put in Place at Separation
Working Full-Time	5(56%)	4(44%)
Working Part-Time	7(78%)	2(22%)
Not Working Outside Home	4(80%)	1(20%)
Number of Lone Parents	16	7

While the relationship between the variables is not statistically significant⁵², Table 5.7 would appear to suggest that men in this study were more likely to comply with support arrangements when their partners were working part-time or not working, rather than working full-time.

Third, there has been little previous research on what effect social welfare support for lone parent families has on child support compliance rates. For this study Table 5.8

⁵⁰ However, either the threat of enforcement procedures being activated or their actual use, were enough for child support arrangements to be re-established in four of these cases. In the fifth case the man became unemployed.

⁵¹ At the time of their interviews for this study.

⁵² Degrees of freedom: 2

Chi-square = 1.378

For significance at the .05 level, chi-square should be greater than or equal to 5.99.

The chi-square value is not statistically significant.

outlines the relationship between child support compliance and lone parent families who were/were not in receipt of social welfare benefits (OFP).

Table 5.8 Lone Parent Families, OFP and Child Support Compliance⁵³

Lone Parents Families In Receipt (or not) of OFP at the Time of the Respondents' Interview	Compliance with Child Support Arrangements Put in Place at Separation	Non-Compliance with Child Support Arrangements Put in Place at Separation
Not Receiving OFP	7(58%)	5(42%)
Working Part-Time and Receiving OFP	5(83%)	1(17%)
Not Working Outside Home and Receiving OFP	4(80%)	1(20%)
Number of Lone Parents	16	7

Although the relationship between the variables is not statistically significant⁵⁴, Table 5.8 suggests that men in this study were more likely to comply with child support arrangements put in place at separation when their former partners were in receipt of social welfare benefits than when they were not.

Therefore, although the number of cases is limited in this study, it appears that men are more likely to comply with child support arrangements when their partners are receiving OFP and less likely to comply with child support arrangements when they and their former partners are working full-time. However, it is unwise to see compliance in such circumstances as an indicator of men's contentment with child support arrangements in relation to meeting the economic needs of lone parent families.

For example, in those situations where separating couples have comparable incomes, there appears to be less of a financial burden on non-resident fathers (in contrast to those whose former wives do not work), to support the lone parent family. All other things being equal, such arrangements are more acceptable to men because there are usually enough resources available for both separating parties to acquire tolerable post-separation living conditions. In other words, when both rather than one or neither⁵⁵

⁵³ At the time of their interviews for this study.

⁵⁴ Degrees of freedom: 2

Chi-square = 1.509

For significance at the .05 level, chi-square should be greater than or equal to 5.99.

The chi-square value is not statistically significant.

⁵⁵ Where there is no-earner in the family men may also find it easier to reconcile separation settlements with meeting the economic needs of the lone parent family due to a number of factors. First, they accept the state will play a significant financial role in supporting the transition from a two parent family unit to two post-separation household units through the redistribution of social welfare benefits and the provision housing subsidies. In effect, financial arrangements may not be significantly changing.

of the separated parties are working it may be easier to make inroads into the 10-24% extra income required to keep the pre-separation standard of living intact (Giampetro, 1986)⁵⁶.

5.4(b) The Needs of Ex-Partners And The Needs of Children

For some men the breadwinner/homemaking parenting model continues into the post-separation period. Maintenance paid to ex-partners was a form of financial support to sustain the lone parent family unit. From some men's accounts it was difficult to differentiate between their understanding of ex-spousal and child maintenance. In other words, maintenance was "bundled"; it reflected pre-separation income transfer arrangements, with the lone parent continuing to be the main carer:

Second, it appears that unemployed men's post-separation expectations are pragmatic. For example, although no unemployed non-resident father paid child support, neither did they expect the State to provide them with a sufficient housing subsidy in order for their children to stay with them. They generally found it easier than employed men to come to terms with their post-separation accommodation.

Third, as US ethnographic researchers (e.g. Johnson & Doolittle, 1998) have found there can also be a tendency to highlight the contribution of ad-hoc payments or gifts to their children as well as accentuating the non-financial role of fathers, the latter that can be seen in Steve's point of view:

Interviewer:

Has separation made a difference in terms of how the children are supported?

Steve:

Nothing had changed. But I'm saying even in the circumstances, I don't think I'd feel guilty about the state picking up the tab, you know. Somebody has to pick up the tab, yes, but I'm still not saying that the parents haven't got the responsibility from the financial point of view, but I do firmly believe that the primary responsibility of the parents is to be role models, and not to have this (war) going on. 1056/30

Therefore, using Finch's (1989:210) concept of "legitimate excuses", non-resident fathers can acknowledge their financial responsibility to their children but at the same time can account for non-provision actions in such a way that their moral standing is retained and indeed reinforced by promoting the non-financial responsibilities of their fathering role.

⁵⁶ In such circumstances child support arrangements can be more consistent with how things were done during the marriage, as in the case of Mike:

Interviewer: How do you feel about what you are paying in child support?

Mike: ...It's not much different than before we got it. We agreed ourselves to do what we were already doing (i.e. during marriage), more or less and it hasn't changed a whole lot 97/26

In terms of the one-earner family the outcome of separation proceedings can leave men feeling frustrated. This is because there are limited resources available to meet the needs of both the separated parties. This frustration can be reinforced if men feel that there is a lack of compulsion on their ex-partners to work whilst there are consequences if they stop paying support, as in the case of Jack:

Again it [i.e. his frustration] comes back to the fact that I have to pay maintenance, I do not have a choice in this, there is a court order there, if I don't pay it there is either going to be an attachment of earnings order or imprisonment or fines or whatever. There's a compulsion on me, which restricts me from living the life that I would like to live...and my wife is of an age where she could be reasonably expected to support herself 1936/39 (Jack)

Interviewer:

Well, that's what I want you to talk about. Is there a difference there between supporting her or the kids?

Barry:

The way I look at it, she's looking after the kids, you know, she's doing the job with them . . . I probably class them all as the one, there'd be no use supporting the kids if she's not the strength to look after them, you know. 576/22

On the whole, men distinguish between paying ex-spousal support and child support. Whilst men acknowledge an unconditional financial responsibility towards their children- despite conceding differences in how this may be executed - they generally do not see themselves as having an on-going financial responsibility for their ex-partners. Commitments to ex-partners are likely to be weaker because the "history of particular relationships" (see Finch & Mason, 1993:179) has been broken. Consequently, future commitments are less likely to be reaffirmed through reciprocal assistance and less likely to establish an individual's personal reputation and social identity (see Finch, 1989, 242). Except for those men who subscribe to a traditional parenting model the vast majority of respondents attached caveats to paying ex-spousal maintenance for a protracted duration⁵⁷.

For other men whilst they found it acceptable to pay spousal maintenance for a limited time period after separation to allow their ex-partners to get back on their feet, it was unacceptable for this form of maintenance to be paid indefinitely. Whilst they admitted time-limited financial responsibility for their ex-partners – particularly in those cases where a man felt a need to compensate her (e.g. he instigated separation; he felt responsible for the marriage breakdown) or where their children were very young (e.g. less than school age)-, men also felt that their ex-partners had a financial responsibility to support themselves and to financially contribute to supporting the children. As children grew older they expected their ex-partners to take greater financial responsibility, which Bushy idiosyncratically noted:

Interviewer:

Do you think you should be supporting her?

⁵⁷ For example, men's relative contentment with the traditional breadwinner/ homemaking functions in a two parent family unit does not necessarily continue after separation. The simple fact is that after a couple splits up, this is a sufficient reason for some non-resident fathers to be indisposed to support their former partners, as in the case of Tim:

When I was paying her we were together as a couple. We are not a couple anymore. So when you are a couple you do things. It doesn't mean that you continue to do them when you are apart otherwise every girlfriend that you ever met you might be still paying money to so there seems to be this inability for people to recognise that two people can separate and be independent again as opposed to this constant financial arrangement. There is nothing to stop her now that she is split and separated to go and do her own thing 832/8

Bushy:

No, not now. I think she has to paddle her own canoe now. 841/37

As Bradshaw et al. (1999:197) note, a “guideline” of financial equity across the two post-separation households may inform men’s thinking about their financial responsibilities.

However, while men can discriminate between meeting the needs of their former partners and their children, this may not be enough for them to stop paying maintenance. Whereas supporting one’s child through child support provision may feel more like meeting a moral responsibility, indefinitely supporting one’s ex may not. Instead it can feel more like a legal contract with consequences for its breach. As Bradshaw et al. (1999:210) suggest, there can be different contingent factors related to willingness to pay⁵⁸.

5.4(c) The Economic Needs of the Lone Parent Family Unit May Not Be Recognised

If men feel responsible for supporting their children and not their ex-partners, it is arguable that they do not prioritise the economic welfare of the lone parent family unit. At the same time, men may not hold realistic views of what are the financial needs of the lone parent family, not least because they can consider these needs *in relation to* their own post-separation circumstances⁵⁹.

⁵⁸ For example, Jack felt a moral responsibility to support his children but not his wife. Although he had reservations about his child support arrangements, at the same time he was more willing to accept these arrangements than spousal support, which he considered to be a legal obligation. The frustration of having to pay ex-spousal support was reinforced by the implications of default:

Interviewer:

Do you have a responsibility to support your ex wife and your children?

Jack:

I do have a responsibility to my children, those I do have a responsibility towards because after all they are my children and like any parent I want to do as best I can and I have no objection, I'm delighted to support them. ...I have a legal responsibility to support my wife. My wife if she so chose could take up her own level of responsibility and support herself but in the absence of her doing that, and on the basis that I need someone to mind my, at this stage my smallest daughter I pay child fees. . . I think she can go and earn it herself if she wants it, the children can't. ...Like my responsibility as I see it now is to my children, not particularly to her you know. I'm obliged to do, to pay her money and I can't get out of it but like I mean I don't see why she can't go and do something herself about it. Like she's well capable of handling her life in the way she wishes to up to now and I don't see why she couldn't handle this too. 1563/39

⁵⁹ For example, where a lone parent continues to live in the family home after separation men can conclude that the lone parent family’s quality of life is superior to their own. This is because they see the lone parent living in the family home with the children whereas they have had to move out and start again. Consequently, their own needs become prominent, as in Jack’s case:

However, a man's perception of his ex-partner's way of life may be unrealistic. It may be based on the conditions prevailing during their marriage. As Smart (1995:107) puts forward, former husbands often seem incapable of recognising how much harder their ex-wives' lives had become and how much responsibility the latter had to take on board. This in turn can affect their attitude to paying child support if not their actions, as in the case of Aidan:

I'd feel that she doesn't need it [level of child support] but the fact that whenever I am late that she, you know, chased me for it – she's comfortable alright in my eyes but in her eyes she's not 1131/15

Furthermore, if there had been no significant changes in the level of men's resources after separation they resisted increased maintenance requests. For example, if the DSCFA issued a determination order for an amount greater than a man agreed to pay in maintenance at separation, he opposed such a demand. Similarly, non-resident fathers were reluctant to pay more maintenance subsequent to their former partner becoming unemployed after separation.

They argue that they have insufficient resources as it is and suggest that it is the responsibility of the lone parent to generate income. The case of Eric demonstrates this point:

Interviewer: What would you do if you were asked to pay more child maintenance, would you go ahead and pay it?

Eric: No, no I think, I think I'd ...I'd weigh it up, and I say if the sort of work I'd do is serious, mm, truck driver, a lot of hours, a lot of stress. I've arthritis in both of my shoulders and it's a struggle just to get through, through the week and I'd say "hang on there, no, its not worth it" because at the end of the day I'm coming out with nothing myself. Like I couldn't – mm, ...I'd say, you know, I know I've put myself through all that, to give it to her basically, and I'd say no so I'd just go to the doctor and say "look, I can't work anymore" and I'd give up work. 826/11

*If you're going to deprive a man of his home right, and he has contributed to it and paid for it and all this sort of stuff and lives there and done all that needs to be done, he should have the capacity or the capability of establishing something similar...there should be an expectation, not even an expectation, a demand on both people to contribute financially, you know. Because you're now talking about setting up two householders where one income could maintain one adequately and perhaps in a degree of comfort, it cannot maintain two so therefore you need two incomes.
1246/39*

At the same time, they may continue to provide extra support through some additional ad hoc spending or pay for some specific child related items (e.g. schooling, holidays, medical). This provides the benefits of resource control and expenditure recognition.

In conclusion, the relationship between the economic needs of lone parent family units and child support compliance is complex.

Although it appears that men are more likely to comply with child support arrangements when their partners are receiving OFP and less likely to comply with child support arrangements when their former partners are working full-time, it is unwise to see compliance as an indicator of men's contentment in meeting the needs of lone parent families. Men accept the principle of supporting their children after separation but generally have reservations about supporting their former partners on an on-going basis, believing that they should support themselves. Doing so would relieve men's sense of the unfair financial burden placed upon them, particularly in those cases where they were the sole earners.

However, it should also be noted there was no precise relationship between maintenance paid and the economic needs of lone parent families. There was no systematic method⁶⁰ in arriving at child support arrangements. Instead child support settlements were arrived at using a range of general and specific features, seldom directly related to children's or their mothers' economic needs⁶¹.

In addition, men may not fully appreciate the economic needs of lone parent family units. Their perception of their ex-partners' way of life may be unrealistic as it may be based on the conditions prevailing during their marriage.

Men were generally reluctant to pay greater amounts of formal maintenance after separation resulting from changes in how the financial needs of lone parent family units

⁶⁰ Examined in greater detail in chapter six.

⁶¹ These included:

- Non-resident fathers relying on solicitors advice (e.g. "this is the going rate");
- Setting child support against specific costs (e.g. childcare);
- Identifying resources at separation and framing child support levels in the context of the overall material separation settlement;
- Taking into account tax considerations;
- Addressing ex-partners' concerns (e.g. as noted some men would prefer a flexible child support arrangement but agreed to a fixed amount per week to "avoid running battles over money");
- What men believe to be affordable and acceptable;
- Compensation for leaving the relationship or past misdoings;
- Tactical decision-making (e.g. trading increased access for increased maintenance);
- The vagaries of the Court.

were to be met. Men may have painstakingly re-established themselves financially. They resist the demand to pay more maintenance but may be more open to informal approaches.

5.5 Men's Willingness To Pay Child Support

At one level it is easy to judge that the five men in this study who stopped paying child support without consulting their former partners or the Court, demonstrated their unwillingness to pay support. However, at another level the relationship between men's willingness to pay child support and continued compliance was more difficult to assess. One reason for this is that despite men acknowledging in principle that they have a financial responsibility for their children, child support decisions are not taken in isolation from what else is going on in their lives.

5.5(a) Men's Sense of Autonomy and Child Support Decisions

Bauman & May (2001:67) suggest that people's actions are motivated by their needs. Beyond the need for survival there is another set of needs related to the meaningful constitution of social reality that provides for a degree of satisfaction. Achieving this is partly dependant upon the autonomy of a person's actions.

However, child support arrangements are usually the outcome of negotiations or adjudication. Therefore, when men pay child support it is not necessarily an autonomous act. They judge the effect of paying support on their own lives. In other words, a man's willingness (or not) to pay can be influenced by the extent to which he assesses how formal child support arrangements -as part of an overall separation settlement – inhibit or contribute to his own parenting, economic and housing needs being met⁶².

Therefore, men's compliance with child support arrangements does not mean that they are willing agents or that such arrangements are their preferred option of supporting

⁶² For example, Eoin was unhappy with his child support arrangement because it limited the resources available to him to spend directly on his children in order to maintain a relationship with them. His account shows how strongly he rejected the principle of formal maintenance:

...the other reason why I didn't like paying it was that I as a father wanted to buy the boy's school books, the boy's school uniform, to pay the childminder, I wanted a role in all of these things. I was contributing to that role by handing over the cheque but I actually want to incur those expenses. I would have preferred it if instead of handing out £40, to go down and buy all the school books for £40, and to go and pay the child minder, rather than go via her (ex-wife). That's what I felt in my head, but I didn't like (i.e. paying support) because it meant that she was going out and buying the books, buying the school uniform, paying the childminder, doing all the things part and parcel of the parental role and I thought I wanted to do those things, even though I was doing them indirectly...I would have preferred to have a hands on role in actually spending, buying those things myself 3495/24

their children. For “Eoin”⁶³ his “autonomous” acts of provision would have allowed him to revel in his parenting role whereas the State’s (i.e. judicial separation) preferred method of support did not: “...even though I was doing them indirectly [i.e. paying maintenance]...I would have preferred to have a hands on role in actually spending, buying those things myself”.

For Eoin the payment of maintenance was “invisible” (see Bradshaw et al. (1999:215) to his children and was not a vehicle to foster good relations with them. There is a need for some fathers to know that their children know that they care for them. Direct rather than indirect (i.e. maintenance) expenditure on their children encourages this to happen. As Bradshaw et al. (1999:217) suggest, “earmarking money is a social process through which different symbolic meanings are attached to otherwise indistinct monies”. Buying goods for Eoin symbolised an active parenting role and conveyed his love for his daughter.

For some men paying support feels like too much of an economic imposition. For example, although Jack acknowledged a financial responsibility for his children, he was disillusioned paying child support as part of a wider separation settlement because it left him with few opportunities:

Maintenance left me no options, now it meant I would have little or no money, I wouldn't be able to go out, you know and socialise, mingle with people and get back on track because I wouldn't have the money to do it. Things like going to the pictures was out, even buying cigarettes like these is out, if I wanted to smoke I had to go and buy packets of roll-up and you know eke them out over the week or the fortnight you know. I wasn't happy at all because you know there was no recognition by the court or by anybody that I'm entitled to a life and it's still that way 327/39

In some ways Jack’s position demonstrates the complexity of resolving family obligations and how public policy may be out of touch. For example, Finch (1989:241) suggests that in relation to family obligations in kin relationships, people operate from the basis of normative guidelines or principles. These are more concerned with how to work out what to do than specifying what should be done in particular circumstances. One of these guidelines is about ensuring that “each adult keeps an appropriate amount of independence from the rest”(p241). While it could be argued that this guideline is more to do with a recipient of help trying to maintain independence, it can also be use to demonstrate how obligations can impact on a donor such as Jack.

⁶³ See Chapter 4.2(c), Example 6 for Eoin’s story in more detail.

To outsiders, by providing child support it may seem like Jack was expressing his financial obligations. However, while Jack continued to acknowledge a financial responsibility for his children, paying child support felt more like an imposition. This was because child support alongside the wider separation settlement restricted his independence. It was neither the outcome he wanted nor how he wanted “to work out what to do⁶⁴”. Finch & Mason (1993:168) suggest, “parents are allocated responsibility for young children...sometimes directly as a matter of public policy”. However, it would seem the execution of this responsibility through child support provision can be an obligation met with reluctance.

For others their willingness to pay maintenance was influenced by the extent of their housing aspirations. These aspirations were warranted in terms of having a base to parent effectively or to attract a new partner. Men’s yardstick was often the quality of the accommodation on offer during their marriage. Non-resident fathers did not generally welcome moving from a family home to a bedsit.

For example, Fred justified his unwillingness to pay child support when he started working again after separation because it would have prevented him from buying a home. In addition to arguing that his wife did not need formal child support because she was working full-time, Fred felt that by owning a home, it gave his children additional security:

The cost of housing I was more concerned about it than the paying of maintenance. I’m not afraid to pay maintenance. I have always looked after my family 100%, but at the same time my wife also had a good job...if she coupled the children on top of me because she had the power to do it, like throw them out of the house...that concerned me if I didn’t have a place so maintenance wasn’t really – yes it was a concern at the time but if I had down that I was paying maintenance I certainly wouldn’t been able to buy a house 426/2

This opens up another front of discussion. Paying child support may not be an autonomous act. Men may not pay child support willingly where they judge it to have negative consequences in terms of how they would like to live their lives. At the same time they can justify their position by highlighting the benefits for their children by adopting alternative courses of action.

For instance, the ambition of owning another home can be justified in terms of meeting the parenting and economic needs of their children when they were with them at the expense of the time when the children were in the lone parent family unit. For

⁶⁴ Finch (1989:241).

example, Gerald noted how using resources to pay for better accommodation would benefit his daughter and could be seen as a form of child support. As Bradshaw et al. (1999:214) also observed, fathers can save money to assist in forming later relationships with their children. In doing so they can unilaterally make decisions on their financial obligations, without negotiating with their ex-wives:

Interviewer: But are you saying that you don't have an obligation to support your daughter on an on-going basis?

Gerald: Put it this way, if I didn't have to pay anything I would find it much easier to get back on my feet and get my own home for Carla [i.e. his daughter], that could be my contribution to her, if it had had been worked out properly but some weeks it does strangle...blokes give up their family home and go off and get another mortgage or rented accommodation. Their expenses are a lot more- people think that its, its – blokes are out there, the wife has the kids and all, that it is much easier for one, its fucking not, no way is it easier for a bloke on his own because you have to get accommodation, its expensive. Your expenses are still basically the same. No, mm, no I think definitely its – if anything I think the expenses are more because you usually leave fucking everything, I did...485/12

Similarly, men who want an active parenting role may not consider the needs of children primarily within the confines of the lone parent family household. These needs can be viewed in the context of the lone parents and their own households. Paying less child support can be justified because children should have a less comfortable standard of living across two households rather than having a better standard of living within the lone parent household. For example, Kevin noted dissatisfaction with his separation settlement for this reason:

Interviewer: Is there a better way to put child support arrangements in place?

Kevin: I think the courts need to set the basic income levels higher than they are willing to do, say add to the man's and accept that they [men] can't be all things and maybe, maybe the financial security and the housing security of children maybe needs to be questioned a bit more. I'm a social worker and saying this. What I am saying is children are far more adaptable, for the children at the end of the day the biggest trauma is their parents separating...and I that the reality is that the damage of divorce needs to be more equitably spread and that includes the kids unfortunately because I don't think that by reducing the father to the margins with him living in a bedsit and not being able to have the kids stay because he doesn't have the room to put them up, being poor whereas the mother is reasonably ok, I don't think that does the kids any good seeing that. 1116/1

Conversely, where men assume a more traditional parenting role they may be more willing to pay child support because the needs of the children are seen in the context of the lone parent family, as in the case of Barry:

She (i.e. ex-wife) could never actually go out and say that you didn't do this and you didn't do that, you know. But what I've had, I feel I've been fair...I have never reneged, it's never been a problem to me, you know, the rent money would have to wait or the

ESB (i.e. his electricity bill) or whatever. I've never left them short of the maintenance, as well as if something comes up and you have a few bob, and you have to look out because they are my kids, you know. They are my kids and we've had confirmations and one twenty-first, and a few parties, and I've always thrown in a few bob where I have it. 379/22

In other words, as Bradshaw et al. (1999:219) would suggest, Barry was a man who paid maintenance in recognition of his children's entitlement and his ex-partner's entitlement as the primary carer of their children.

In conclusion, whilst non-resident fathers generally expressed a financial responsibility towards their children, the child support arrangement put in place was rarely of their own choosing. Men judge the effect of paying support –as part of a wider separation settlement- on their own lives and the lives of others. Therefore, the degree of a man's willingness to pay can be influenced by the extent to which he assesses how the provision of child support affects post-separation lives.

Men usually justified their unenthusiastic position on paying support by highlighting the benefits to their children by adopting alternative courses of action. For men who took unilateral non-compliance actions on child support they saw longer-term benefits (e.g. securing their own financial base, forcing their ex-wives to re-establish father-child contact) for their children from doing so.

However, men's lack of willingness to pay child support does not necessarily lead to them to stop paying. This is because they also weigh up the overall consequences of such conduct. Therefore, men can judge child support arrangements to be unfair. They can put up with such arrangements, possibly because they are a partial and perhaps a reluctant expression of their financial responsibility to their children but also because they fear the legal and symbolic consequences of not paying.

5.5(b) Misuse of Child Support Expenditure

Haskins (1988) noted that where men believed their former partners would spend child support on themselves rather than on their children, that this was a common justification for non-compliance. This was not found to be a main reason for non-compliance in this study even though not every father was satisfied with how maintenance was being spent. Where men were uncomfortable with how child support was being spent on non-child related items (e.g. on ex-partners own needs), they had to balance the benefits arising from contesting their ex-partners' actions against the possible costs (e.g. economic, legal, relationship) of doing so.

In addition, they justified compliance where they saw their children partially benefiting from child support or where it was unrealistic to differentiate expenditure (e.g. meals, heating, transport expenses) in the lone parent household or where they psychologically accepted that there was little they could do about the situation:

Ultimately what the children need that counts but at the same time what they need is going to a parent who doesn't give a damn then it kind of defeats the purpose of – you know, if the children need £50 a week and you are giving it to some parent who has already proven their totally financially irresponsible then it makes no sense, its like feeding the masses in Siberia, if you can do it direct and if you can ensure that it is getting there than that's what you want to do. Slinging it over the wall is not the ideal way to do it...Part of the thing that I do from a philosophical point of view is to concentrate on the good things, the positive things and use that as a way of getting through the day. So rather than me being miserable about the money that she is getting and what she might be doing with it, I look at that as really the money that some of it is getting to them, that's what, if you like, makes the whole thing worthwhile (Eric) 1168/8

By using terms such as “slinging it over the wall” and “a parent who doesn't give a damn” it could be argued that Eric constructed an “atrocious story” (see Bradshaw et al. (1999:200) to show that his ex-partner was irresponsible and selfish. However, possibly unlike Bradshaw et al. (1999:200), Eric's story also suggested that men could tell atrocious stories and also have evidence to show the maintenance was or was likely to be misspent.

5.5(c) Exchange

Men may expect to get something back in return for paying child support. The degree to which they do so can affect their willingness to pay support. As a result men's compliance with child support arrangements may be affected.

Expecting something in return is perhaps not that surprising. As Bauman & May (2001:79) suggest, many human interactions are influenced by either the principles of exchange or gift relations, which bring form and content to people's lives.

While in principle the Irish child support regime does not acknowledge the exchange of maintenance for other commodities, in practice it does take place. As Bradshaw et al. (1999:203) also observed, paying child support “could work as a guarantee for contact with children by “easing” relationships with mothers or as a tool to manipulate mothers into agreeing to contact arrangements”⁶⁵

⁶⁵ For example, some fathers such as Henry felt they exchanged higher levels of child support for better access arrangements:

Interviewer: So there was give and take around access and child support?

In such circumstances if access or parenting arrangements are restricted or changed, this can affect men's willingness to pay support. In turn if men are prepared to accept the consequences, it can lead them to stop complying with child support arrangements put in place at separation. As already highlighted, two fathers'⁶⁶ dissatisfaction with perceived access restrictions was noted as a factor in their decision to unilaterally reduce the level of support they paid.

For example, Gerald stopped paying child support because his access was restricted. Child support represented "a bribe" to see his daughter.

Well, life is good. I'm seeing Carla (i.e. his daughter) when I want to. Carla sees her dad when she wants to. Carla's happy. It's a bribe, that's all what it is really...yeah, basically that is what you are paying for. You're paying for the privilege of seeing your daughter 1383/12

In addition, some men feel that their role in paying child support is insufficiently acknowledged. It is as if the "investment without involvement no longer carries the esteem that it once did", McKeown (2001:10). For some what is paid should not be "invisible" to their children and needs to be seen as a symbol of their love and affection. It is a proxy for their caring role. Where it is not a man's willingness to pay can be affected. It is no wonder as Lewis (2000:3) suggests, that men like to be able to " earmark" maintenance; a desire to make payments visible through buying gifts and as a way for retaining some degree of control over money.

Although the provision of child support can go towards meeting the economic needs of lone parent families it is limited in what else it offers. As Rowlingson (2002:183) notes, "men are required to maintain the role of breadwinner but give up the traditional rewards". They are deemed to have the financial responsibility without the status.

Henry: Yeah, yeah

Interviewer: I'll give you more access if you give me more money?

Henry: Yeah, it was never said in that breath but that's what happened, yeah of course...[Its] away from the media when there is no media there, they will admit it, in the corridors outside the courtrooms, there's discussions goes on, ok an extra tenner for an extra overnight, this is what I've heard from barristers, lawyers at these conferences. There is a price on it [access]. 930/3

In other words, child support can act as a leverage of influence, as in Tim's case:

...the only weapon if you like that a man appears to have in that situation is the financial one and the weapon that the woman has is the custody one so they both use their weapons if you like so that is just the way it evolves. Similarly, if a man was in the position to take custody then the financial thing wouldn't come into it. 185/8

⁶⁶ The cases of "Bill" and "Gerald", described in chapter four.

Paying child support can feel like their parenting commitment is not being highlighted, as in the case of Dave:

I try to keep the State over there. I'm literally paying them a hundred and sixty pounds a week to shut them up, you know what I mean and I'm having my own relationship with my children, I really am. It's actually nothing to do with my wife even. I buy all their clothes, all the treats. I do that anyway and if sometimes I can't afford it I don't pay the State. That's really it in a nutshell. There is no principle involved in it. If she won the lottery tomorrow, it wouldn't change – because I enjoy the actual thing...

The settlement left me space to continue an involvement with my children, on my terms in actual fact, how it was, it was real. Like if I had a bonus or did well, then there was money, if things were tight, then you know, that's how life is. But this thing of saying, you will pay that and eh- it just kind of left no room for any kind of growth plus it immediately installs a resentment, you know to your ex-family, to your family that has gone. If things get tough you say fucking hell I've got to meet this, so you don't look at your children, I think it would be a great loss in the relationship with my children, you look at- you tend to look as a drain, so it actually interferes in a lot of ways 958/18

However, not all men expected a return for paying child support. Therefore, their willingness to pay may be better explained in terms of the concepts of balanced and generalised reciprocity (Sahlins, 1965: 147-147; Finch, 1989:165). Balanced reciprocity entails direct exchange (i.e. contact for maintenance) whereas generalised reciprocity does not imply reciprocation. This may account for why some men do not expect to be given something back for paying support. In other words, paying support may be “their moral duty and one [the act of giving] that did not call for any justification, as it is natural, self-evident and elementary” (Bauman & May 2001:81).

In this study there were a small number of men whose child support actions demonstrated a form of generalised reciprocity. This position could be reinforced by their view that their former partners were the main caregiver or that they were fulfilling a compensatory role (e.g. for their decision to leave the relationship). Although they may have preferred some other form of support arrangement, they concluded that as long as maintenance was being spent on their children, they would continue to comply with child support arrangements. However, if they had concerns⁶⁷ over how their former

⁶⁷ This reason for non-payment is subtly different to men using the excuse of their fear of how their former partners *could* mispend child support resources. In such cases men may use this excuse in order to justify spending directly on their children, so demonstrating their parenting role (Bradshaw et al: 1999:217), which the provision of formal support may hide, as in John-Paul's case:

Interviewer:
But formally give her money, that's something you have a question mark over?

John-Paul:

wives were spending child support, legal proceedings⁶⁸ could be instigated, as in Jim's case:

I said that I have no more money to give you [i.e. ex-wife] and if you dressed the children properly I won't mind giving you the money. I said if you look after them but you are not doing that...there was no care on them at all. 351/5

It is also possible for men to embrace both types of reciprocity. They acknowledge a financial responsibility for their children, which can be paid through child support provision, but they agree to *particular* child support arrangements in order to receive something in return (e.g. better access or housing arrangements).

In summary, where child support does not facilitate "balanced reciprocity" (Finch, 1989: 165), this can affect men's willingness to pay child support, but may not lead to non-compliance actions. This is because men consider the wider consequences of such actions. Where men make child support provision as part of a "generalised exchange" they see themselves as having a duty to support their children and do not seek anything in return for making provision. However, even though they expect nothing in return, men may be less willing to pay support if they feel their children are not benefiting from provision.

In conclusion, a man's willingness to pay child support can be influenced by the extent to which he assesses how the provision of child support affects how he would like to live his life, including his parenting ambitions. At the same time men's reluctance to pay child support does not necessarily lead to them to stop paying. They consider the consequences of non-compliance actions.

Men obviously want child support to be spent effectively on meeting their children's needs. However, where it is not, this does not automatically lead to them stop paying support. Again they weigh up the consequences of undertaking non-compliance actions.

Men may or may not want something (e.g. access) in return for paying child support. If the exchange does not take place, this may affect their willingness to pay support.

Because I'm not guaranteed in her particular case, there may be a slip up, she might have great intentions but it may not actually get there...I'm quite prepared to support my kids, as much as I can and I have always done that.1323/4

⁶⁸ However, there were a number of cases where men continued to comply with arrangements even though they felt that money could be better spent. They resisted non-compliance actions because they were not prepared to accept the consequences.

Whether in reality they stop paying support depends once more on their consideration of the consequences of not making provision.

5.6 The Enforcement System In Place

The belief that child support regimes should adopt more vigorous enforcement procedures has become more acceptable in recent years ((Burgess & Ruxton, 1996:76); Teachman & Paasch, 1993:73)). As non-resident fathers have been seen to default on their child support responsibilities - illustrated by low child support compliance rates -, different ways of enforcing child support arrangements have been sought and taken up in western countries.

For those men who were dissatisfied with child support arrangements the presence of enforcement tools impacted in different ways on whether they continued to comply or not with child support arrangements.

5.6(a) Enforcement & Compliance Actions

As outlined in chapter three a significant number of men were dissatisfied with their child support arrangements. This dissatisfaction did not stem from not feeling financially responsible for their children's welfare. Instead men reflect on the comparative outcomes accruing to all parties arising from the separation settlement. New conditions (e.g. new relationships; changes in the quality of father-child contact; changes in economic circumstances; concerns about how maintenance is being spent) emerging after separation also had an influence on how men viewed support arrangements.

However, even though men may be dissatisfied with child support arrangements, they will continue to comply with them for a number of reasons, one of which is the presence of enforcement procedures. These can be a sufficient deterrent for non-compliance actions. Although enforcement mechanisms can reinforce men's resentment with child support arrangements, to stop complying with them runs the risk of attracting unnecessary legal/financial, emotional/relationship and symbolic costs.

Legal/Financial Costs

Non-compliance actions run the risk of attracting unnecessary financial costs and the wrath of the court. Some men fear the court's involvement because it could order them to pay child support arrears, maintain or increase child support levels, prosecute them

or alter how they make provision (e.g. pay the court clerk). This could lead them to having less control over their finances or fewer resources⁶⁹.

Emotional/Relationship Costs

Men can be motivated to avoid the emotional or relationship costs associated with non-compliance actions. For example, these costs can take the form of men dreading both the anticipation and the consequences of State involvement, as in the case of Eric:

If you go against it [i.e. child support agreement] you are only going to get yourself into trouble no matter how cute you think you are, eventually it catches up on you. So why put that over your head, you are better to just accept and say right that's the way it is. I get on with it, I get on with the rest of my life and I don't need to be looking over my shoulder; all of my books and tax, insurance, all that is straight, so they can't get me on that. 485/11

Men are also wary of enforcement procedures being activated because of the possible consequences on relationships. Engagement with solicitors and the courts resulting from non-compliance actions was seen as a recipe to increase conflict with their ex-partners and to have a negative impact on their own parenting arrangements. In those cases where their ex-partners and themselves had established a post-separation equilibrium in terms of acceptable parenting arrangements, non-resident fathers were reluctant to stop complying with child support arrangements. This perspective was reinforced if they felt that they had to work hard to secure an adequate relationship with their children in the first place. Unsatisfactory child support arrangements weighed less on their minds than poor parent-child contact, which could be triggered by the involvement of the courts.

⁶⁹ For example, enforcement tools act as a deterrent as in the case of Jim who was dissatisfied that child support was not being properly spent on his children but was unlikely to stop paying support:

*Interviewer:
Why not risk it [non-compliance with child support order]?*

*Jim:
Yeah, I'd love to risk it, yeah.*

*Interviewer:
But you won't?*

*Jim:
...I don't know, I'd say that they could send me to jail. My girlfriend, she was five years in court. The husband had to pay her five years back maintenance and plus buy her out of half the house. 482/5*

I know it's not a runner for me to suggest that on the basis of his spending more time with me that I should reduce the amount of money, seeing as I'm effectively paying out more for him in my house. But I know damn well the first time I go down that road the reaction would be, on her part, to go back to the very formal arrangement (i.e. access) and ensure that the money remains constant...Now I quite enjoy having the greater access so I'm not going to stoke that one up...it's far too fraught, I don't want to upset the applecart ... (Ronnie) 770/31

Men also considered the potential emotional costs arising from non-compliance actions in light of knowing that support arrangements would be for a limited period (e.g. until their children came of age). In addition, the level of child support could in real terms as a proportion of their income reduce over time as a result of a rise in income or as a result of older children coming of age. Moreover, a number of reasons can come together in men's minds to outweigh the immediate financial benefits of non-compliance actions, as in the case of Henry:

*Interviewer:
Why didn't you re-negotiate the level of child support?*

*Henry:
Because of first of all, it's a lot of expense going to court; second, it tends to get more acrimonious and dragged on and solicitors, you know, a lot of dealings with solicitors and they make big bucks out of it at the end of the day. And also at the end of the day if you can come to some sort of an amicable agreement, mm, I think it's better for, at the time I thought it was anyway and so did his mother probably that relations aren't too much strained, you know. 149/3*

Symbolic Costs

The symbolic costs arising from the execution of enforcement procedures can also be a factor in sustaining compliance. For some men it would be dishonourable or shameful to receive a court summons for non-compliance. It would undermine their identity as responsible parents in their own eyes and in the eyes of others, even though they may be dissatisfied with support arrangements.

Even to receive an interim maintenance order summons –arguably the first stage of the enforcement system at work - can be unsatisfactory for men who feel that they were executing their child support responsibilities or wanted to do so voluntarily, as in Tim's case:

...from day zero I always suggested that I would pay and that's specifically why I didn't want to go to court, I didn't want to have an order to pay, simply because I was volunteering to pay. So you shouldn't have an order to pay if you are volunteering 176/8

For others their sense of financial responsibility meant that any court-based arrangement left them feeling stigmatised. It felt that child support was “enforced” on them, as if to the world they were seen as unwilling to meet their responsibilities to their children. This may be seen as equivalent to what Westwood (1996:33) calls the public shaming exercise of some men by the British CSA in that it was “a body blow to the self-conceptions of men who created an image of themselves as loving, responsible fathers”. To be seen as a father with a court order for child maintenance could be interpreted as an indication of their irresponsibility, as Cassius suggested:

I have no problem paying whatsoever for my kids. The thing that pisses me off is I'm in a computer down in Sligo and every correspondence that I get from social welfare is that I deserted my wife, but I didn't. I went to court, I proved that in court yet the system still suits her... I was brought to court as far as I was concerned for non-payment of maintenance. I proved I was paying yet she was awarded back money... 725/14

5.6(b) Enforcement & Non-Compliance Actions

At the time of their interviews for this study seven men were not complying with child support arrangements put in place at legal separation. The reasons for non-compliance were: changes in access and parenting arrangements (three cases); emergence of post-separation relationships (one case); and changes in men's economic circumstances (three cases). In these cases non-compliance came about subsequent to re-negotiations between the separated parties (and/or their lawyers) or through Court adjudication. Enforcement tools were not activated.

However, the study also revealed that there were a number of men who took unilateral non-compliance actions that led to enforcement procedures coming into play. These men's stories can be categorised into two groups.

First, four men who were in compliance at the time of their interviews had not been in compliance for some of the time after their legal separation. A number of excuses were offered for non-compliance. These included the need to financially re-establish themselves after separation, access restrictions, an inability to afford maintenance in light of the other demands on their resources and their former partners' ability to generate resources. As Arendell (1995:127) suggests “choosing not to pay was one of the few areas of discretionary authority left to them”.

However, either the threat of enforcement procedures being activated or their actual use, were enough for child support arrangements to be re-established. This was because men perceived there to be serious consequences if non-compliance actions

continued. In other words, the immediate financial awards of non-compliance were outweighed by the wider longer-term costs –as noted above- arising from legal involvement (e.g. court summons; committal to prison proceedings, attachment of earnings orders). As Beller & Graham (1993) also found, the threat of criminal penalties encourages compliance.

Second, in two men's cases it could be observed that there was an on-going stubbornness about their child support actions. They believed that they had nothing else to lose by refusing to comply with child support arrangements. As well as feeling that they could not afford the orders in place and arguing that their former wives and/or the State had a financial role to play, there was little motivation in their lives to pay child support. They had little or no contact with their children and they judged their lifestyles compared unfavourably with their ex-partners and the intact family unit. Their biggest bone of contention after their marriage breakdowns was the re-distribution of family property. They were less focused on child maintenance and access arrangements.

The men⁷⁰ in these two cases had also suffered from mental health breakdowns partly arising from their marriage split-ups. In their dealings with the Court they were prepared for on-going litigation. It provided them with a focus to their lives because it appeared that they had not come to terms with their marriage breakdowns. They were unafraid of committal to prison proceedings:

Interviewer:

But you still had the judge in the family court threatening you with Mountjoy prison for not paying child support?

Rocky:

At that stage I lost everything, I didn't care. I didn't care, I couldn't care less. . . In family law they come up too heavy and too harsh. They don't care where men live after the family home. I mean I've walked out with the clothes on my back, my office was there, people were calling to the door, the phone number was changed, they were told that I didn't live there anymore, I started losing contacts, my business started collapsing. She couldn't care less because she knew that she had her little pile somewhere along the line, she knew that she had the family home, she didn't care what I had. She knew that she probably had enough to support my son. 572/16

Therefore, although the threat of judicial intervention is often a significant factor to ensure that non-resident fathers continue to comply with child support agreements, for a minority of men the threat of or the actual implementation of enforcement procedures will have little effect. When a non-resident father believes that he has little else to lose

⁷⁰ In one case the respondent had not been technically legally separated even though his separation proceedings had been going on for a number of years. In the other case the respondent had been self-employed at legal separation. After separation he argued that he did not have enough money to pay support and was in & out of employment.

by not paying child support, the threat of court action may make little difference to his behaviour. As Bradshaw et al. (1999:203) also observed, “a sense of victimisation or blamelessness was the overriding feeling exhibited by most of the enforced payers and non-payers”.

In conclusion, the presence of an enforcement tools can be a factor affecting men’s child support actions. Enforcement tools such as Court summons or orders; directives for child support payments to be made via the Court or committal to prison proceedings can put pressure on men to modify their non-compliance stance. As Bradshaw et al. (1999:210) found, legal and enforcement tools are contingent factors related to willingness to pay.

This is because the negative consequences of non-compliance actions are viewed not only in terms of the financial and legal penalties that they may suffer but also in terms of the effects on post-separation relationships and their self-identity (i.e. symbolic costs).

However, there are men who continue to resist paying child support, irrespective of enforcement measures. These men lost contact with their children and found it difficult to come to terms with being separated. They felt they had little else to lose.

5.7 Conclusion

The purpose of this chapter was to examine the experiences of non-resident fathers interviewed for this study in relation to five factors, which may be linked to child support compliance. The five factors were: the enforcement system in place; men’s ability to pay child support; the strength of family ties; the economic needs of mothers and their children; and men’s willingness to pay child support. Although the sample of men was small⁷¹, their accounts offered some insights on possible links.

Non-resident fathers generally accepted that they have a financial responsibility for their children. However, the evidence from this research would suggest caution in gauging this responsibility in terms of the degree to which they comply with child support arrangements. One reason for this is that the provision of child support fulfils a number of functions (e.g. breadwinner; compensatory; exchange) for men. Indeed it may be more profitable, as Hirschmann (1992:247) argues, to appreciate that such an obligation “operates from an understanding of context and concrete social relations”.

⁷¹ See tables 5.1-5.8.

Accordingly, few men in this study were satisfied with their child support arrangements. Their judgement was partly informed by their assessment of the effect⁷² of the overall separation settlement on their lives in relation to the extent to which their post-separation aspirations had been realised. Their judgement was also informed by the degree to which they felt a burden in paying. In doing so men considered their other financial commitments and their assessment on whether their former partners had maximised their capacity to generate resources from other sources⁷³. As Arendell (1995:88) noted, "men's general compliance with support did not mean that they assessed the system as being fair".

However, even though men may have reservations about paying support, few of them were at the receiving end of enforcement procedures being activated as a result of taking *unilateral* non-compliance actions. In this study, enforcement procedures were activated because men stopped paying child support because access had broken down or because they prioritised spending money in other ways or because they felt they could not afford to pay. In four of the five cases where men independently decided to stop paying support, the activation of procedures ensured they started paying again. In the fifth case the men became unemployed.

In addition, non-compliance does not mean that men have reneged on supporting their children. Four men in this study stopped "complying" with child support arrangements put in place at separation with the *consent or agreement* of either their ex-partners or third parties (e.g. Court or lawyers). In three cases men paid less support because their children ended up spending more time with them. In one other case a man's ex-wife accepted that he had an unfair financial burden and agreed for him to pay less support. Furthermore, in another three cases men stopped "complying" with arrangements because they became unemployed.

⁷² For example, where there is a need for men to be recognised as loving parents, formal support channels may be limited in facilitating this to happen. Therefore, spending money directly on their children (e.g. buying clothes, presents), or indirectly (e.g. larger accommodation) to facilitate contact, were seen as forms of child support by men and as ways of fulfilling their financial responsibilities. They judged such actions to be symbolic of good parenting in their own eyes and in the eyes of their children. Such actions were also catalysts to foster good father-child relations.

On the other hand, child support can be instrumental for some men in that it provides a means for their children to live and because it demonstrates their parenting commitment. All things being equal, as long as they judge their children to be benefiting from child support arrangements, it is likely that they will continue to pay support. They worry less about fulfilling a caring role.

⁷³ For example, if their former partners work - or to a lesser extent, have a third party source of income (e.g. State) - men may feel these revenue streams should reduce the level of child support they pay. Their sense of financial responsibility may not change but their views about how children should be supported in the lone parent family can alter.

Men's compliance over time with child support arrangements can occur for quite different reasons. At one end of the spectrum paying child support may be an expression of men's unconditional financial responsibility to their children. At the other end, men may be resigned to paying particularly if there is a risk that access could become unravelled. It was as if they were given conditional access to their children and had to obey the conditions set down by their ex-partners or the court. Their "need and their willingness to satisfy that need (i.e. contact) put them in a position of dependence on the owner" (Bauman & May, 2001:69); an owner who could be obstructive if child support was not paid.

However, in order to more accurately appreciate how men understand their financial commitments to their children, the Irish child support regime has also to be considered. Chapter six reviews the operation of the Irish child support regime from the experiences of non-resident fathers.

Chapter 6 – Non-Resident Fathers’ Experiences of the Working of Irish Child Support Regime

Chapters three and four focused on non-resident fathers’ experiences of how child support arrangements were put in place at separation and their post-separation child support experiences. The purpose of this chapter is to review the operation of the Irish child support regime from these men’s accounts.

In Ireland child support arrangements are put in place through the Irish Family Law System¹ and/or the “liable relatives” procedures of the DSCFA. The first part of the chapter examines men’s experiences of the Irish Family Law System. The second part of the chapter examines men’s experiences of the DSCFA.

A social survey approach was not used to discover men’s opinions². Consequently, the issues highlighted in this chapter may be better understood as a preliminary attempt to draw attention to a range of non-resident fathers’ experiences of the operation of the Irish child support regime rather than a systematic endeavour to gauge men’s satisfaction or dissatisfaction with it.

6.1 Non-Resident Fathers’ Experiences Of The Irish Family Law System

This section draws attention to men’s different experiences of the operation of the Irish family law system.

6.1(a) Absence of Detailed Guidelines in relation to Child Support Decision-Making

There is an absence of detailed judicial guidelines around child support decision-making. There is little available information to describe the manner in which maintenance awards are to be calculated or how the Court weighs up the factors that have to be considered prior to it making an order.

The lack of guidelines can leave men feeling uncertain and anxious about their negotiating position and fearful and frustrated with the court’s decision-making process and outcome. They can judge that the court’s child support decision-making process

¹ The Irish Family Law System includes situations where child support arrangements are put in place through mediation, solicitor resolution or by the court.

² This was because there was little previous knowledge of men’s dealings with the regime and because of time and resource constraints.

lacks consistency and transparency. There is a sense that the courts, as eloquently described by Alex, make arbitrary child support decisions:

There's nothing particularly predictable about the courts and because these family courts are secret you have no idea of the lie of the land or what way things are going to go. And you sort of say, "well, I'll do a certain figure, like £100 per child". And they[lawyers] say, "Oh no, we know another child and the court ordered him to pay £250 per child and the salary was such and such and that didn't matter and you will". As you know nothing and because the solicitors know even less, they can put you in complete fear of what happens if you don't agree with it, if you go in there, and when it's your risk and the court will then sort of grind you into the ground. And the court don't care what it costs and you have to pay that irrespective of what you earn, and there's that kind of complete ignorance, because the courts are secret, you've no idea what's reasonable, ...and of course everybody's circumstances are different but you need to have a rule of thumb that you can apply to your own circumstances and such a thing doesn't exist...so you're in a nightmarish area where there aren't any rules of thumb in sight that you can sort of position yourself against. And you can't say, "if I offer £100, £200, the judge will go up to £250 or £275". And it could be different from judge to judge. 736/27

These sentiments are not surprising for as Martin (2000:27) noted: "family law cases are not always treated alike. There is a tendency towards excessive informality in family law proceedings bordering on the delegalisation of family law". He also noted the strictures of in camera rules, the lack of written judgements particularly at circuit court level and the marked degree of inconsistency between the eight circuit family courts in terms of practice, procedure and application of the legislation. The absence of detailed guidelines has other consequences as follows.

6.1(b) The Influence of Lawyers and Mediators

Owing to the element of uncertainty about the outcome of court-based maintenance proceedings, it appears that the role of lawyers and mediators is more significant than it might otherwise be. This has ramifications for non-resident fathers. For some this can result in them trusting and being influenced by these professionals which in hindsight they regret. After being informed about the unpredictability of the court's decision-making process, this can lead them to agreeing under pressure to separation settlements -of which child support is a part - that in retrospect they felt were too generous, as in the case of Jim.

Interviewer: Were you happy with the mediation agreement?

Jim: No. The solicitor talked me into signing for it. I wasn't happy with my part of it, I wasn't happy with the money part of it, that's why I went back. It all collapsed. The mediator knew I wasn't happy. I was left £100 a week to myself with the mortgage to pay; you couldn't really afford to live on it. I was smoking at the time. I never went anywhere for two years. 88/5

Alternatively, others noted that they and their ex-partners were encouraged to tell falsehoods in court to get a better settlement, which had the consequence of inflaming the process and leaving a bitter aftertaste, as in the case of Harry:

I'm not painting myself as a virtuous boy but I'd certain ideals and principles and I've seen lies being told under oath, I've been sort of cajoled and prompted by my own solicitors to say things that I didn't feel comfortable saying and whole thing stunk to high heaven 171/35

Specifically, some non-resident fathers felt the only winners from a protracted resolution process were the parties' lawyers; indeed some perceived their lawyers to be primarily interested in their fees, as in the case of Alex:

I went into a solicitor and had an interview with her to take me on as a client of hers, and I felt quite bad because I felt that she was regarding me somehow as a sort of guilty male, and I didn't feel [...] the support there, I felt more of an inquisition. I was looking for a woman solicitor because I felt it would be better in the family court. And then she offered me, said the bill was £70 with a receipt or so much without a receipt. 196/27

On the other hand, though some felt pressured into settling outside of court, others welcomed their solicitor's advice in this regard because they acknowledged they would have received inferior court settlements. Others welcomed the advice to continue paying interim maintenance before their separation hearing because in hindsight they believed by doing so the court was more sympathetic to their access application. Others welcomed the warning of solicitors to have realistic expectations about the likely negative decision of the court. This prepared their acceptance of ancillary court orders as in the case of Aidan:

It actually went quite well, the court itself. But I was told before I went in, I had no chance of getting full custody, I would have to pay maintenance ...because in these cases, 99.9% of women are always favourite so I went into court with that, I was told that, you know. So I didn't come away pretty disappointed knowing that. 895/15

In conclusion, non-resident fathers held mixed opinions concerning the intervention of lawyers and mediators at separation. A key point influencing their position was whether fathers could distinguish between the limits of what these professionals could do on their behalf and the nature of the legal system in which they operated.

6.1(c) Perceived Biased Decision-Making

Men can perceive the premise underlying child-support decision-making and decision-making itself to be biased in favour of their partners and against them.

Specifically in terms of child support there was a sense that the court supported the existence of the traditional breadwinner/carer model in the post separation period. It appears to men that the Court has little or no concern for their own needs:

I think the courts are inflexible when it comes to the issue of maintenance, and they tend to still assume that men are the major earners, that men are always trying to underpay their spouses and the courts are going to be the guardian of the spouses, the wives' rights, they too much see themselves in that role, and I don't think the men really get a fair crack of the whip. 25/635

Similarly, men felt that judges were likely to respond more sympathetically to the demands of their ex-partners than to their own needs:

I think my wife actually got up on my behalf because the judge was like: "Oh what do you need?", you know what I mean. And if she said: "I need five grand a week", he would say: "certainly, okay", all this stuff, incredible stuff. (Dave) 237/18

Moreover, it would appear that the Court upholds the notion that mothers of children are not expected to work outside the home. As Shatter (1997: 14:22) remarks, "mothers of dependent children are not obliged to work outside the home to supplement the family income even where the necessity for two separated residences creates additional family financial strain". Non-resident fathers question the fairness of this lack of work expectation. As Kevin, a father of teenage children noted:

Why should it be different for the wife if the children are both teenagers? It might be nice if you can stay at home and look after the kids but in a situation where there is financial pressure and you have separated, should it be a choice where you can choose to stay at home or should there be an onus on you to say you have a responsibility to yourself, you're an adult, there is plenty of work out there, you know, ok you are separated, the deal was that you would stay at home, we'll give you a cushion of say four or five years but we'll expect that you'll need that to get yourself skilled up or a full-time job by the state. Where does the right to molly-cuddle an adult come from. 1180/1

Also there is anecdotal evidence that the courts, all things being equal, deal differently between child maintenance applications made by men and women. Kevin, an interviewee, who also worked in the judicial system, commented upon this:

I've been in cases where the guy has had custody and been on the dole and the wife has been working and they have got very little in terms of maintenance in court and it's down to gender. There is a block, wives are vulnerable, they are beaten, and they need protecting. He is the bastard, screw him, protect her and you see that, you know, you've got decisions one day of £800 a month for the wife and the children, say a hundred pound for each, say if he's got two children, three children, a hundred pounds for the kids and a hundred pounds for the wife every week. Next day in court there is a guy with his son, guy's on the dole, he gets £15 a week for the child from the same judge, that was in fact the same judge. 1180/1

Thus, the outcome of the Court's decision-making can lead men to feel that the decision-making process is loaded against them:

I was absolutely devastated with the decision [i.e. child maintenance ancillary order] because as I said I felt the judge didn't, he didn't know me, he didn't know her, he didn't know our son, he didn't know any of our needs, he just knew I was a man and she was a woman and I had a certain income and therefore he made the decision. 641/24

As Bauman & May (2001:62) note, "power is best understood as pursuing freely chosen ends towards which our actions are oriented and of then commanding the necessary means towards the pursuit of those ends". However, non-resident fathers can feel emasculated by court proceedings. For some this felt like the Court was not even interested in listening to their views:

I think men should have a bit more say and I think men should be a bit more, they should get a bit more listened to in court. I think the court case should be longer; it should be fairly sat down (and it's not). From my feelings the women just go in and ask for it and they fucking get it, men don't get a say, that's what I feel. (Peter) 3012/23

Indeed, one respondent Harry, felt that the judge spoke to him as if he was a criminal:

The judicial system is archaic, its aloof from reality, it doesn't look at individual circumstances. The way the judge spoke to me that day you think I was a criminal. 2311/35

6.1(d) Child Support Forming Part of a Wider Settlement

It appears that the courts conceptualise the child welfare principle primarily within the context of the lone parent family unit³. In practice, this means that the issue of child support gets resolved alongside other issues (e.g. relational (e.g. access, custody) and material (e.g. housing)). This can lead to a level of frustration for men in terms of how judicial rulings influence decision-making outside of court, what happens at Court and impact of decisions reached on men's lives. Teddy succinctly summarises his experience:

Basically what the courts do in a conflict situation, right, is the courts decide, number one, who lives in the family home, which is invariably the mother, right, which invariably means that the father is effectively thrown out of the house, right.

³ In child maintenance proceedings there appears to be a domino effect in operation, which non-resident fathers who want an active parenting role and/or who have certain lifestyle expectations find particularly frustrating. As Walls & Bergin (1997:46) notes, the concept of the welfare of an infant being of primary importance is reflected in all family legislation. Similarly, Shatter (1997, 13:39) remarks that in the making of preliminary and ancillary court orders in judicial separation and divorce cases the courts are required to regard the child's future welfare as the determining factor in the dispute resolution process. Welfare comprises the "religious and moral, intellectual, physical and social welfare of the infant" (Section 2, Guardianship of Infants Act, 1964).

In practice, Shatter (1997, 13:47) notes that in terms of physical welfare mothers have been regarded by the courts as prima facie the best persons to minister to the physical and emotional needs of young children and all things being equal a mother normally gets custody of children less than 12 years of age. Similarly, as Walls & Bergin (1997:46) notes "there is no doubt, however, that it is still generally the view of many courts that the mother is a more suitable person to have custody of children than the father, unless there is very good reason to the contrary".

Number two, it decides the custody of the children, which is invariably the mother, eh, so the, the father has his children taken away from him and eh, thirdly, it resolves or its makes an order for the financial support, right, which because it has already given the children to the mother, effectively involves a transfer of funds from the, the father to the mother and eh, that it all it does, right...that is the full function of the courts...It resolves around their houses, they take away their children and then, they, they give an order that their[non-resident fathers] only obligation and their only purpose in life is now to hand over money to their ex-wife and child. 1368/17

Consequently, men's perceptions of child support arrangements put in place through the Irish family law system and their child support actions over time cannot be understood in isolation from the wider settlement and their judgement of the impact of this settlement on the lives of the different separating parties.

As a result, one conclusion men can make is that there is insufficient attention placed on their former partners to shoulder the financial responsibility of supporting their children, as in the case of Robert:

My wife's a responsible adult; well able to look after herself...She has a responsibility towards the kids as well. At the moment I couldn't pay any more than I'm doing, so she's doing extremely well. 846/21

6.1(e) Other Problems with the Judicial System

Non-resident fathers noted a number of difficulties with the judicial system in resolving child support issues. The absence of child support guidelines does not help to minimise these difficulties.

First, men felt that the Court –especially at a District level – spent insufficient time in child support decision-making and that they did not pay sufficient attention to understanding the wider context:

And the frightening thing is if they don't have access to reports like the ones that we did, they are snap decisions. There should be a comprehensive service there. (Kevin) 1800/1

Second, some non-resident fathers felt that the resolution process was too adversarial; family law was “too heavy and harsh”.

I think the legal situation is not right, it's not suitable for [...], it's too rigid, it's too hidebound by precedence, too old fashioned, and (it's) not flexible enough. I think the legal thing, the legal business of setting people up [...] is totally wrong in this area. It may be good in other areas of the laws, but in here it absolutely causes financial and other damage to people, because the solicitors write things in the worst possible tone of all. It's absolutely designed to outrage and irritate the other party, and [...] do that, so they make things, they actually make things a lot worse. And not before they get better they make them a lot worse, full stop. (Alex) 1403/27

Thus while there is a need to maintain individualised and flexible justice, there is also a need for a transparent and uncomplicated child support decision-making process with the support of detailed guidelines would help to avoid the positioning adopted by the parties both inside and outside the court. There is also a need for a consistency of adjudication; to quote Power & Shannon (2002:29), "it is a cliché that settlement bargaining take place in the shadow of the law, but when the law itself is obscure, the bargaining can often more resemble shooting in the dark".

6.2 Non-Resident Fathers' Experiences Of The DSCFA's Liable

Relatives Scheme

Non-resident fathers considered the DSCFA's liable relatives scheme to be transparent in terms of the determination order process. Although non-resident fathers may have been unhappy with the DSCFA's unsolicited involvement into their lives, at the same time they understood the Department's reasons for doing so. There are published guidelines; an information guide is regularly updated; and a contact point for further information is available. Furthermore, under the Freedom of Information Act (1997) the Department's own internal procedures for staff carrying out assessments on liable relatives are also in the public domain.

As well as understanding the Department's explanation for its involvement, non-resident fathers generally acknowledged the determination order formula to be relatively straightforward. The speed at which determination orders were made and the quality of communication with the DSCFA were generally unproblematic for men. Indeed respondents experienced the Department's officials in Sligo to be courteous and approachable.

However, despite these pluses, non-resident fathers can still experience the issuing of determination orders to be unreasonable for a number of reasons, which will now be examined.

6.2(a) Non-Cash Elements Of Clean-Break Separation Settlements

The Department of Social, Community and Family Affairs does not regard non-cash elements of clean-break separation settlements as satisfying the obligation to maintain spouses and children. In other words, if a separating couple agree to a separation settlement whereby a non-resident father is absolved from any on-going or future formal child support arrangements by agreeing to transfer resources upfront, he still leaves himself open to the possibility of the Department issuing him with a determination order if his former partner subsequently and successfully claims one-

parent family payment. Not surprisingly, this can leave non-resident fathers in such positions feeling dissatisfied and angry, as in the case of Dave:

Interviewer: You said that you had a clean-break settlement. But the Department turned around and said: "You as a father, don't you have a financial duty to support your children?"

Dave: But I did. I bought a house. They [the Department] don't have to buy a house for them. That was our house that was some kind of an income, some kind of support, my wife was supposed to do the rest because we were apart, we were supposed to be equal, okay. It's not like they went on the housing [public authority], looking for a house, looking for a flat, do you know what I mean. I'm talking about my individual experience. I'm not talking about principle, but principle does come up against life, do you know what I mean 740/18

6.2(b) Determination Order Payment Levels

Determination orders may be issued for an amount larger than the child support arrangement –and the adult maintenance provision - already in place. One of the key messages from this research is that once a child support arrangement is put in place at separation, non-resident fathers are reluctant to meet later demands for higher amounts of child support⁴.

Thus, non-resident fathers do not generally welcome an unanticipated, upward re-ordering in the level of maintenance to be paid after separation. In scenarios where determination orders have been set at a higher-level, men in this study argued that there is a role for the State in supporting their families particularly if they feel that they have worked to develop a certain standard of living after separation or have had to survive on limited resources, as in the case of Cassius:

If social welfare came after me and say – I am working my butt off because that's what keeps me sane. If social welfare came after me – I can go into work tomorrow and say, eh, I don't want to do overtime...I can give her a flat weeks wages. If it means spiting them. I'm not going to work my butt off for somebody else to live in the lap of luxury. If I work sixty hours a week I want to reap the rewards. 1464/14

There was generally less antipathy when men received a determination order for the same (or less) amount as they were paying in maintenance. In such situations although they did not have to pay a higher amount, their response was influenced by their view about the relative benefits of paying determination orders compared to paying maintenance (e.g. was the State or were their children benefiting; was paying a determination order less visible than paying maintenance to others (e.g. a demonstration of their parenting role)).

⁴ The possible exception is if there has been a significant increase in their level of resources since the time of separation (e.g. unemployed to working).

6.2(c) Background to Being Issued with a Determination Order

In some cases men suggested that it was unfair that the DSCFA paid insufficient attention to the background which resulted in them being issued with determination orders. For example, if a separation settlement is predicated on the expectation that a non-resident father's ex-partner will continue to or commence work following separation, he may feel it to be unfair if his ex-partner subsequently claims one-parent family payment which can have the knock-on effect of him being issued with a determination order. Similarly, he may be displeased by the length of time he has to pay a determination order as a result of his former partner continuing to receive one-parent family payment. Many non-resident fathers expressed a wish for their former partners to work outside the home, as in Tim's case:

I am paying the determination order and if they [i.e. DSCFA] don't think that they should be paying, then maybe they should be thinking that she should be paying. Why isn't she paying anything? Why isn't she working? You know, equally if I am already paying and they are already paying and she is the only one not paying, it doesn't make any sense to come to me for more. Surely they should be coming to her. 521/8

In addition, men also found it to be unfair if they were issued with a determination order following their partner's refusal to accept a generous maintenance settlement, as in again the case of Tim:

Her refusing the offer cost a fortune. So that's the bit that if you like gets lost, so that went down the tubes. She didn't get it, I didn't get it, the kids didn't get it, nobody got it, straight into the legal system...She would have been in her own home, she'd own it, the children would have maintenance, the children would have financial support, be in good schools, I would be looking after all of their bills. I mean this was all part of the offer, financially I'd support them 100% was the offer...I voluntarily wanted to pay maintenance and I didn't want an order for as far as I was concerned that was a defamation of my character 467/8

6.2(d) Consequences of Being Issued with a Determination Order

The issuing of determination orders can have consequences for the post-separation environment. It can lead to an unsettling of a man's post-separation lifestyle equilibrium that may already be fragile and can also threaten the quality of post-separation relations whether they are with former or subsequent partners, as in the case of Alfred:

My new girlfriend she is pissed off big time because it is £50 [determination order] which is a lot of money, which it is. If I was to think like that all the time, I'd end up killing her[ex-wife], I would, I'd kill her because it would eat away at me so I just have to think of it as D's[child's] money 259/19

Similarly, there may also be consequences for men's employment if it is felt that determination order requests are unfair. They can increase work disincentive effects if men perceive it to be less worth their while to work. This is particularly the case if maintenance arrangements and post-separation living arrangements have been stabilised, as in the case of Warren:

If the social welfare do come at me again I would be prepared to give up work, unless I can get another increase, unless I can get fucking decent wages...If I haven't got a car I can't work, it's a simple as that. So for that very aspect if I give up my car, I'm back on the dole, get a single man's allowance £60-£70 or whatever it is, get a flat, let them pay £70 so I would have £40 a week to live on 610/6

Therefore, being issued with a determination order can undermine the extent to which men have control over their finances, both in terms of the level of resources available to them and the scope of their financial decision-making and actions (e.g. informal arrangements with their ex-partners; their own direct expenditure on their children). Any resentment arising can be compounded if a non-resident father feels his former partner has the capacity to work or that such a request is unfair in light of the separation settlement (e.g. lump sum or in kind provision; expectation of former partner to work or to continue to do so) or in light of the circumstances that led to separation.

Furthermore the receipt of a determination order for some men can symbolise that they are perceived as uncaring by the State towards their children and can leave them feeling powerless and stigmatised. It is as if they are victims of circumstances beyond their control, irrespective of their previous behaviour, as in the case of Cassius:

What pisses me off is any correspondence that I get concerning my wife and my three kids from social welfare or from anybody is about lone parents, deserted wives. Now my mother is down there and as far as I am concerned I can swear on her life that if there is a God up there, if I deserted my wife and three kids I'll turn around and say that I deserved to be punished but I didn't. Why am I targeted at? Why am I treated as I deserted my wife and three children? At the end of the day, I know it means nothing but psychologically it means it to me. 1696/14

As Bradshaw et al. (1999:180) somewhat similarly observed⁵, the interaction of a formal maintenance retrieval system and the benefit system may lead to a sense of discontentment because it alters men's financial responsibilities. For Cassius his dissatisfaction primarily arose not as a result of the amount of support he had to pay but due to the external distortion of his responsibilities. He was left to feel that he was at fault for the separation. His determination order felt like a form of punishment.

Indeed it may represent as Westwood (1996:28) suggests, an account of masculinity and fatherhood that "denies the commonsense and [an] understanding of fatherhood which privileges responsibility and power and the control a man may exercise over the sale and rewards of his labour power. Instead, in the state reconstruction of masculinity and fatherhood the state has the power and power is not an attribute of either masculinity or fatherhood".

⁵ As a result of the interaction of the Child Support Agency and the welfare benefits system in the UK.

6.3 Conclusion

The family law system component of the Irish child support regime is in line with some European (i.e. France, Belgium) approaches to child maintenance in that its resolution can take place alongside the resolution of other issues such as contact and residence arrangements at separation. While it offers flexibility and discretion in child support decision-making, the absence of detailed guidance on how decisions are to be reached and the lack of information and statistics on ancillary orders and separation settlements can leave men feeling that decision-making is opaque and decisions reached are inconsistent.

Because of the nature of the system it is difficult for men in Ireland to evaluate child support arrangements in isolation from the rest of the separation settlement. At the same time, mediators and lawyers operate in an environment without rigorous guidelines on how to proceed, leaving non-resident fathers having mixed views about their role. In addition, as a result of their children's welfare being primarily considered in the context of the lone parent family unit, non-resident fathers can conclude that the system is gender-biased in favour of their former partners.

In contrast, while they may not welcome the involvement of the DSCFA into their lives, non-resident fathers generally understood the reason for it. They also acknowledged the transparency and lack of complexity with the determination order formula as well as the relative speed at which determination orders were made and the ease of access to the DSCFA. However, men's judgements about being issued with determination orders were informed by their view of the events which led to separation; the terms of and the expectations arising from their separation settlements and the financial and relationship consequences vis-à-vis their post-separation parenting and quality of life circumstances and aspirations.

Non-resident fathers were dissatisfied with the DSCFA's unwillingness to consider non-cash elements as child support provision. In addition, because determination orders were linked to OFP, it seemed to some non-resident fathers that determination orders were structured more to meet the needs of lone parents than their children. As Bradshaw et al. (1999:182) observed, when a child support system overlaps with a welfare benefits system, a distortion of private family responsibilities may emerge. In Ireland the structure of determination order payments literally results in men paying a lot more money to support their ex-partners than their children. The aim of the next chapter is to examine the implications for Irish child support policy in light of non-resident fathers' child support experiences.

Chapter 7 - Child Support Policy Implications

Irish child support policy is based on the principle that parents who are no longer married to each other or living in a co-habiting relationship are legally obliged¹ to support their children. There is also the expectation that child support arrangements will be put in place at separation with the child's future welfare² being the determining factor in the dispute resolution process.

The purpose of this chapter is to examine the implications for Irish child support policy in light of the perceptions and experiences of non-resident fathers interviewed for this study. The first part of the chapter reviews the reality of child support decision-making in Ireland. Attention is then paid to examining how child support can be secured to support children in lone parent families given the conditional nature of current formal child support giving. The concluding part of the chapter, drawing from Nussbaum's functional capability theory, examines whether it is possible to develop a child support policy, which addresses the needs of children after the breakdown of relationships *and* at the same time is more in line with how people –especially men–want to live their lives.

7.1 The Reality of Child Support Decision-Making

For the “welfare” of children to be successfully addressed from the viewpoint of current Irish child support policy, it would be advantageous if non-resident fathers could accept child support provision as the demonstration of their financial commitment to their children. However, the evidence from this research would suggest that the relationship between men's perceptions of their child support responsibilities and child support provision is complex³.

¹ Family Law (Maintenance Of Spouses And Children) Act 1976(Section 5) notes parental responsibilities for married children; Status Of Children Act 1987 (Section 18) notes parental responsibilities for unmarried children.

² “Welfare” comprises the religious and moral, intellectual, physical and social welfare of the children concerned”, (Section 3(2b), Judicial Separation And Family Law Reform Act 1989).

³ In chapter three it was shown that child support arrangements came about as a result of the interaction of a number of factors, unique to each separation. Support decisions can be influenced by the social and legal environment in which they are made and by the fact that the level and source of resources together with the aspirations and negotiating abilities of individuals vary at separation.

This suggests that non-resident fathers establish child support arrangements not only because their children require financial assistance. For example, some men compensated their partners for their decision to leave a relationship or for their decision not to play an active parenting role after separation. Other men agreed to particular child support arrangements in exchange for certain access or more active parenting arrangements. Others had child maintenance conditions imposed on them by the Court or felt that they had to acquiesce to particular arrangements. Furthermore, because child support arrangements in Ireland get resolved

In addition, men's initial acceptance of and on-going compliance with child support arrangements does not necessarily imply that they are satisfied with those arrangements or that they see such arrangements as either their preferred method of support for their children or the totality of their financial support (e.g. overall settlement, direct, in-kind or informal expenditure). In turn, non-compliance actions do not necessarily mean that men are dissatisfied with the level of child support they are paying. For example, non-compliance can occur because of circumstances beyond their control (e.g. loss of employment; their former partners instigation) or in response to issues that they find unacceptable (e.g. access restricted).

Equally, while non-resident fathers generally acknowledged a financial responsibility for their children, the type of child support arrangement put in place at separation or their level of compliance with it over time may or may not have been seen by them as an expression of this commitment. At one end of the spectrum there are men who see themselves as the primary breadwinners and their former wives as the main carers. They see the payment of child support – perhaps as part of an overall separation settlement - as a considerable and unconditional expression of their financial responsibility to their children.

At the other end of the spectrum there are men who see the payment of child support principally as a means to secure or in relation to some other arrangement (e.g. access, parenting, housing, overall settlement, etc.). Men are more likely to justify this position if they need resources to fulfil a joint parenting role and where they feel their partners have access to other resources. In such circumstances the payment of child support can be seen as a partial and conditional expression of their financial responsibility to their children, with men citing other avenues of support provided by them (e.g. overall settlement, direct, in-kind or informal expenditure) and by others.

Given these standpoints it appears that the relationship between formal child support provision and non-resident fathers' understanding of their financial commitment to their

alongside other issues, the overall separation settlement rather than child support arrangements was generally felt by men to more accurately reflect formally established post-separation support measures for their children.

It was suggested in chapter four that the emergence of new conditions (e.g. new relationships, changes in access arrangements) after separation can lead to men reconsidering child support arrangements and the wider separation settlement. However, it does not necessarily follow that support arrangements do change. This is because men consider other issues such as the legal and social environment in which change takes place and the potential effect of non-compliance actions on their own and their children's interests. These interests are rarely defined solely in terms of financial considerations.

children is not straightforward. This raises the question about whether the foundations on which child support policy is based in order to address the post-separation needs of children are sustainable in light of the reality of child support decision-making.

If Irish child support policy relies on the principle that the provision of child support is indicative of the financial commitment of non-resident parents to their children then the experiences of respondents interviewed for this study would suggest that the basis for policy is too narrowly drawn. In other words, the complex reality of child support decision-making and the meaning such decisions have for men are not recognised.

For example, when a payer stops complying with arrangements, it does not necessarily indicate that his financial commitment has weakened. Such a decision can occur with or without the agreement of former partners or third parties. It can come about for very different reasons (e.g. access difficulties, unemployment, an inability to pay, men's own need for resources or the relocation of children). It is usually accompanied by the view that children have access to other resources (e.g. their former partners or the State). Men can also justify non-compliance by demonstrating their financial commitment in other ways (e.g. financially re-establishing themselves for their children's longer-term benefit).

Therefore, it appears that the basis for current policy is too simplistic in light of the experiences of non-resident fathers. Men do not always see child support as a unique and unconditional source of support for their children. It cannot be relied upon to respond to the needs of children in lone parent families.

As a result, if child support policy is to secure support for children in lone parent families then it has to respond to the conditional nature of current formal child support giving. In doing so, policy-makers may need to give attention to the following areas:

- Child Support Guidelines
- Work Expectations on Lone Parents
- Enforcement Procedures
- Other issues

7.1(a) Child Support Guidelines

The intention of Irish child support policy is to secure resources from non-resident parents to meet the needs of their children. However, there are drawbacks with how the Irish child support regime does this. Specifically, the issue of child support guidelines requires attention by policymakers.

The Absence of Child Support Guidelines in Family Law Proceedings

There are no guidelines⁴ around the determination of Irish child support arrangements. The resolution of child support is dealt with entirely on an individual and discretionary basis. In doing so policy-makers and lawyers claim that there are advantages in that all the relevant circumstances can be taken into account (Corden (1999:59)).

However, while the Irish Court is governed by the principle that it “must find the minimum reasonable requirements of the dependent spouse and children⁵” in responding to maintenance applications, Shannon (2001: 47) notes the standard is subjective. Viewed as a whole, in this study there appeared to be no central logic to how child support arrangements were put into place. Lawyers, mediators and the Irish Court appeared to make inconsistent maintenance decisions. Thus the evidence from this research concurs with Shatter’s (1997:1419) viewpoint:

“in practice, judicial application of the statutory criteria applicable to determining maintenance applications has produced varied and inconsistent results, different members of the judiciary possessing different views as to what is a “proper” sum of maintenance to order in particular financial circumstances”.

In addition, the absence of child support guidelines left men wondering whether their own needs were sufficiently acknowledged⁶. This judgement was reinforced by the fact that child support gets resolved alongside other issues at separation:

In family law they come up too heavy and too harsh. They don’t care where men live after the family home. (Rocky) 1330/16

Non-resident fathers judge the court adjudication process to lack transparency with the consequence that child support decisions are felt to be unpredictable and inexplicable. This can result in a sense of disempowerment:

When you go to court, it’s a thing that you don’t know about. It’s unknown, you don’t know what is going to happen, they are in control of your life, for that time when you are in the court, and whatever they say goes. (Alfred) 1064/19

Furthermore, the absence of judicial guidelines has consequences for how child support arrangements are put in place at separation through non-judicial proceedings

⁴ Although the Irish Court has a duty to make provision “as is proper in the circumstances”, Walls & Bergin (1997) note that detailed judicial guidelines have still not emerged from decided cases describing the manner in which awards of maintenance are to be calculated or determining the weight that is to be attached to all the factors the court is to have regard to prior to making a maintenance order.

⁵ One of five governing principles (i.e. principle (a)) in relation to making a maintenance order as set down by Chief Justice Finlay R.H. v N.H.[1986], ILRM 352

⁶ Although “the court must ascertain the respondent’s [i.e. normally non-resident father] minimum requirement for living⁶, Shannon (2001:48) suggests that this has been interpreted to mean “the object is not to make the respondent destitute”. What the Court’s objective is appears to be unclear.

(e.g. mediation, lawyer-aided). Separating couples operating “in the shadow of the law” (Mnookin & Kornhauser, 1979) have little in the way of direction or precedence with the result that child support decisions may be more to do with adults reaching a compromise or the negotiating abilities of separating parties – and their advocates – rather than reflecting the needs of children.

Consequently, it appears that the child support resolution process in Ireland is similar to what happens in France and Belgium in that in these countries it tends “to reflect the power of parents’ representations” and their “search for pragmatic solutions in situations of conflict... rather than the needs of the child” (Corden, 1999:59). This is not surprising since France and Belgium also operate a discretionary approach to child support resolution and do not have clear guidelines concerning what level of child support should be awarded.

Therefore, detailed guidelines concerning how child support arrangements should be decided would be welcomed in order to reduce the arbitrariness and unpredictability of judicial decision-making. While guidelines⁷ may have weaknesses (e.g. too rigid or complex; costly or inefficient administration; inappropriate assessment criteria), at the same time they may strengthen consistency and transparency in decision making, qualities absent from the current family law system. Furthermore, constructing guidelines should at least provoke a discussion about the different ways in which to meet the needs of children vis-à-vis the availability of resources and different parenting expectations. In addition, detailed judicial guidelines would also assist couples using non-judicial separation pathways by providing a benchmark for reaching child support decisions in line with the Court.

In conclusion, the absence of government guidelines over how support arrangements should be put into place has led to inconsistent child support decisions. Furthermore, as was demonstrated in chapter three, support arrangements are seldom only related to the needs of children.

Where men felt that current policy was unfair in terms of decision-making or its consequences, the more likely it was that they would be dissatisfied with child support arrangements. Similarly, if men felt that arrangements were more than just about providing for their children, the less likely it would be that they would see child support

⁷ In considering guidelines it would be useful to examine how well the recently introduced English & Welsh system of basing maintenance liability on a simple percentage of the non-resident father’s net income is working. The intention of using percentage rates is to simplify a complex system, striking a balance between the needs of children and the expenses that non-resident parents have to meet (DSS, 1999)

exclusively in term of a moral commitment to their children. In such circumstances child support policy may be unacceptable to a key stakeholder.

Therefore, child support guidelines would be welcomed by men to strengthen consistency and transparency in decision-making. At the same time their stories as documented in this research would also appear to call for a policy response that offers “a degree of flexible, individualised justice”, as Bradshaw et al. (1999:229) equally indicated.

The Presence of Guidelines in Determination Order Proceedings

Although the social welfare component of the child support regime uses guidelines to put in place determination orders, the experiences of non-resident fathers highlighted a number of implications arising from their use and the assumptions on which they are based. These will be considered under a number of headings:

- The Structure of One-Parent Family Payment
- Liable Relatives Assessment Criteria
- Non-Resident Fathers' Motivation to Pay Determination Orders

The Structure of One-Parent Family Payment

The implementation of the DSCFA's liable relatives provisions can appear to men to be unfair because of the Department's understanding of what is meant by “adequate maintenance”. The DSCFA defines “adequate maintenance” in its regulations as being equivalent to the rate of OFP appropriate for that lone parent family (i.e. a family already being “adequately maintained” would not be eligible for OFP on means grounds⁸).

The OFP comprises both adult and child dependant elements. However, in recent years the child dependant element has been frozen in contrast to the adult dependant portion⁹. This has meant that OFP has increasingly being identifiable as support for the lone parent with non-resident fathers being obliged through determination orders, whenever possible, to pay this amount in full.

⁸ Taken from Review of the One-Parent Family Payment (P107), The Department of Social, Community and Family Affairs, September 2000

⁹ Freezing child dependant allowances(CDA) has occurred across all social welfare schemes whilst at the same time there has been greater than inflation increases in adult dependant allowances and universal child benefit provision. The Department's position is that the OFP is a composite payment supporting not only the child but also the parent who is caring for the child (Review of the One-Parent Family Payment (2000)). Accordingly, the level of support for the child goes beyond the CDA and thus the Department argues its position is justified in seeking, where appropriate, a higher amount from non-resident fathers than the level of the CDA.

However, it would appear from this study that non-resident fathers hold different views about supporting their former partners and their children. Generally speaking, non-resident fathers acknowledged some form of responsibility towards supporting their children but were reluctant to maintain their ex-partners on an on-going basis after a relationship breakdown¹⁰, as in the case of Cassius:

Interviewer: If the Department said you should be paying more for your wife, what would you say?

Cassius: Basically piss off.

Interviewer: But if they said you should be paying more for your children?

Cassius: I could live with that, yeah. I could live with that. As I said to you as far as I'm concerned the three kids are my flesh and blood ...1553/14

Although they recognised a financial responsibility towards their children, their outlook on supporting their former partners was influenced by other factors such as who was responsible for the relationship breakdown; the age of the children and their need for a full or part-time carer; their perception of their ex-partners' capability to work; views on parenting roles; and other financial demands, etc.

Therefore, if there is an intention to address legitimacy concerns about the liable relatives scheme insofar as what determination orders are funding, then the DSCFA may need to review the structure of the adult-child dependency ratio of OFP. If OFP was seen to be structured more towards the needs of children, it is likely that determination orders would be more acceptable to non-resident fathers, a factor conducive to promoting greater compliance. In doing so it is acknowledged that the Department must balance any change in light of how social welfare schemes are constructed in terms of adult-child dependency ratios and the policy shift in recent years towards greater than inflation increases in child benefit rates.

Liable Relatives Assessment Criteria

In establishing a non-resident father's liability to maintain his children the DSCFA¹¹ does not consider non-cash elements of separation settlements (e.g. school fees, family home, holidays) as a form of maintenance provision.

¹⁰Interestingly, the State does not place a responsibility on non-married non-resident fathers to maintain their ex-partners after a relationship breakdown.

¹¹ The *Review of the One-Parent Family Payment* (2000: 109) justifies this exclusion on the grounds that it would be difficult to assess their value and hence offset them against the liable relatives' obligations.

Non-resident fathers feel it is unfair that these elements are ignored in the calculation of determination orders because this type of expenditure can express their financial commitment to their children, as in the case of Dave:

Interviewer: ...Couldn't the Department turn around and say: "You as a father, don't you have a financial duty to support your children?"

Dave: But I did. I bought a house. They [the Department] don't have to buy a house for them. That was our house, that was some kind of an income, some kind of support, my wife was supposed to do the rest because we were apart, we were supposed to be equal, okay. It's not like they were on the housing (i.e. Council housing list), looking for a house, looking for a flat, do you know what I mean. I'm talking about my individual experience. I'm not talking about principle, but principle does come up against life.
757/18

If men feel dissatisfied because the DSCFA does not see non-cash elements as a legitimate form of child support, this dissatisfaction may be strengthened if they feel that determination orders limit their options, which may already be restricted due to wider circumstances¹².

In addition, although lump sum payments are assessable as capital for OFP purposes, they are not regarded by the DSCFA as satisfying the obligation to maintain spouses and children (Review of the One-Parent Family Payment (2000: 109)). However, like those men with non-cash elements as part of their separation settlements, non-resident fathers who agreed to pay a lump sum at separation can find it unfair to receive a demand to pay a determination order. In this study it was felt to be unfair because the lump sum payment was seen to represent a financial commitment to children¹³.

In conclusion, a policy which expects non-resident fathers to pay determination orders when a form of provision is being/has been made which the family law system, their former partners and men but not the DSCFA recognise as a form of support, appears to be unfair. On the other hand, if non-resident fathers stop complying with the non-cash elements of a separation settlement, and these elements were meant to

¹² For example, because the cost involved in obtaining another home in Ireland has become prohibitive in recent years due to significant housing inflation, men who had obtained or were thinking of acquiring another home did not welcome unexpected demands on their resources, particularly when they felt a form of financial commitment had already been established. Ironically this may have taken the form of giving up extensive equity in the family home.

¹³ Moreover, it appears to be particularly unfair for men to be issued with determination orders for reasons beyond their control. For example, if their former partners subsequent to separation become unemployed and successfully claim OFP, non-resident fathers can be held financially liable, irrespective of the terms of the separation settlement or their understanding of the commitments placed on either party (e.g. lone parent will find or continue in employment) arising from the separation settlement.

demonstrate men's financial commitment to their children, all other things being equal, it would seem unfair for men *not* to be issued with determination orders.

The DSCFA's unwillingness to consider lump sum and non-cash elements as part of the liable relatives assessment process points to inefficient links between the two parts of the child support regime. What can be considered to be a form of support in one part of the regime may not be considered as support in the other. As the Commission on the Family (1998:115) suggests, both "systems should be better co-ordinated".

However, in reality this may be difficult to achieve given the complexities of how child support commitments get established in Ireland. In fairness this is a point that the Review of the One-Parent Family Payment (2000) acknowledges, noting that it would be very difficult, for example, to assess what proportion of housing equity should offset what form of a liable relative's obligation and in what circumstances.

However, at the very least separating fathers need to be made aware that they can be issued with a determination order despite having put into place cash or in-kind support measures for their children as part of a separation settlement. One possible consequence of men being more aware is that the terms of separation settlements may be affected (e.g. men more reluctant to agree to lump sum provision). In turn the DSCFA needs also to be aware that men can be hostile to paying determination orders in certain circumstances.

Non-Resident Fathers' Motivation to Pay Determination Orders

The Department may hold a limited view on what motivates men to make determination order payments. The publication in 2000 of the Review of the One-Parent Family Payment included the recommendation that OFP recipients should retain 50% of any maintenance received. The Department has subsequently implemented this recommendation. The views of respondents from this study would question the strength of the hypothesis underlying this policy change, namely that the previous arrangements "may act as a disincentive for the other party (i.e. non-resident parent) to contribute towards the maintenance of a lone parent because the lone parent will receive no benefit as such ...it will merely reduce the rate of OFP paid"(Section 10.21, Review, 2000).

This study found mixed support for this thesis. Some men felt that paying the Department was making no difference to the quality of their children's lives in the lone

parent family unit, so the implementation of this recommendation would probably have been welcomed by them, as in the case of Alfred:

It boils my guts down thinking that they [the Department] are getting it. Now I don't mind paying the money if the child is benefiting from it but not to think that they are getting it, you know what I mean and there are people out there who are giving fucking nothing. 191/19

At the same time there are men who feel that determination orders act as a barrier to maintaining a relationship with their children because they curtail the financial resources at their disposal. Where men want to have an active parenting role and where they perceive the basis for their ex-partner's OFP claim to be unfair (e.g. ex-wife falsely claims that man deserted family home or was an alcoholic; ex-wife could work), a 50% disregard may not be an incentive to pay a determination order. Instead it could lead to greater dissatisfaction if as a result of the disregard men felt that their former partners were able to offer their children a comparatively better quality of life¹⁴, or if it appeared that their ex-partners were the main beneficiaries¹⁵:

I don't know if there is anything such as a deserted husband but I feel like a deserted husband because she wanted a separation, she wanted this and she, she got all that and she's entitled to go down to the social welfare and claim this and that and everything. (Bushy) 1560/37

Another perspective is that some non-resident fathers preferred paying the state rather than their ex-partners so a maintenance disregard may have a neutral effect. One man rationalised this by suggesting that he felt less anxiety paying the state as "he knew that his money was being put to good use" whereas his experience of paying maintenance direct to his ex-partner resulted in him having concerns that it was not being appropriately spent. In his mind he transferred to the State the risk of his ex-partner spending maintenance inefficiently.

In summary, the belief that it would be more likely for non-resident fathers to comply with determination orders if there was a significant maintenance disregard for their ex-partners may be naive and in some circumstances may actually be counterproductive. The thesis is based on the not always correct assumption that non-resident fathers would at all times prefer the resources of the lone parent family unit to increase as a result of them paying determination orders. Where these resources increase but where they do not have sufficient resources to fulfil an active parenting, men may feel

¹⁴ On average, it is more likely that ex-partners of social welfare supported lone parents have less income than ex-partners of non-state supported lone parents. In 2000 43% of liable relatives were themselves receiving social welfare support (Table 10.1 of Review of One-Parent Family Payment, 2000)

¹⁵ Men's dissatisfaction can be reinforced if they feel that their partners are not fulfilling their capacity to work and they feel that they are working too hard.

frustrated with a policy which appears to be based on the premise that the needs of children are best served in the lone parent family unit. However, where men do comply with paying determination orders there is the likelihood that as a result of this policy change children will have access to more resources in the lone parent family unit, irrespective of the feelings of their fathers.

Policymakers need to be aware of these tensions and more open in explicating whose interests child support policy is serving and in which domain, whilst acknowledging the consequences for different stakeholders. These points will be examined in more detail later on in this chapter.

In conclusion, while there is a need to maintain individualised and flexible justice, there is also a need for a transparent, consistent and uncomplicated child support decision-making process. Although they may be difficult to construct, the presence of detailed guidelines could help to avoid the positioning adopted by the parties both inside and outside the court. As Power (2002: 29) notes, “it is a cliché that settlement bargaining takes place in the shadow of the law, but when the law itself is obscure, the bargaining can often more resemble shooting in the dark”.

7.1(b) Work Expectations on Lone Parents

In chapters three and four it was demonstrated that separating parties vary in terms of their aspirations and in terms of the level of resources required to meet these aspirations. Men who were the most dissatisfied with child support arrangements –as part of a separation settlement – generally tended to be those who were the sole earner and who wanted to have a more active parenting role. Often their dissatisfaction was due to the absence of sufficient resources to meet the capabilities of the separating parties.

This is not surprising for as Minow (1998:307)) suggests, the breakdown of a relationship requires the “spreading of resources between two households that otherwise would be devoted to one. This basic fact means that two households in most circumstances, will be unable to achieve the standard of living available to the one”¹⁶. Or as Corden (1999:57) puts it, “one person’s income and resources does not stretch to two households”. Therefore, one of the implications of this study is whether child support policy should place a greater emphasis on identifying ways to increase the

¹⁶ For example, the economies of scale achieved for each additional child in one household cannot be achieved over two. Gaimpetro (1986) estimated that the total income of the two parents must rise between 10 and 24 percent to keep the standard of living of each member unchanged.

level of resources available to post-separation households. One possible way would be to place a greater expectation on lone parents to work.

Irish child support policy does not oblige lone parents to work outside the home. However, non-resident fathers especially of school-age children were dissatisfied if their former partners did not work or could have worked longer hours outside the home. This dissatisfaction was reinforced if men also supported their former partners. In such circumstances men felt that an unfair financial burden had been placed on them:

If she gets a job that's grand because I won't pay her any money but unfortunately there's no set period of time in this country, there are in other countries where okay where you're divorced or you're separated and they say, "Well if you're the wife say or the dependent spouse is probably a better way of putting it, it can be either a man or a woman, well after 5 years you know there's an expectation that maintenance ceases for that person and you go off and you get yourself a job". Now that's perfectly reasonable because after 5 years assuming it all happens when a child is born the child is going to be in school so that's reasonable. But like there's no expectation of that here...(Jack) 427/39

Men felt that if their partners were working, they could pay reduced or no formal child support or spousal provision; these saved resources could be spent in other ways -on themselves or directly/indirectly on their children.

Similarly, in terms of the social welfare component of the child support regime, non-resident fathers who pay determination orders have little control over how long they remain liable relatives (e.g. the resident parent makes the decision to work outside the home). This is a point that the DSCFA recognises; as the *Review of the One-Parent Family Payment (2000:138)* suggests, long-term welfare dependency in respect of lone parents of working age and ability should not be considered to be in the interests of the lone parent or society in general.

Therefore, there is a need for Irish legislators to examine whether there should be a greater obligation placed on lone parents especially of school age children to work outside the family home. This may attract Exchequer costs (e.g. training, tax incentives) but savings may also accrue (e.g. reduction in the number of OFP claimants, tax revenue).

Moreover, child support policy may become more acceptable to non-resident fathers if their formal child support burden is reduced, whilst leaving them with more of an opportunity to spend resources as they see fit; factors which are probably also conducive to greater child support compliance. In addition, when the lone parent works, children derive the benefit of having access to an alternative source of income.

At the same time a balance may need to be struck between the economic and social considerations of the different parties. While there may be advantages to lone parents working, to compel lone parents to do so may have counterproductive effects. Lone parents may feel that they have a reduced personal choice- in terms of their capacity to parent or in comparison to the choices available to other parents –working or not working- who are still together. In other words, the State by placing work expectations on lone parents may leave itself open to the criticism that it restricts or, even worse, discriminates against lone parents in fulfilling their parenting role compared to other mothers.

7.1(c) Enforcement Procedures

In chapter five it was noted that the presence of an enforcement tool can affect men's child support actions. In addition to influencing how child support arrangements are put in place, their presence can affect men's on-going response to support arrangements.

Enforcement tools¹⁷ were seen to have strengthening, preventive and restorative functions. In most cases in this study where men were dissatisfied with child support arrangements in place, they were willing to put up with or start re-complying with arrangements because the activation of enforcement procedures can attract unwanted costs.

The negative consequences of non-compliance actions are viewed not only in terms of the legal and financial penalties that they may suffer but also in terms of the costs to their self-identity (i.e. symbolic¹⁸) and post-separation relationships¹⁹. The consequences of enforcement procedures are also weighed up in light of the knowledge that formal child support arrangements do not last forever.

However, there may be a small minority of men who continue to resist paying child support, irrespective of enforcement measures. These men had little or no contact with their children and found it difficult to come to terms with being separated. If men feel

¹⁷ Instruments such as court summons or orders; directives for child support payments to be made via the court, and committal to prison proceedings can put pressure on men to enter particular arrangements, to refrain from non-compliance acts or to discontinue with a non-compliance stance.

¹⁸ For example, considering the symbolic costs, some men find it dishonourable or shameful to receive a court's summons for non-compliance. It undermines their identity as responsible parents in their own eyes and in the eyes of others, even though they may be dissatisfied with support arrangements.

¹⁹ Similarly, for men who have developed good parenting arrangements they can also put up with unsatisfactory child support arrangements. Engagement with solicitors and the courts resulting from non-compliance actions was seen as a recipe to increase conflict with their ex-partners and to have a negative impact on their own parenting arrangements.

that they have little else to lose, the use of enforcement procedures may have little effect on child support compliance. This is because they are more willing than other fathers to accept the legal/financial, emotional/relationship or symbolic costs associated with non-compliance.

However, in child support policy research the effect of the preventive function of enforcement tools has perhaps not been sufficiently acknowledged because it has been assumed that where non-resident fathers are complying with child support arrangements it is because they are satisfied with arrangements and/or because arrangements are an expression of their financial commitment to their children. In addition, whilst enforcement tools have bolstering and restorative functions, in some cases their effectiveness may be overstated where non-resident fathers feel that they have little else to lose when they stop complying. In such cases the impact of enforcement tools may have little or no effect on men's child support actions.

Nevertheless, where men have interests in parenting, sustaining their self-identity, and avoiding unnecessary legal and financial costs when they are re-establishing themselves after separation, the presence of enforcement procedures will help to ensure that men make child support payments, irrespective of their judgement on these payments.

Therefore, the successful use of enforcement procedures can mask men's dissatisfaction with child support arrangements. Cheal (2002) suggests that where governments attempt to impose a version of family responsibilities that is regarded as unreasonable, some people will respond by developing avoidance strategies. The use of enforcement procedures may in turn be seen as the State's response.

7.1(d) Other Issues

7.1(d)(i) Court Environment

Whilst not directly related to child support policy, a number of issues could be addressed to make the experience of attending court more bearable for couples splitting up. First, when separating couples are trying to resolve issues outside the District or Circuit Court, a private negotiating space (e.g. quiet room) may help negotiations to run more smoothly as currently negotiations can take place on crowded corridors. Second, it appears that in some courts more time could be set aside for family law proceedings because there was a sense in some cases that the Court dealt with issues in a hasty manner. Third, apart from some dedicated courts, family law

cases get dealt with alongside criminal cases, which can be distasteful and shameful for separating parties:

The Court [i.e. Bray District Court] doesn't start until 10 o'clock, it could be quarter past 10 but he finishes bang on 11 o'clock, so if you've got 15 cases [i.e. family law] to go through right, just runs through them like that, and then he goes out and then starts dealing with the criminals, the robbing and [...] like he should be a proper judge for a family and it should be more private than it is. We were sitting round out in the hallway and everybody's solicitors were talking, you can hear every word. (Peter) 601/23

Fourth, a number of men felt that the Court was not interested in listening to them or identifying their needs, which causes resentment with child support proceedings. It was suggested that District Court judges in particular could do with more training concerning how to treat male respondents:

There is a huge variation in the District Courts in the judge. If you can get the judge on your side, emotion will do an awful lot rather than – they are very, very poorly trained. In my case I don't think the judge had the faintest idea [i.e. about awarding maintenance]. I dealt with him there and I saw him afterwards driving away in his Mercedes. I think that he is a little bit divorced from the real world. (John-Paul) 318/4

7.1(d)(ii) Information on Child Support Awards

In chapter six it was noted that some non-resident fathers believed that family law proceedings were biased in favour of their former partners. There is little evidence to challenge these judgements because the Irish Court Service has not to date published information on maintenance awards and separation settlements.

Such information would at the very minimum provide benchmarks for separating couples -and the Courts – in relation to child support and separation settlement decision-making. It would also encourage wider scrutiny in this policy area:

This information is unavailable to the public, it's all done in camera, there is nothing published, there is no statistics. It's not open for public debate. (Felix) 1957/41

The experiences of men in this study would concur with Flockton's (2003:19) recent judgement about Irish family law proceedings:

"The secrecy that surrounds family law cases encourages many people to feel that injustice is being done behind closed doors. Whether that is a misconception or not, the strong sense of injustice is hard to dispel when there is virtually no information about family law cases to counter that perception".

7.1(d)(iii) Information on the Costs of Caring for Children

The absence of child support guidelines goes hand in hand with the dearth of accurate information available to non-resident fathers, which outlines the real costs of caring for a child. There was evidence from this and other research that non-resident fathers did not fully appreciate the costs of raising children in lone parent family units. Simpson

(1998:119) notes that men may confuse their own contributions to their children, which they see as part of a gift relationship with contributions made to the overall running of the household in which their children live. He believes that this is no doubt related to the fact that men have little “hands-on” experience of managing a domestic budget. In turn their assumptions about the extent to which money can be stretched may be unrealistic.

Burgess & Ruxton (1996:79) suggest that information on caring for children would help to reduce the tensions arising during the child support resolution process. In Ireland there is little objective information in relation to the costs of bringing up children in lone parent households, on which separating couples can base their child support calculations. Burgess & Ruxton (1996:80) suggest a sensitive and appropriate means of assessing these costs is needed, for example, by constructing a form of a standard assessment of child costs based on a modest, but adequate family budget, taking into account the varying circumstances of parents²⁰.

7.1(d)(iv) Access and Child Support

As highlighted in Chapter 5.3(a) the relationship between men’s access to their children and child support provision is complex. Modest or no father-child contact may or may not necessarily lead to child support compliance difficulties. Where men perceive a restriction being placed on access arrangements they may retaliate by reducing or withdrawing maintenance provision. In doing so, policymakers may want to consider that in some post-separation families, “cultivating family ties may become more important as less can be taken for granted about the obligation of particular kin to one another” (Furstenberg, 1989:28). In making such a decision men weigh up the consequences of facing child support enforcement procedures.

On the other hand, there were fathers who had little contact/involvement with their children and accepted this arrangement. Some continued to pay child support. They subscribed to a traditional breadwinner role model and the provision of child support

²⁰ In reality, estimating family expenditures for children may prove difficult. Rothe et al. (2001: 33-34) in a review of literature suggest that there are no ideal data sources. They argue that there is not unanimous agreement about the theoretical and conceptual underpinnings of such measurement. Furthermore, it is doubtful whether shortcomings in data could ever be fully eliminated. This is because intrusive collection methods would be required to remedy data problems and because of the difficulty in allocating expenditures made for children rather than adults. Specifically, they suggest that it is probable that the methodologies so far used in different studies do not work well for families with significant noncurrent consumption spending. This is “because the methods cannot identify savings that are intended for the benefit of the child”.

was a kernel part of their parenting role. Others stopped paying child support. They continued neither an investment or nor an involvement role with their children.

Given the complexity of these scenarios it has been difficult to identify a policy implication concerning the relationship between access and child support. If society accepts the *separate* principles that men have the right²¹ to have access to their children and that they share in the financial responsibility for them, then it may be difficult to argue that there should be a direct policy link between child support and access. As Garfinkel et al., (1998:36) suggest, “non-payment is not a valid reason for a resident parent to deny access, nor do we believe that denial of access is a valid reason for non-payment”²². Furthermore, recent US evidence²³ indicates that programmes designed to improve non-resident parents’ access to their children in families with long term conflicts about child support or access have not been successful.

One way forward may be for policymakers to examine the consequences of the “male breadwinner” model underpinning the Irish welfare regime (Lewis (1999:194). This could be achieved by examining the expectations and limitations placed on men and women after separation in their different capacities, but especially in relation to parenting.

7.2 Child Support Policy and Public Policy

The main difficulty for child support policy stems from the fact that there are usually not enough resources to go around after separation to provide for how everyone would like to live their lives. One consequence has been men’s dissatisfaction with paying child support in wake of the wider separation settlement. This in turn has contributed to some men renegeing on support arrangements.

In response to men not paying, child support policies in many countries in recent years have moved towards standardised child support assessments and tougher enforcement measures. These issues have been explored to some extent from an Irish perspective in this chapter. However, the question remains whether these are the most feasible policy options.

²¹ Unless children are deemed to be at risk.

²² In addition, Struening (2002: 123) suggests a strong connection between breadwinning and fatherhood can be a factor, which *discourages* contact. Men may be ashamed of themselves because of their inability to provide for their children. As a result they may withdraw from them.

²³ Mothers and fathers were both equally likely to report visitation problems. Many also reported concerns about their child’s safety in the other parent’s home. At best, there was only a small improvement in child support compliance (Pearson & Thoennes, 1998).

On the one hand, if the aim of child support policy is to address the needs of children in lone parent families through child support provision, then adopting a clearer child support resolution process and strengthening enforcement mechanisms to respond to non-compliance may be possible policy considerations. On the other hand, this line of thinking may be unacceptable to many fathers for a number of reasons.

As has been shown men note that there are other ways to support their children than child support. In addition, they require different levels of resources after separation because they have different aspirations, not least around parenting. Furthermore, men's views on child support provision are informed by their judgement of the wider separation settlement. Finally, child support is not always perceived as an unconditional commitment.

All these can have ramifications for the use of enforcement procedures. For example, the activation of child support enforcement procedures can be objectionable to fathers where access has been restricted. The issue therefore remains whether it is possible to develop a child support policy, which addresses the needs of children after the break-up of relationships *and* at the same time is more in line with how people want to live their lives.

One way forward to explore this issue is to draw on Nussbaum's (1998; 1993) "capabilities approach" which was outlined in chapter one²⁴. This allows for the effects of child support policy to be considered in relation to what a life would be like if it was fully flourishing, which Nussbaum suggests public policy should be promoting. Translating this Aristotelian ideal to a practical level, a list of ten central human functional capabilities has been identified by her in an attempt to specify the dimensions of the good life²⁵. The ten – as outlined in chapter one - include functional capabilities addressing basis life, educational and political opportunities.

²⁴ To repeat, this is an approach to quality-of-life measurement, by which a goal of public policy should be to focus on the question: "What are the people of the group or country in question actually able to do and to be?" Nussbaum (1998:34). Regarding these "doings" and "beings" they can be seen in terms of the activities performed by human beings that seem definitive of a life that is truly human. In other words, there are functions without which a life would be regarded as not fully human.

This quality of life theory is influenced by the Aristotelian ideal that the goal of public policy should just not be the attainment of human survival but instead aiming for a life in which "fully human functioning, or a kind of basic human flourishing will be available", Nussbaum (1998:34).

²⁵ Nussbaum notes that all the functional capabilities are of central importance and all are distinct in quality, whereby although some may be linked to each other, the trade-offs between them are limited. The "capabilities approach" as she conceives it, claims that a life that lacks any one of the ten capabilities, no matter what else it has, will fall short of being a good human life, Nussbaum (1998:42). In other words, a shortfall in any capability leads to a deficit in there being

As noted in chapter one, Nussbaum (1999:46) says that the list is a list of combined capabilities. She also suggests the “two-fold importance of material and social circumstances, both in training internal capabilities and in letting them express themselves once trained”. In doing so this gives rise to liberties and opportunities.

By considering just four of these capabilities²⁶ from men’s perspectives highlights some the dilemmas facing policymakers. These are the capabilities focusing upon "emotions", "affiliations", the "material control over one’s environment" and "bodily health and integrity", (Nussbaum (1998:41-42)).

These capabilities will be primarily explored in relation to non-resident fathers’ lives. This is because while the aim of child support policy is to provide support for children, Nussbaum’s approach allows for an assessment of how child support policy (i.e. a public policy) affects men, whom it is principally dependant for its funds.

Central Human Functional Capabilities addressing Affiliation & Emotions

Being able to live for and in relation to others, to recognise and show concern for other human beings, to engage in various forms of social interaction, being able to imagine the situation of another and to have compassion for that situation, having the capability for both justice and friendship. Having the social bases of self-respect and nonhumiliation; being able to be treated as a dignified being whose worth is equal to that of others. (*Central Human Functional Capability Number 7 –Affiliation*)

Being able to have attachments to things and persons outside ourselves (*Central Human Functional Capability Number 5 –Emotion*)

While non-resident fathers generally acknowledged they had a fathering role, they varied in terms of how this was understood and executed.

Some fathers took a traditional approach to fathering in the sense that they paid child support and primarily left it up to their ex-partners to raise their children. These men had some contact with their children, but as long as their ex-partners were reasonably looking after their children’s interests, they were, broadly speaking, willing to accept child support arrangements. For these men it could be argued that their “central human

the possibility of a good human life. Nussbaum (1998:45) suggests that if one cares about people’s powers to choose a conception of the good, then one must care about the rest of the form of life that supports those powers, including its material conditions. This gives rise to correlated political duties to ensure that capabilities to function are met.

²⁶ The other capabilities could of course be also considered. However, the four chosen appear to be the most pertinent in relation to the child support experiences of the men interviewed for this study. Therefore, it has been decided to focus on these four capabilities rather than examining each of Nussbaum’s ten central human functional capabilities.

functional capability” in relation to their own needs as parents as well as how they and the state interpreted their financial commitments to their children were being met through formal child support arrangements. In such circumstances and as long as these conditions hold, it could be argued that child support policy is broadly acceptable to these non-resident fathers and is successful as a means to provide for their children in lone parent families²⁷.

However, the functional capabilities of other non-resident fathers to parent were not satisfactorily realised in this way. It was insufficient for them “*to live for and in relation to*” their children or “*to recognise and show concern for*” their children through their ex-partners’ parenting activities. For them “*to engage in various forms of social interaction*” involved having an active parenting role. Their “*social bases of self-respect and nonhumiliation*” were very much tied up with their self-identity and their self-worth as an involved parent.

Seen in this light, non-resident fathers less than enthusiastic views about child support provision become more understandable because although they acknowledged a financial responsibility towards their children, they queried the extent to which child support provision enabled them or their children to achieve well-being.

For example, where child support is not recognisable by their children as an expression of their parenting commitment, some men are less than enthusiastic payers because making provision does not feel like they are parenting. This judgement can be reinforced where fathers experience access to their children being restricted.

Such circumstances highlight the difference between what Nussbaum (1999:46) calls internal and combined capabilities²⁸. She suggests that a sharp distinction becomes recognisable between them “when there is an abrupt change in the material and social environment”. In other words, after separation the internal capability for some fathers to parent may be present but the combined capability to do so is no longer available.

Where child support provision does not contribute to a sense of parenting, this may help to explain why men can be happier to spend resources in other ways on their children. Furthermore, although children should normally benefit from the provision of child support, at the same time they may not recognise an expression of their fathers’

²⁷ On the other hand, it could also be argued that public policy may have influenced what they believed they could attain:

“*In general, people frequently adjust their expectations to the low level of well-being they think they can actually attain*”. (Nussbaum, 1998:33)

²⁸ As noted in Chapter One.

commitment to them through child support so they may not feel cared for by their fathers.

Therefore, it is not only necessary, as Garfinkel et al. (1998:36), argue for child support policymakers to put in place measures for fathers “to know that their children derive some benefit from their child support payments”, they also have to address the fact that some fathers need to be reassured that their children are aware that payments are coming from them and that these payments demonstrate their commitment to them. In order for this to happen it would be useful to adopt Bradshaw et al.’s (1999:231) recommendation of putting in place a formal arrangement to inform children that their fathers are maintaining them.

Doing so is likely to increase men’s functional capabilities in relation to affiliations and emotions and to increase their tolerance of support arrangements. It is likely to improve their children’s welfare- both in terms of them knowing of their fathers’ commitment to them and having a more secure source of resources (i.e. increased compliance) - and would not appear to inhibit their former partners’ functioning. However, for some men these initiatives are probably not enough.

For them it is not so much the lack of recognition with their role that led to their dissatisfaction with child support arrangements but their judgement that the financial costs associated with father-child contact were not given sufficient consideration. One of the significant costs can be in relation to shelter.

Central Human Functional Capabilities addressing Shelter

Being able to have adequate shelter (*Central Human Functional Capability Number 2 – Bodily Health and Integrity*)

Being able to hold property, having a right to seek employment on an equal basis with others (*Central Human Functional Capability Number 10 – Control over one’s environment – Material*)

Adequate shelter provides the foundation for men to acquire a certain level of self-respect and dignity as it provides the basis for post-separation relationships. While it opens up the possibility of new adult relationships (and thus increases their functional capabilities set to achieve relationship well-being), non-resident fathers’ aspirations in this study for satisfactory housing stemmed more from how it can provide them with better parenting opportunities. In other words, adequate shelter for some fathers meant having their *own* accommodation for their children.

Men compare the standard of their post-separation housing to that of their former partners or to the time before their separation. What comes to mind is Runciman's (1966) concept of relative deprivation in that these housing conditions act as men's "reference" points²⁹.

For those who do not obtain adequate shelter this can leave them with ambiguous feelings about the outcome of a separation settlement. Whilst acknowledging an obligation to support their children, some men's self-worth and self-identity can be informed by the extent to which they are able to parent. If this role is curtailed by not "being able to have adequate shelter" for their children, then they can have reservations about paying child support and their ex-partner's mortgage.

This can particularly be the case if they regard the costs associated with obtaining adequate shelter for themselves and their children as a demonstration of their financial commitment to their children. These reservations were reinforced if they felt that their ex-partners could have generated income elsewhere or if they felt that their ex-partners did not need the overall level of resources re-distributed to them in terms of child support, housing or other provision.

Therefore, men's capabilities around affiliations and emotions, and around shelter can be seen to coexist and come together to affect their attitude towards paying child support, particularly if making provision restricts their post-separation aspirations being met.

Overview

It is important to understand men's child support perspectives. This is because in order for child support policy to be successful it is primarily reliant on men to pay child support. The benefit³⁰ of the capabilities approach is that it recognises the fact that men

²⁹ Men who wanted an active parenting role but who had never owned a home, were more likely to accept their post-relationship housing circumstances and were more likely to tolerate an outcome where their children were unable to stay with them. The need to own a home after separation did not generally appear in their functional capabilities set. Likewise, in those cases where men were unemployed at separation, generally there was not an expectation that the State would fund two post-separation households to accommodate their children.

On the other hand, men who owned a home before separation, contributed to their former partners post-separation mortgage and wanted an active parenting role were usually unable to fulfil their functional capability concerning shelter. This is because they normally wanted to buy another home but were not in a financial position to do so. Their "reference" points were their pre-separation and their former partners post-separation housing. They wanted to be in the position to offer their children a comparable standard of living at least to that provided by their ex-partners. To be the owner of a property (or to have a mortgage) provides the foundation to plan ahead (e.g. parenting role) and signifies a certain quality of life.

³⁰ The capabilities approach has limitations. In a world of finite resources – both in terms of the level of contact and finance available - it is difficult to resolve issues – including child support -

have different aspirations and needs in order for them to acquire some sense of well-being. Nussbaum's approach by identifying specific functional capabilities, allows for an examination of the effects of child support policy on men's lives in relation to a possible wider goal of public policy. Using the approach helps to identify three categories of fathers that are affected by child support policy.

First, for some men their capabilities sets are such that child support policy does not need adjusting in order to secure support for children in the lone parent family. These men play a traditional breadwinner role in their children's lives.

Using Nussbaum (1999:46) it could also be argued that by only fulfilling this role, the appropriate development of men's internal powers has not occurred. Why this has happened is not a question for this thesis to address but drawing on Nussbaum's work there is one possible –and possibly controversial- hypothesis to consider. This is that boys and men have not been sufficiently assisted in their development of their capabilities in relation to affiliations and emotions. Furthermore, any support of paternal capabilities –defined in this way - is likely to be curtailed after separation.

Such comments may be seen as positioning men as victims and making light of *their* choices to rule out better links - where possible - with their children. On a different tack, they also open up the possibility that current forms of masculinity may be hostile to affiliation and emotional capability. If this is true, optimising men's capabilities gives succour to a social reconstruction of masculinities, supporting Westwood's (1996:33) view, that "there is no single unitary masculinity".

Second, other men's capabilities sets are such that child support policy needs to be adjusted so that they know that their children are aware that child support demonstrates their commitment to them. Furthermore, these men want a relationship with their children to the extent that if access arrangements are restricted, they may stop paying child support.

Third, for other non-resident fathers their capabilities sets are such that they need more resources. This position can be justified by noting their aspiration to be a more involved

without compromise or trade-offs. In other words, one person's capability set may be curtailed at the expense of another's, which is anathema to the capabilities approach.

One issue that is not addressed in any detail in this thesis concerns the best way to fulfil the capability set of children to achieve well-being. There are problems in relation to identifying how the functional capability sets are to be determined, the extent of children's involvement in determining the sets, the necessity of another's involvement (e.g. contact) to fulfil one's own well-being.

parent, the impact of the overall separation settlement and their judgement that the lone parent family unit can access other resources. Instead of paying formal child support, they would rather spend more money directly or indirectly on their children, which they also see as a form of support.

Optimising men's capabilities³¹ therefore appears sympathetic to viewing masculinities in a different light. It can accept a blurring of gender roles as men begin to own and live out as part of themselves the qualities of "sensuality, affiliation, and maternal tendencies – in effect, the "femininity" that was previously repressed in the service of productivity and lived out vicariously through the wife" (Gutmann, 1987:203).

At the same time all fathers face three restrictions. These restrictions especially affect men whose capability sets are such that they require resources to fulfil a more active parenting role. These restrictions are:

- The socio-legal culture mainly considers children's welfare in the context of the lone parent family unit.
- There are usually insufficient resources available after separation for all the parties to fulfil their capabilities³².
- There is a lack of a clearly definable or acceptable post-separation role for non-resident fathers³³.

Therefore, men's claim to an active parenting role and the costs associated with such a role are not perceived to be acceptable by society particularly if the welfare of children in the lone parent family unit is undermined. In turn this lack of acceptance can affect men's judgement of child support arrangements³⁴.

³¹ While these nurturing qualities were not always visible, the capabilities approach also allows for an examination of men's other post-separation aspirations and the consequences of these for Irish child support policy. See footnote 36 for a fuller discussion.

³² The more a non-resident father wants to have an active parenting role, the greater the demand on post-separation resources. Any tension is sharpened by the fact that child support policy is broadly predicated on the basis of supporting children in lone parent families.

³³ Fulfilling such a role can generate costs but as Plummer (1995:126) suggests, there are generic processes involved in getting such roles and their associated costs publicly accepted (i.e. "creating a culture of public problems"). In other words, the range of men's parenting stories need to move out of their limited world and enter the public discourse. According to Wiener (1981:14), "how the dimensions are carved out, how the number of people drawn into concern about these discussions is increased, how a common pool of knowledge begins to develop for the arena participants, and how all these sub-processes increase the visibility of the problem" lead to a situation through which social problems are socially constructed. It could be argued that these sub-processes are only now beginning to emerge in relation to the post-separation roles on non-resident fathers.

³⁴ If the price men have to pay to have a relationship with their children – which includes the costs of their own parenting activities -compels them to work longer hours outside the home than they would prefer, it becomes more understandable why non-resident fathers become less

Where non-resident fathers require more resources, Nussbaum's capability theory raises the interesting question about whether child support policy succeeds or fails as a public policy insofar as it enables or inhibits men's and their children's capability to achieve well-being. With this question in mind a number of options could be explored:

With No Change In The Overall Level Of Resources, Increase The Resources Available To The Non-Resident Father At The Lone Parent Unit's Expense

The onset of separation means that the parties in the two post-separation households will generally not be able to achieve their pre-separation standard of living. However, non-resident fathers after separation who wanted an active parenting role did not like offering their children an inferior standard of living to that on offer in the lone parent household. From Nussbaum (1999:46) it could also be argued that the environment is no longer conducive to sustain a father-child relationship. In other words, some men's "combined capabilities" regarding affiliations and emotions are no longer present.

Therefore, it was not surprising some fathers felt that too much attention was paid to securing the standard of living for their children in the lone parent's household at the expense of their own, and as a result, they wondered about the efficacy of paying child support. They argued that while children do need to be supported, more attention should be paid to ensuring that post-separation households are left with similar living standards³⁵. While children's quality of life in material terms may not be as good if the

than enthused about paying child support arrangements put in place at separation. Some felt caught in a catch-22 situation; working long hours limited their ability to give ample quality time to their children. These frustrations were intensified if they felt their ex-partners could have generated resources through work or were spending child support inappropriately. Again, there were neither State nor social pressures on their ex-partners to generate child support from other sources or to spend resources in a particular manner.

Similarly, where some men felt child support provision did not make a significant difference to the quality of their children's lives within the lone parent family unit, there was frustration making provision when it could affect the quality of life they could provide during father-child contact. This was particularly felt when lone parents after separating generated income from other sources (e.g. working in well-paid jobs, having access to third party support) but there was not a downward change in the level of provision.

³⁵ However, this viewpoint may lack foundation. First, the sample of men in this study was predominantly drawn from those who were legally separated for a relatively short period of time. Their living standards may not have been as good compared to those men who had been separated for a longer period. Scales (The Observer, 22 Oct, 2000) discussed evidence from the British Household Panel Study where it was observed that although both members of a failed marriage are immediately worse off after a divorce, men's disposable income a decade later increases by an average of 15%. Second, men may not have a realistic view of the lone parents' income. For example, noted that divorced women's disposable income after 10 years falls by around 28%. On the other hand, what should also be considered is that when a woman starts to live with a man, her effective income rises by 40%, while his falls by 10% (Buck et al., 1994).

Corrigan (2000) (see <http://www.ivenus.com/relationships/issues/SR-relativeissues-wk34.asp>) noted that, "as a general proposition, given a choice between seeking a divorce in Ireland or the

lone parent household no longer remains “income-protected”, by taking into account the social or relationship benefits arising from having post-separation households at a similar standard, non-resident fathers argued that overall welfare levels would remain the same or increase.

In order for this to happen the current principles on which Irish family law decisions are made would have to change. However, if it was to happen a potential free rider effect may occur in the sense that the separating parties may use their parenting (and their children’s) needs as a justification for acquiring resources for other purposes³⁶.

In practice, an assessment of the children’s welfare would be difficult to achieve. In addition, when men reflect on the living standard of the post-separation households they are considering the effects of the overall separation settlement and not just child support arrangements. It may be difficult to disentangle the effects of these overlapping elements.

Improve the Child Support Review System

While a number of non-resident fathers welcomed the emergence over time of more informal and flexible childcare arrangements, which allowed them greater parent-child contact, such arrangements did not necessarily go hand-in-hand with an equivalent reduction in the level of child support to be paid, even though there was the machinery (i.e. court, mediation) in place for it to happen. Not only did men believe their ex-partners or the state insufficiently acknowledged the higher financial costs resulting from their greater parenting involvement, *but men themselves* were also reluctant to re-negotiate child support downwards as such a course of action ran the risk of

UK, the economically weaker spouse, which is normally the woman, should apply for a divorce under Irish jurisdiction”. One reason for this is that a “clean-break settlement” operated in the UK but not in Ireland.

³⁶ In this section the issue of men requiring resources has primarily been examined in relation to their parenting role, with the possible additional benefits accruing to children being noted. However, there were also cases in this study where non-resident fathers needed resources for other purposes (e.g. new relationships, to get a business off the ground) which they felt justified their less than enthusiastic formal child support positions, especially if they felt their former partners had access to other resources.

Without going into too much detail it is possible that Nussbaum’s capabilities theory can be used to justify such men’s positions. For example, where the non-resident father was reluctant to pay support because he wanted to get his business off the ground, he noted that by doing so he would be in a more secure position to *later* provide for his daughter. Similarly, when a man enters a subsequent relationship his position may be justified because by doing so he is fulfilling his functional capabilities in other areas of his life to achieve well-being, and as Nussbaum (1998:33) suggests trade-offs between specific functional capabilities such not occur. However, while such positions can be justified which result in a deferred or reduced child support commitment, at the same time it is unclear from Nussbaum’s account – unless the State provides a financial input – how children’s *immediate* needs, all other things being equal, can be met.

destabilising father-child contact arrangements. In such circumstances child support was seen as important vehicle to fortify access. In other words, while men valued closer contact with their children there was a price to pay for it.

Therefore, if child support policymakers adopted a more systematic and pro-active approach to reviewing child support arrangements rather than leaving it up to the separated parties to instigate proceedings, such arrangements may come to more accurately reflect post-separation circumstances. Such an approach would also benefit children who are primarily cared for in the lone parent family unit as not all child support arrangements are index-linked to inflation. Similarly, post-separation rises in men's incomes do not automatically translate into increased child support provision. However, for such a system to be effective there may be administrative cost implications. Separated couples may also worry that the introduction of mandatory reviews could trigger renewed conflict between them.

Increase Public Expenditure On Post-Separation Households

Family members have capabilities sets often informed by their pre-separation experiences. There are usually insufficient resources available after separation to fulfil post-separation aspirations particularly where fathers want an active role with their children. Nussbaum's theory implies that men have as equal a right as other family members to acquire a functional capabilities set - before, during and after separation. Furthermore, she suggests that trade-offs between specific functional capabilities should not occur. However, in the reality of separation negotiations they do so (e.g., maintenance is paid to sustain father-child contact).

In such circumstances, Nussbaum suggests that a public policy intervention may be required in order for people to attain the "good life". For example, it could be argued that if men cannot afford to meet the financial needs of their child without there being negative consequences for themselves (e.g. their functional capabilities set), then there is a role for public policy involvement:

"The aim of public policy is the production of combined capabilities. This means promoting the states of the person by providing the necessary education and care; it also means preparing the environment so that it is favourable for the exercise of practical reason and other major functions". (Nussbaum, 1998:44)

Alternatively, each man's parenting expectation could be recognised by the State to be a valid³⁷ claim. If this was an underpinning principle of child support policy, such a policy would probably more accurately reflect how people want to live their lives.

³⁷ Unless children are deemed by the State to be or likely to be at risk of abuse.

However, such a policy may prove more difficult and complex to administer. This is because the various ways and locations in which the welfare needs of children can be addressed would have to be considered.

A child support policy that was more sympathetic to men's requirements would possibly improve men's and their children's (outside the lone parent family unit) quality of life. However, all things being equal, if child support is reduced, it is likely to reduce the quality of life of the lone parent unit. Therefore, policymakers need to assess - unless the State subsidises³⁸ people to fulfil their parenting capabilities - whether children's *aggregate* quality of life can be maintained or increased if fathers pay less child support in order for children to spend more time with their dads. Again, such an assessment could prove difficult to undertake.

However, if the State was to provide support to men in order for them to fulfil their parenting capabilities such a policy may be open to criticism³⁹. Taxpayers could query why they were being asked to provide more support to people from families that had broken up. Intact or still married families could question why they were being penalised for staying together. They may perceive separated families receiving more State support than they were receiving. Such a policy may also be seen as an inducement for families to break up.

Acknowledge Unsatisfactory and/or Realistic Outcomes

If people's aspirations are informed by their pre-separation experiences (e.g. standard of living, contact with their children), policymakers may need to acknowledge that current child support and family policy does not generally generate outcomes which

³⁸ In other words, this may translate into the State supporting measures to enable all family members to attain full human functioning. In other words, public policy could provide greater subsidies to separating couples that want active parenting roles in order for them and their children to fulfil their functional capabilities.

There may also be the question of free rider abuse (e.g. the separating parties may use their parenting (and their children's) needs as a justification for acquiring resources for other purposes). Therefore, going down such a road does not rule out compelling men to support their children if they cannot justify not taking a financial responsibility for them. For such a decision to be made in light of Nussbaum's approach, their financial actions need to be assessed. Attention would need to be paid to whether men were spending resources in other ways to secure their children's well-being. If they were not while they were spending resources in ways that were not for their own well-being, it could be argued that they could be compelled to pay. However, such an approach could be deemed to be too intrusive and it would also be difficult to administer.

³⁹ Similarly, men require resources for other purposes (e.g. start-up costs, new families). In terms of the capabilities theory these reasons could be used to justify non-compliance if paying child support meant that men's specific functional capabilities were restricted. However, from a societal perspective there may be two criticisms with this approach. First, there would be a cost to the State of meeting fathers' financial responsibilities. Second, men may use the excuse of needing resources to achieve well-being but may spend money for other purposes.

non-resident fathers who want an active parenting role or who want resources for other purposes, find satisfactory. What may also need to be better explicated are the premises on which policy is based, namely that the welfare needs of children are primarily considered in relation to the lone parent family unit. In doing so public policy may also influence what men believe they can actually attain:

"In general, people frequently adjust their expectations to the low level of well-being they think they can actually attain". (Nussbaum, 1998:33)

In other words, non-resident fathers may have to adjust their functional capabilities sets to be more in line with current Irish child support policy. If part of the policy programme was about educating men about what their post-separation lives would realistically look like, it is possible that some of them would be more agreeable to child support arrangements. On the other hand, some may be more resentful if it was felt that they had little to look forward to, given their pre-separation "reference" points.

Furthermore, State resources could also be used to support this position. If as this study has shown that there is an association between access restrictions and men not paying child support, using State resources to facilitate the creation and the acceptance of a contact culture (e.g. contact centres, social awareness programmes) could lead to welfare improvements for children and men. However, in order for such an initiative to be successful, it would have to be acceptable to men.

Finally, it should be acknowledged that adopting the capabilities approach in this study might be seen in some quarters as controversial given its origins and its general use so far. However, it allows for thoughtful reflection of men's post-separation aspirations, which normally do not get addressed, and the implications of these for child support policy.

In doing so it is also acknowledged that Nussbaum's approach was used selectively, focusing more on the lives of men than on their children or their former partners. Moreover, by using it in a particular way it can be argued that the capabilities framework revealed more about the significance of interpreted "combined capabilities" in certain areas of men's lives. Consequently, greater attention may still be required to identify and analyse traits and behaviours that illustrate more recognisable forms of masculinity. In defence, one is reminded of Beck & Beck-Gernsheim's (2002:86) warning to be aware of family pictures that emphasise aspects of continuity and underestimate aspects of change: "it is not so much normality as constructions of normality that are involved".

7.3 Conclusion

A number of issues were identified to improve the working of the Irish child support regime, *given the current focus of Irish child support policy*, namely to support children in lone parent families. These are:

- Detailed child support guidelines are required to increase the consistency and accountability of child support decision-making in order to address legitimacy concerns, not least in terms of how the Court⁴⁰ considers different factors in determining financial relief.
- At the same time men's stories as documented in this research would also appear to call for a policy response that offers "a degree of flexible, individualised justice", as Bradshaw et al. (1999:229) equally indicated.
- Published information is required to ascertain the level of child support awards and separation settlements made by the Courts in order to increase transparency. Such information by providing benchmarks would help separating couples in their child support decision-making, and also social policy planners.
- There is a dearth of accurate information available, which outlines the true costs of raising a child in a lone parent family. This information would be welcome, as non-resident fathers may not fully appreciate the costs, not least when the guideline of financial equity between post-separation households influences their decisions.
- As men generally expressed dissatisfaction with the Court environment, attention should be paid to examining the possibility of developing a private negotiating space on the Court premises as well as training judges to be more respectful to non-resident fathers and for them to acknowledge their needs.
- After a child support arrangement has been put in place at separation, policymakers need to be aware that men are usually hostile to receive a subsequent request for a greater amount to pay.

⁴⁰ On 31/12/03 *The Irish Times* reported that the Irish Government is planning to remove the total ban on reporting family law cases, by introducing legislation in 2004. The *Irish Times* reported that the reform proposals will be contained in the Courts and Civil Liabilities Bill, and will permit the publication of family law proceedings and decisions, provided the identities of the parties and their children are protected. These developments are to be welcomed not least because proceedings and decisions may at least be properly discussed and evaluated.

- Non-resident fathers especially of school-age children are dissatisfied if their former partners are not working or could work longer hours outside the home. There needs to be a review of public policy in this area to examine the advantages and disadvantages of encouraging lone parents to work outside the home.
- Enforcement procedures may have a significant preventive function that may be overlooked by policy-makers because it has been assumed that when non-resident fathers are paying support, they are willing or content to do so. On the other hand, there may be a group of non-resident fathers where the use of enforcement procedures will have little effect because these men consider that they have little else to lose.
- The issuing of determination orders can be perceived to be unfair if it is seen by men as a way by the DSCFA to retrieve OFP expenditure, which is overwhelmingly structured in favour of the lone parent. Men generally felt more comfortable paying child rather than spousal support.
- Men are dissatisfied with determination order requests if they have agreed to once-off lump sum or non-cash settlements in lieu of child support as a part of a separation settlement because these types of provision are not considered by the DSCFA as a means of support in its liable relatives assessment. Therefore, men need to be informed of the existence of the liable relatives scheme at separation and the consequences of agreeing to particular separation settlement conditions.
- Men can also be dissatisfied with determination order requests if a separation settlement is premised on the understanding that their partners will continue to or commence paid employment after separation.
- Non-resident fathers' motivation to pay determination orders may be overstated in relation to the recent policy change which gave lone parents a 50% maintenance disregard. In some cases it may act as a disincentive to pay.

In the latter part of this chapter men's child support experiences were examined in relation to Nussbaum's capabilities approach. While this model was selectively used⁴¹,

⁴¹ Not least in that the "combined capabilities" of children and their mothers were not sufficiently regarded.

at the same time it somewhat unexpectedly offered an approach by which men's need for resources after separation could be considered. In doing so it was shown that there might be other implications for Irish child support policy in light of wider public policy goals⁴².

Therefore, Irish policymakers have a difficult choice. On one hand, they can continue to consider the welfare of children primarily in the lone parent family unit. This will be in line, more or less, with some men's post-separation parenting and living expectations with the result that child support arrangements will broadly be acceptable to them. Similarly, where men are assessed as being able to provide for their children but do not do so either through child support provision or by other means, the use of child support enforcement tools can be justified to ensure⁴³ that children are supported in the lone parent family.

On the other hand, where child support policy frustrates men in terms of satisfying their parenting and other capabilities⁴⁴, and prevents their children from achieving well-being (e.g. a relationship with their fathers) then its fairness must be questioned if the goal of public policy is to help people to flourish. When men want an active parenting role this usually entails that they require additional resources. They see such expenditure as an expression of their financial commitment to children. One difficulty is that there are not usually sufficient resources available after separation for this to happen. Supporting children is seen by policymakers to primarily occur in the lone parents' domain. Men can be dissatisfied with this principle and consequently with the child support arrangements put in place to sustain it.

⁴² Specifically, it was demonstrated that the implementation of a child support policy based on the principle of the transfer of resources to the lone-parent family unit as part of a wider separation settlement can conflict with the aspirations of many non-resident fathers to achieve well-being. For example, where men required resources to fulfil an active parenting role but where the lone parent was not working.

⁴³ A judgement may also have to be made concerning whether men are using resources to fulfil other capabilities or whether they are squandering resources.

⁴⁴ The issue of men requiring resources is examined here in relation to their parenting role. However, non-resident fathers need resources for other purposes (e.g. new relationships, to get a business off the ground). These reasons were used to justify non-compliance or their dissatisfaction with child support arrangements, particularly if they felt their former partners had access to other resources. Nussbaum's capabilities theory can be used to justify these positions (see footnote 36). However, it is unclear from Nussbaum's theory – unless the State provides a financial input – how children's *immediate* needs can be met, if the expenditure of resources can be justified in terms of meeting men's capabilities. This is because Nussbaum (1998:42) suggests that trade-offs between specific functional capabilities should not occur. However, the very nature of separation is that they do. People's lifestyles can deteriorate. This causes resentment. In a conversation (2002) with Nussbaum she suggested the parenting dilemma may partly be resolved if children were more involved in deciding with which parent they preferred to live. If the children's interests are paramount their functional capability around attachment should be honoured. However, there are a number of weaknesses with this argument. First, children may be too young to decide. Second, they may not make an informed choice. Third, it may place too much pressure on them.

Taking into consideration the capabilities framework a number of alternative policy options were suggested. These included:

- The State encouraging men to accept that current focus of child support policy. In other words, children's welfare continues to be primarily considered within the lone parent family unit with men having a secondary role, however unfair that seems to them and however it affects their quality of life.
- The State acknowledging men's claims to different kinds of parenting roles. This may in turn lead to assessment difficulties and cost implications for taxpayers.
- A more effective child support review system to respond to changes in post-separation circumstances.
- With no change in the overall level of resources, consider increasing the resources available to the non-resident father at the lone parent unit's expense.

In conclusion, Irish child support policy can develop in a number of directions. On one hand, options can be identified to ensure that men are more likely pay child support to provide for their children's needs in the lone parent family unit. Tougher enforcement tools could be used for non-compliance. Consequently, child support compliance will probably rise. At the same time it may leave some men to be less than enthusiastic payers as they judge child support arrangements to be unfair as part of their assessment of post-separation circumstances.

On the other hand, child support policy can go down the more complicated route of responding to how people want to live their lives. It could consider how as a public policy it can help each stakeholder to flourish and not just to survive. However, given the aspirations of fathers are so diverse and that the backdrop to child support decision-making is complex (e.g. socio-legal environment, their ex-partners' viewpoint, the level of available resources, overall separation settlement), it may be difficult to establish a child support policy that is acceptable to all men.

Furthermore, while the discretion and flexibility of current child support decision-making would continue to be welcomed, in reality there are likely to be competing priorities to resolve between separating (or separated) couples. Without the introduction of State funds or the further encouragement of lone parents to work, there may be insufficient resources available for people to meet their aspirations. In such circumstances, if the goal of public policy to help people to flourish, there should at least be an

acknowledgement that child support policy as a public policy is failing. This is because the capability sets of individuals are not being realised.

Optimising men's capabilities appears sympathetic to a social reconstruction of masculinities. However, care must also be given not to distract attention away from either an analysis of gendered power relations or women(or children) because there is a risk of "rendering them invisible and excluding them as participants in the discourse" (Hearn, 1996:203). While this criticism may be labelled against this study, at the same time it was felt important to highlight men's accounts because they have been somewhat neglected in child support policy research.

Finally, although the focus of this chapter has mainly considered policy implications in light of men's experiences, Table 7.1 summarises the likely implications of child support policy options for the different stakeholders.

Table 7.1 Implications of Child Support Policy Options

Policy Options	In the Interests of Children	In the Interests of Lone Parent Families	In the Interests of Resident Mothers	In the Interests of Non-Resident Fathers	In the Interests of the State
Detailed Child Support Guidelines	Yes. Their needs are specified.	Yes. Know what to expect.	Yes. Plan ahead.	Yes. More acceptable, consistent, plan ahead.	Yes. Increases transparency & respect
Published Information on Child Support Awards	Yes. Increases transparency.	Yes. Comparisons can be made.	Yes. Comparisons can be made.	Yes. Comparisons can be made.	Yes. Accountability rises. Aids Review of Policy
Information on the Costs of Raising Children in Lone Parent Families	Yes. Unclear at Present.	Yes. Unclear at Present.	Yes. Makes visible the expenses they encounter.	Yes. Increases men's awareness. Further debate on men's costs is probably required.	Yes. Would inform CS guidelines. No. Extra costs on State may be demanded.
Improving Court Environment	Yes. Perhaps easier to reach settlement.	Yes. Perhaps easier to reach settlement.	Yes. Reduces risk of verbal conflict.	Yes. Reduce sense of feeling like criminal.	Yes. People should be treated with respect.
Encouraging Lone Parents to Work	Yes. Resources rise. No. Reduced contact.	Yes. Resources rise.	Yes. Resources rise. No. Pressure to work.	Yes. Reduced child support payments.	Yes. Tax up. OFP down. No. Additional costs.
Increased Awareness of Enforcement Tools	N/A	Yes. Men continue to pay.	Yes. More likely to instigate proceedings.	Yes. Preventive & restorative elements.	Yes. Maintains credibility of child support policy.
DOs Reflect Children's Needs	Yes. Men more willing to pay.	Yes. Men more willing to pay.	Yes. Men more willing to pay.	Yes. Men more willing to pay.	Yes. Men respect of policy. No. Unlike other schemes.
Include One-off Lump sum/Non-cash parts in Liable Rels. Assessment	Yes/No. Depends on whether it affects lone parent's OFP claim.	Yes/No. Depends on whether it affects lone parent's OFP claim.	Yes/No. Depends on whether it affects lone parent's OFP claim.	Yes. The assessment would be fairer.	No. Likely to increase costs if OFP has to be paid as a result.
Increase State support on Post-Separation Households	Yes. Children may spend more time with father.	Yes. Men more likely to comply with CS arrangements.	Yes. Reduce conflicts with ex-partners.	Yes. Men's role as an active father acknowledged	No. Cost to taxpayers. Yes. If public policy is about folks flourishing, not existing
Increase Resources for Non-Resident Father at Lone Parents' Expense	Depends. Can the aggregate well-being of children be met/bettered	No. Reduced child support payments.	No. Reduced child support payments	Yes. More resources to spend on children.	No. Likely to be difficult to assess, politically difficult.
Improve Child Support Review System	Yes. CS arrangements more accurately reflect children's needs.	Yes. Update payments.	Yes. More resources. No. Increased conflict with ex-partners.	Yes. Reflect post-sep changes (e.g. parenting) No. Increased conflict.	Yes. CS policy more respected, as it is responsive. No. Increased costs.
Acknowledge Men's CS Contribution	Yes. Children more aware of dad's commit.	Yes. Compliance more likely.	N/A	Yes. More willing to pay child support.	Yes. CS Policy more respected.
Acknowledge Unsatisfactory Separation Outcomes	Yes, Greater honesty, more realistic expectations.	Yes. Reduces expectations, therefore reduces risk of conflict.	Yes. Reduces expectations, therefore reduces risk of conflict.	Yes. May reduce expectations. No. Feels Unfair.	Yes. A more honest and transparent policy. Provokes further policy analysis.

Chapter 8 – Conclusion

As Beck (2002:94) suggests, a new organisation of everyday life becomes necessary after family breakdown occurs. This is negotiated or fought over between the two who used to be a couple. New agreements are sought, often with a great deal of argument. Child support is but one of a number of issues that needs to be resolved.

However, child support decision-making does not take place in a vacuum. It is influenced by the nature of the state-family relationship. Specifically, the dual system of child support in Ireland is based on the principle that parents are legally obliged to support their children. In practice this usually means that when parents separate non-resident fathers are meant to pay child support to support their children in the lone parent family. If they do not, enforcement procedures can be triggered. This fits Fox Harding's (1996:187) model of a particular kind of family-state relationship, namely that the State enforces responsibilities in specific areas.

The purpose of this study was to explore non-resident fathers' perspectives of child support arrangements and to ascertain the implications for Irish child support policy. Of interest were men's accounts of how support arrangements were put in place and their child support actions after legal separation.

There were a number of reasons for undertaking this study. The Irish State considers non-resident fathers to have a financial responsibility to their children, usually payable through child support or determination order payments. However, the limited available Irish data suggested that non-resident fathers make low levels of provision and that compliance rates are poor.

Furthermore, Irish policymakers are facing other issues in relation to family breakdown. These include:

- Increasing number of lone parent families and non-resident fathers;
- Increasing number of welfare dependant lone parent families;
- Increasing Exchequer costs arising from supporting lone parent families;
- Susceptibility of lone parent families to poverty and inadequate living standards.

All put together, there was a need to understand how non-resident fathers in Ireland considered child support particularly as their views had not been researched in any great depth. By doing so it was hoped that the findings from this study and the resulting

policy implications may be of use to policymakers and family support programme designers in developing an effective child support strategy.

8.1 Research Approach

A qualitative approach was used in this study to uncover non-resident fathers' child support accounts. There were a number of reasons¹ why this approach was used.

Given the aim of the study it was decided to adopt a "purposive" approach to sampling, encompassing both "theoretical" and "referral" sampling elements. Sampling decisions took into consideration a number of issues including how long couples were living together and apart, pathways to child support arrangements, geographical setting, different socio-economic circumstances, practical research considerations and target group accessibility. With these factors in mind it was decided to select respondents living or working in Dublin/North Wicklow.

Potential respondents were contacted through organisations that had contact with non-resident fathers, by highlighting the study in local papers or by asking already interviewed respondents did they know of any other possible interviewees. Altogether through using a range of sources (see Table 2.1) 42 non-resident fathers were interviewed for this study.

Data was collected using a questionnaire (Appendix One), which identified a number of men's personal, family and relationship details and a topic guide (Appendix Two) that addressed a number of issues directly and indirectly related to child support. A topic guide was used in order to break down the research objective into a number of issues for discussion by respondents (e.g. child support issues related to identifying perspectives on how arrangements were put in place, reasons for paying or not, etc.). Interviews took place over an 18-month period, August 1998-January 2000.

¹ These included:

- The need to comprehend how non-resident fathers perceive and define their situation by investigating their actions, norms, values, etc.
- The ways in which non-resident fathers see public policy affecting them.
- The need for contextualism and holism to reveal the interactive effect of social, economic and political factors on men's actions.
- The need to examine men's understanding of the processes involved in putting in place child support arrangements and those involved in their management of child support arrangements over time.
- Because little was known in Ireland about the relationship between non-resident fathers and child support, a qualitative approach was sympathetic to the need for flexibility and a lack of structure in the research design.

The analytical approach “Framework”², developed by the Social and Community Planning Research (SCPR) Institute was used for data analysis because it had a clear and logical process. The focus was on examining chronological events over times and men’s perspectives on different subject areas.

8.2 Research Findings

The Creation of Child Support Arrangements

Of the thirty-three interviewees where a legal separation had been finalised, twenty-three of them had a formalised child support arrangement (see Table 3.2) put in place as part of the separation settlement. Chapter three considered non-resident fathers’ perspectives on how these child support arrangements were put in place.

The impact of different factors on how child support arrangements were put into place was demonstrated by highlighting a number of men’s accounts. These factors were:

- Willingness To Separate
- Level Of Available Resources
- Interim Child Support Arrangements
- Housing Needs
- Belief In Supporting The Lone Parent Family Unit
- Access and Parenting Arrangements
- Influence Of Third Parties

However, a closer reading of respondents’ accounts also revealed that often there was more than one factor at work. In other words, child support resolution in Ireland can be a complicated process involving the interaction of a number of different elements.

This being the case, what needs to be considered is every father’s unique position – including his distinctive decision-making abilities – in the context of the social and legal environment in which child support decisions are reached. There are variations in separating fathers’ abilities to self-reflect and to analyse their circumstances; to clarify and define future post-separation aspirations, and to develop a negotiating strategy and tactics. This being the case child support levels may in turn be determined or influenced by outside agents (e.g. mediators, solicitors, judges) and may be influenced by the quality of a man’s relationship with his partner as well as the extent of her own aspirations and the quality of her negotiating strategy.

² See Ritchie & Spencer (1994).

Child support levels will definitely be influenced by the source and level of resources at separation as well as the need to put in place an overall separation settlement. Indeed because there are few guidelines around resolution there may also be an element of randomness. For example, a compromise or mid-way point may be reached from the separating couple's initial bargaining positions or child support arrangements at separation may closely follow interim arrangements.

Therefore, it is more useful to consider child support arrangements coming about as a result of an interaction of a number of factors in the context of the wider arena in which such arrangements get decided. Drawing on Pruitt & Carnevale's (1993) work, an elementary model (fig. 3.1) illustrated the interacting nature of these factors on how child support arrangements were put in place.

Men rarely saw child support arrangements put in place as a complete expression of their financial commitments towards their children. Instead the overall separation settlement -and the expectations arising from it – may be a better indicator as it demonstrates the overall transfer of resources to the lone parent family unit and lays the foundation for a man's direct and indirect (e.g. his housing costs) expenditure on his children.

Child Support Arrangements After Legal Separation

Chapter four examined what happened to child support arrangements after men had legally separated. New conditions may emerge after separation that can lead to men reconsidering child support arrangements and the wider separation settlement. These conditions can act as a catalyst for support arrangements altering. Where changes did occur, men believed they had "legitimate" excuses to justify their actions, either with or without the agreement of their ex-partners.

Change was either in the level of child support paid by men or to whom support was paid. In most cases it was possible to identify a significant factor that lead to a change. However, it may not be possible in all cases to isolate a principal element. Specifically in this study, changes to child support arrangements put in place at legal separation occurred subsequent to:

- The emergence of new relationships
- The intervention of the DSCFA
- Changes in access and parenting arrangements
- Changes in men's economic circumstances
- Men's need for other resources
- Children coming of age.

However, whilst the emergence of post-separation conditions can trigger child support changes, it does not necessarily follow that changes do materialise. This is because other factors act as counterweights. In this study these included men feeling:

- Child support provision expressed their financial responsibility to their children – usually accompanied by a (i.e. their) hands-off parenting role
- A need to compensate for instigating a separation
- Afraid of the consequences of enforcement procedures being activated
- A need to honour arrangements put into place
- An awareness that child support commitments were of a limited duration
- An unwillingness to destabilise post-separation relationships (e.g. access being maintained).

Therefore, men's on-going child support decisions may be seen to come about as the result of the interaction of a number of different elements. They are informed by their unique life experiences and aspirations as well as by the social and legal environment in which actions take place. Drawing again on Pruitt & Carnevale's (1993) work, an elementary model (fig. 3.2) illustrated the interacting nature of these factors on men's child support decisions after legal separation. Seen in this light it may be easier to understand that when men pay child support they may not necessarily be satisfied with those arrangements in place.

Pruitt & Carnevale's (1993) analysis complements and strengthens the theoretical work of Finch (1989) and Finch & Mason (1993) used in Bradshaw et al.'s (1999) qualitative study on fathers' financial obligations. Specifically, it illustrates the uniqueness of every child support arrangement and the different pressures on each arrangement over time. It also demonstrates that the nature and influence of the child support regime on child support negotiations, commitments and compliance requires greater attention than was highlighted by Bradshaw et al.'s (1999) qualitative study on financial obligations. Child Support Compliance

Chapter five examined men's experiences after their legal separation in relation to the child support compliance. For the purposes of this study, compliance with child support

arrangements was understood to mean those cases where men were fulfilling the terms of the child support arrangements put in place at their legal separation, at the time of their interviews for this study.

Specifically, men's experiences were examined in relation to five factors that other researchers have explored in relation to child support compliance. The five factors were:

- Men's Ability To Pay Child Support
- The Strength Of Family Ties
- The Economic Needs Of Mothers And Their Children
- Men's Willingness To Pay Child Support
- The Enforcement System In Place

A number of provisional findings were drawn from men's accounts. However, they should be treated with caution because of the limited number of cases available for analysis and because of nonprobability sampling.

In terms of men's ability to pay child support, when they were not working at separation, on-going child support arrangements were not put in place. When men became unemployed after separation they stopped paying child support. As Bradshaw et al. (1999:144) also found, the main reason given by men who were not paying child support was that they were unemployed or could not afford to pay.

Unlike Meyer and Barfeld (1996) there was little evidence to suggest that men with lower net incomes at legal separation were more likely not to comply with child support arrangements compared to men with higher net incomes. Public sector employed non-resident fathers were more likely to comply with child support arrangements than private sector or self-employed men. Men who paid less than 20% of their net income at separation in child support were less likely not to comply with support arrangements than men who paid more than 20% of their net income. It was difficult to draw a simple conclusion as to the relationship between the level of the overall separation settlement and child support compliance.

Where men were dissatisfied with child support arrangements, they continued to comply with them for a number of reasons, one of which was the presence of enforcement procedures. Although the presence of enforcement mechanisms can reinforce men's resentment with child support arrangements, to stop complying with

them runs the risk of attracting unnecessary legal/financial, emotional/relationship and symbolic costs. As was shown these are costs many men are not willing to pay.

Focusing on the issue on enforcement tools revealed that at the time of their interviews for this study seven men were not complying with child support arrangements put in place at legal separation. The reasons for non-compliance were: changes in access and parenting arrangements (three cases); emergence of post-separation relationships (one case); and changes in men's economic circumstances (three cases). In these cases non-compliance came about subsequent to re-negotiations between the separated parties (and/or their lawyers) or through Court adjudication. Enforcement tools were not activated.

However, the study also revealed that there were a number of men who took unilateral non-compliance actions that led to enforcement procedures coming into play. Such actions can be taken because "not paying support was an exertion of power, a symbolic and compensatory act for the loss of authority inherent in being ordered to pay support at levels determined (or approved) by the court" (Arendell, 1995:127). These men's stories can be categorised into two groups.

First, four men who were in compliance at the time of their interviews had not been in compliance for some of the time after their legal separation. Either the threat of enforcement procedures being activated or their actual use, were enough for child support arrangements to be re-established. As Beller & Graham (1993) also found, the presence of legal sanctions can encourage compliance. Or as Bradshaw et al. (1999:210) suggest, legal and enforcement tools are contingent factors related to willingness to pay.

Second, it was also observed that there could be an on-going stubbornness about men's decision not to pay child support. A few believed that they had nothing else to lose by refusing to comply with child support arrangements. As Bradshaw et al. (1999:204) similarly indicated with enforced payers, a sense of victimisation can lead to "negative feelings". These do not provide a solid basis from which to start accepting a child support obligation. In such circumstances the use of enforcement tools may be ineffective or counterproductive. For example, there was an absence of fear concerning committal to prison proceedings.

There was evidence³ to suggest that men are concerned that their children know that they care for them but that maintenance does not demonstrate this affection. In

³ For example, see Teddy's story, Chapter 4.2(d) and Eoin's story, Chapter 5.5(a).

addition, men are dependent on their ex-partners representing their presence as a provider. In doing so it was suggested a man's independence as a payer can decrease and paradoxically he can become too *dependent* on the actions of others. Finch & Mason (1993:58) suggest that a key question to ask in terms of understanding family obligations is whether the provision of assistance unbalances relationships. If this occurs and a person gets too dependent on someone else, "they end up in a position of subordination to that person". This may help to explain why some men prefer to define their financial obligation to their children not in terms of "a weekly payment" to their ex-wives but by other means that convey their committed parenting role and affection.

In a similar vein, there were examples in this study to support Bradshaw et al.'s (1999:226) suggestion that father-child contact can be closely associated with whether child support is paid. It was shown⁴ as Bradshaw⁵ et al. (1999:202,208) previously suggested, that a husband and wife can implicitly or explicitly negotiate a commitment whereby the "proper thing to do" is for her to enable father-child contact and for him it is to pay child support. In such situations, as Bradshaw et al. (1999:219) suggest, maintenance is useful in that it can "ease parental relations and act as a guarantee for contact".

As Bradshaw et al. (1999:208)- drawing from Finch and Mason's work (1993:146) on commitments – also noted, access and child support can be linked through a process of "balanced reciprocity". In such cases fathers operate under the expectation or guideline that their ex-partners are to give something back (i.e. access) for receiving child support. If men want something in return (i.e. "balanced reciprocity" (Finch, 1989: 165)) for paying child support but do not get it, this can affect their willingness or their sense of obligation to pay support.

Access allows men to demonstrate their commitment and affection to their children. It also provides a channel for them to receive love and affection. It helps to sustain an on-going parent-children bond. In contrast, the provision of child support by itself may not always do so for as Bradshaw et al. (1999: 215) suggest -and observed in this study⁶-, there can be an "invisibility" attached to paying maintenance. Consequently, in chapter 5.3 (a), there was evidence to support Bradshaw et al.'s (1999:202) finding that some men can withhold paying maintenance when mothers do not "ease the fathers' relationships with their children". As Finch (1989:178) appears to indicate, if the "patterns of exchange" which have operated in the past break down, in other words a normative guideline, a person's sense of obligation may weaken.

⁴ For example, see Chapter 3.3(f), Henry's story and Chapter 4.2(e), Gerald's story.

⁵ Drawing on Finch (1989:193).

⁶ For example, see Chapter 4.2(b), Dave's story.

However, when men withhold payment they⁷ can still be concerned to maintain their reputations as caring fathers. They can attempt to minimise the negative consequences to their children as a result of withholding support, for as Finch & Mason (1993:149) suggest reputations are the means to constituting a person's sense of his moral identity. Similarly, like Bradshaw et al. (1999:213), it was found⁸ that men can use "legitimate excuses"⁹ to account for not paying child support and to sustain their moral reputation.

Where men were reluctant payers they may want to "ritually" signal their subsequent intentions. In doing so they believe that they can act assertively and avoid major upset. By using established procedures for action (e.g. a meeting, negotiable issue (e.g. unspecified finance, not child support)), men¹⁰ may want to follow rituals or "patterned actions which have symbolic significance, and which enable changes in relationships to be managed satisfactorily" (Finch, 1989:199).

However, there may be drawbacks to primarily associating the degree of a man's willingness to pay maintenance with the presence or absence of child contact (see Bradshaw et al. (1999:203-204)). In this research it was shown that men can be reluctant¹¹ child support payers even where they have adequate contact. This is because other factors influence their views about child support arrangements. As noted in chapter 5.3(a) these can include their evaluation of the effect of the overall settlement on post-separation lives, expectations about their former partners' capacity to generate resources and their post-separation aspirations. These would seem to be additional to what Bradshaw et al. (1999:210) list as contingent factors related to willingness to pay.

For example, men have different parenting expectations. Not surprisingly, their satisfaction with child contact arrangements is informed by the extent to which their expectations have been met. For men like "Sean" – see chapters three and four – who appeared to want little contact with his children, parental contact was not an issue affecting his willingness to pay support. Instead the effect of the overall settlement on his life, his post-separations aspirations concerning his new relationship and his belief that his ex-partner could have generated resources were more influential factors. However, it was suggested that he continued to pay child support because as Finch &

⁷ For example, see Chapter 4.2(a), Bill's story.

⁸ See Chapter 4.3(c), Fred's story.

⁹ See Finch (1989:210) and Finch and Mason (1993:97).

¹⁰ For example, see Chapter 4.3(b), Robert's account.

¹¹ Unlike Bradshaw et al. (see 1999:195, Table 11.6) there was evidence in this study where "enforced" payers had adequate contact with their children.

Mason (1993:168) might argue, it had become “too expensive” for him to withdraw from his commitment. This expense might not have been in material terms but rather to his self-identity and his moral standing inside and outside his family.

Nonetheless, Bradshaw et al. (1999:227) may have overstated the role of mothers in facilitating father-child contact, and thus the position of maintenance provision in easing father-child contact. For example, in this study¹² it was observed that for older children and where men had already established a pre-separation relationship with them, mothers may have less of an influence on father-child contact. In such circumstances men and their children appear to be more *active* participants in developing and sustaining contact, than Bradshaw et al. (1999:227) would seem to imply¹³.

Men can also make child support provision without a view to acquiring or sustaining access. As Bradshaw et al. (1999:209) also observed and suggested, this can be seen as a form of a “generalised¹⁴ reciprocity” (see Finch, 1989:165). Men can see themselves as having a duty to support their children and do not seek anything in return for making provision. However, as was noted in Chapter 5.5(c) even though they expect nothing in return, men may be less willing to pay support if they feel their children are not benefiting from provision.

Where men are dissatisfied with contact arrangements or the fact that such arrangements can change may or may not lead to non-compliance actions. This is because men consider other issues such as the legal and social environment in which non-compliance actions take place and the potential effect of such actions on their own and their children’s self-interest. In other words, men reflect upon the wider consequences of their actions. As Dean (2003:700) suggests, an actor’s motivation can stem as much from the way he weighs up the uncertainty of an action’s outcome as from the way he considers his interests.

How well a non-resident father gets on with his former partner may or may not lead to child support non-compliance actions. Conflict affects relationships, but whether child support compliance is affected depends on other issues. For example, one reason why men stopped paying child support was because they judged their former partners to have hampered access arrangements.

¹² See Kevin’s story in Chapter 5.3(a); Robert’s story in Chapter 4.3(b).

¹³ On the other hand, Bradshaw et al. (1999:121) in a separate qualitative study on non-resident fathers and contact, suggest that the ages of children can have an influence on the nature of contact. They say that older children can spend more or less time with their fathers, which may indicate that the former play a greater role in decision-making.

¹⁴ Actually spelt generalized by Finch.

At the same time it is also possible for men to differentiate between how they feel about their former partners and how they see them as mothers. Hence although they may dislike their ex-partners it is still possible to judge them to be good parents.

Where relations between separated spouses improve over time, this may or may not lead to changes in support arrangements. For example, improved relations were likely to result in more flexible access arrangements but for child support arrangements to change in such circumstances it would appear that there would have to be *mutual* consent between the parties. If men took unilateral action they ran the risk of destabilising relations with their former partners, leading to other complications.

The relationship between the economic needs of lone parent family units and child support compliance is also complex. It appeared that men were more likely to comply with child support arrangements when their partners were receiving OFP and less likely to comply with child support arrangements when their former partners were working full-time.

In addition to Bradshaw et al. (1999:210) suggesting that the lone parent family's socio-economic circumstances can be a contingent factor related to men's capacity to pay child support, it was observed that men's perception of these conditions may also be a factor related to their willingness to pay. As it was shown, men can be dissatisfied paying child support when their ex-partners have access to resources from subsequent partners or their wider family. Partly this dissatisfaction may be explained by - as Bradshaw¹⁵ et al. (1999:197) also observed –the guideline of financial equity across post-separation households influencing men's views of their financial responsibilities.

Men were more likely to accept the principle of supporting their children after separation than supporting on an on-going basis their former partners. They generally believed that their ex-partners should seek to support themselves. Doing so would relieve men's sense of the unfair financial burden placed upon them, particularly in those cases where they were the sole earners.

However, there was also contradictory evidence¹⁶ to indicate that some men believe that both their ex-partners and their children should receive maintenance. In doing so they may feel obliged to pay support as they may be operating under a normative

¹⁵ See also Finch (1989:152) on the central guiding principle of "fairness".

¹⁶ See Warren's story, Chapter 3.3(e).

guideline of “considering who the person is; what their relationship is to” them (see Finch, 1989:178). A sense of compensation for past failings, for not being there or recognition of the lone parent family’s needs may inform this sense of obligation. In applying this guideline men¹⁷ may also only feel obliged to support their children and not their ex-partners. Commitments to ex-partners may become weaker because the “history of particular relationships” (see Finch & Mason, 1993:179) has been broken.

It was difficult to effectively comment on the influence of remarriage on child support compliance given the absence of sufficient cases. However, there was evidence to support Finch’s (1989:153) proposition that when men are faced with moral dilemmas in which there are conflicting demands, they tend “to respond by developing a set of rules which will secure a just or fair outcome, and this often entails prioritising claims”. But such an outcome may upset people because a hierarchy of priorities is created. For example, in chapter five it was noted that Ronnie¹⁸ prioritised “overcompensating” his son from his first relationship for not being sufficiently present in their lives at the expense of “irritating” his subsequent partner.

Whilst non-resident fathers generally expressed a financial responsibility towards their children, the child support arrangement put in place was rarely of their own choosing. Men judge the effect of paying support –as part of a wider separation settlement- on their own lives. Therefore, the degree of a man’s willingness to pay can be influenced by the extent to which he assesses how the provision of child support affects how he would like to live his life.

Men usually justified their unenthusiastic position on paying support by highlighting the benefits to their children by adopting alternative courses of action. For men who took unilateral non-compliance actions on child support they saw longer-term benefits (e.g. securing their own financial base, forcing their ex-wives to re-establish father-child contact) for their children from doing so. Some non-paying fathers¹⁹ - as Bradshaw et al. (1999) and Simpson et al. (1995) also observed – justified their position by saving money and postponing to some future date a relationship with their children. This may be evidence that men can use the normative guideline of it not being the right time in their lives to offer support (see Finch, 1989:178). Accordingly, this tended to reduce their sense of immediate financial obligation.

¹⁷ For example, see Robert’s story in Chapter 4.3(b).

¹⁸ See Chapter 5.3(d).

¹⁹ See Fred’s story in Chapter 4.3(c).

Non-Resident Fathers' Experiences of the Working of Irish Child Support Regime

In chapter six it was highlighted that men acknowledged that the family law system component of the Irish child support regime offers flexibility and discretion in child support decision-making. However, the absence of detailed guidance on how decisions are to be reached and the lack of information and statistics on maintenance and separation settlements can leave them feeling that decision-making is also opaque and decisions reached are inconsistent.

Because child support gets resolved alongside other issues it is difficult for men in Ireland to evaluate child support arrangements in isolation from the rest of the separation settlement. At the same time, mediators and lawyers operate in an environment without rigorous guidelines on how to proceed, leaving non-resident fathers having mixed views about their role. In addition, as a result of their children's welfare being primarily considered in the context of the lone parent family unit, non-resident fathers can conclude that the system is gender-biased in favour of their former partners.

In contrast, while they may not welcome the involvement of the DSCFA into their lives, non-resident fathers generally understood the reason for it. They also acknowledged the transparency and lack of complexity with the determination order formula as well as the relative speed at which determination orders were made and the ease of access to the DSCFA.

Non-resident fathers were dissatisfied with the DSCFA's unwillingness to consider non-cash elements as child support provision. In addition, because determination orders were linked to OFP, it seemed to some non-resident fathers that determination orders were structured more to meet the needs of lone parents than their children.

Child Support Policy Implications

Chapter seven reviewed the implications for child support policy in light of men's accounts and in light of possible wider public policy goals.

A number of issues were identified to improve the working of the Irish child support regime, *given the current focus of Irish child support policy*, namely providing support for children in lone parent families. These were:

- Detailed child support guidelines are required to increase the consistency and accountability of child support decision-making in order to address legitimacy concerns, not least in terms of how the Court considers different factors in determining financial relief.
- At the same time men's stories as documented in this research would also appear to call for a policy response that offers "a degree of flexible, individualised justice", as Bradshaw et al. (1999:229) equally indicated.
- Published information is required to ascertain the level of child support awards and separation settlements made by the Courts in order to increase transparency. Such information by providing benchmarks would help separating couples in their child support decision-making, and social policy planners.
- There is a dearth of accurate information available, which outlines the true costs of raising a child in a lone parent family. This information would be welcome, as non-resident fathers may not fully appreciate the costs, not least when the guideline of financial equity between post-separation households influences their decisions.
- As men generally expressed dissatisfaction with the Court environment, attention should be paid to examining the possibility of developing a private negotiating space on the Court premises as well as training judges to be more respectful to non-resident fathers and for them to acknowledge their needs.
- After a child support arrangement has been put in place at separation, policymakers need to be aware that men are usually hostile to receive a subsequent request for a greater amount to pay. At the same time it may be useful to consider whether better child support review mechanisms could be adopted, which reflect post-separation changes (e.g. incomes).
- Non-resident fathers especially of school-age children are dissatisfied if their former partners are not working or could work longer hours outside the home. There needs to be a review of public policy in this area to examine the advantages and disadvantages of encouraging lone parents to work outside the home.

- Enforcement procedures may have a significant preventive function that may be overlooked by policy-makers because it has been assumed that when non-resident fathers are paying support, they are willing or content to do so. On the other hand, there may be a group of non-resident fathers where the use of enforcement procedures will have little effect because these men consider that they have little else to lose.
- The issuing of determination orders can be perceived to be unfair if it is seen by men as a way by the DSCFA to retrieve OFP expenditure, which is overwhelmingly structured in favour of the lone parent. Men generally felt more comfortable paying child rather than spousal support.
- Men are dissatisfied with determination order requests if they have agreed to once-off lump sum or non-cash settlements in lieu of child support as a part of a separation settlement because these types of provision are not seen by the DSCFA as a means of support in its liable relatives assessment. Therefore, men need to be informed about the liable relatives scheme at separation and the consequences of agreeing to particular separation settlement conditions.
- Men can also be dissatisfied with determination order requests if a separation settlement is premised on the understanding that their partners will continue to or commence paid employment after separation.
- Non-resident fathers' motivation to pay determination orders may be overstated in relation to the recent policy change which gave lone parents a 50% maintenance disregard. In some cases it may act as a disincentive to pay.

Child Support Policy and Public Policy

Men's child support experiences were also examined in relation to Nussbaum's capabilities theory²⁰. While these ideas were selectively used, focusing primarily on men rather than their children or their ex-partners, they offered a means by which to consider men's aspirations in relation to child support policy.

²⁰ Her approach provided a framework in which men's need for resources could be considered. By doing so it was shown that there could be other implications for Irish child support policy in light of wider public policy goals. Specifically, it was demonstrated that a child-orientated (i.e. child support and overall separation settlement provision) policy based on the principle of the transfer of resources to the lone-parent family unit can conflict with the aspiration of many non-resident fathers to achieve well-being. This was especially the case where men required resources to fulfil an active parenting role but where the lone parent was not working.

Viewed in this light it was suggested that Irish policymakers may face a dilemma. They can continue to consider the welfare of children primarily in the lone parent family unit. This will be more or less in line with some men's post-separation parenting and living expectations with the result that child support arrangements will broadly be acceptable to them. Similarly, where men are assessed as being able to provide for their children but do not do so either through child support provision or by other means, the use of child support enforcement tools can be justified to ensure²¹ that children are supported in the lone parent family. However, where child support policy in tandem with the wider post-separation family support policy frustrates men in terms of satisfying their parenting and other capabilities, and prevents their children from achieving well-being (e.g. a relationship with their fathers) then its fairness must be questioned if the goal of public policy is to help people to flourish.

To respond to this quandary it was suggested that child support policy could develop in a number of ways.

Men could be encouraged to accept the status quo. In other words, children's welfare could continue to be primarily considered within the lone parent family unit with men having a secondary role, however unfair that may seem to them and however it affects their quality of life. To ease the dissatisfaction the State could facilitate contact programmes. In addition, as Garfinkel et al. (1998:36) and Bradshaw et al. (1999:231) have similarly indicated, there would be benefits to creating formal mechanisms in the Irish system whereby children are informed that child support represents the means by which their fathers are maintaining and demonstrating their commitment to them.

On the other hand, child support policy can go down the more complicated route of responding to how people want to live their lives. While at present there is discretion and flexibility in child support decision-making, there is also a lack of clarity over the intended consequences of child support policy, beyond providing resources for children in lone parent families. Therefore, child support policy could consider how as a public policy it can help each stakeholder to flourish and not just to survive.

There is also a subtle but important distinction in considering capability sets. Taking the welfare needs of children into consideration it would seem that more importance should be attached to funding the capability sets of non-resident fathers who want to fulfil their parenting role. Theoretically it should be possible to adjust child support policy to

²¹ A judgement may also have to be made concerning whether men are using resources to fulfil other capabilities or whether they are squandering resources.

respond to these circumstances, which should result in well-being benefits to both of these parties.

But non-resident fathers have other needs, which also form part of their capability set (e.g. to find a new partner) and which also have a financial cost. In a wider public policy sense it would be important to differentiate between the resources required to facilitate satisfactory father –child relations (i.e. securing part of their capability sets to achieve well-being) and the resources men require to fulfil the non-parenting part of their capability sets. Consequently, this distinct use of resources could be examined in relation to how the welfare of children would be affected.

In practice this may be difficult to achieve. For example, some non-resident fathers suggest there may be a need to re-consider whether the children's welfare should be primarily considered within the milieu of the lone parent family unit, especially in those situations where they want an active parenting role. They argue that it is in their children's and their own best interests if some or all of the child support provision could be redirected to increasing the level of resources at their disposal. If it is accepted that there are a number of ways in which the functional capability set for children to achieve well-being can be realised, there may be some merit to the argument to marginally increase the resources available to the non-resident father's unit at the expense of the lone parent family unit, if the aggregate welfare of children does not fall. However, in reality it would be difficult to develop a policy instrument that can measure levels (or changes in) of welfare. Also the wider separation settlement would need to be acknowledged.

Moreover, inferring from a conversation with Nussbaum²² (2002), it may be outside the realm of some men to fulfil their combined capabilities, irrespective of how well their internal capabilities are formed or the suitability of external conditions in order for them to exercise the function. This is because there may be factors that go beyond what can be considered to be external conditions. For example, older children especially, can make decisions and choices that influence the shape of the father-child relationship, which may not be in line with men's thinking. In addition, children are also non-divisible – usually they will be living with one or the other parent. Therefore, although Nussbaum (1998:42) suggests there is a limit to trading-off capabilities, in some circumstances what may also need to be considered is the extent to which men can legitimately exercise their capabilities without impeding on those of their children or their ex-partners.

²² See footnote 43, Chapter 7.

But as witnessed²³ there are likely to be competing priorities to resolve. Indeed as Bradshaw et al. (1999:226) remark, “the needs and interests of these three major parties may constantly shift, requiring a responsive and refined approach in the exercise of the law”. However, it would seem that without the introduction of State funds, providing more incentives for lone parents to work or making child support review mechanisms more relevant to post-separation circumstances, there may be insufficient resources²⁴ available for people to meet their aspirations. In such circumstances, if the goal of public policy to help people to flourish, there should at least be an acknowledgement that child support policy as a public policy is failing if it inhibits people’s aspirations being realised.

8.3 Generalisation and Validity of the Findings

The sampling methods used in this study to foster heterogeneity and/or typicality are an unacceptable substitute for probability sampling when precise and accurate generalisations are required. The major weakness of these approaches is that making an informed selection of cases requires considerable knowledge of the population before the sample is drawn. There is a reliance on the researcher knowing the right people and having initial access to the correct networks.

Unfortunately, in this research area the population was not easily identifiable. Gaining access to potential respondents depended on using various “gatekeepers” and on the goodwill of separated fathers to be interviewed. In addition, there were time, logistical and resource constraints in conducting this research, which have limited both the range and depth of data, retrieved and analysed.

These limitations beg the question were the experiences of separated fathers who did not reply to the newspaper articles or the men who did not respond to the DSCFA letter²⁵, informing them of the research, significantly different to those men who did or to those men who were contacted via organisations or through “snowballing”?

The answer is unclear but it would have been useful if more men who took unilateral non-compliance child support actions came forward. These are the men that commentators deem to be “feckless” and financially irresponsible for their children.

²³ See Mike’s story in Chapter 3.3(d).

²⁴ Indeed, this is a point picked up in recent research. For example, Maclean (2004:4) notes in a review of recent UK literature that providing sufficient space to allow both parents to offer reasonable comfort on overnight stays for children requires considerable resources.

²⁵ In practice, it was not possible (i.e. no DSCFA permission) to pursue men who did not reply to the DSCFA letter.

However, as a result the type of respondent coming forward, more men in this study appeared to be honouring their child support commitments in comparison to men in the wider population. Consequently, the extent to which the findings from this research can be generalised to the wider population of all separated fathers may be limited.

While there may be uncertainty over the “representational generalisation” (Ritchie & Lewis, 2003) of the findings from this study, this does not necessarily mean that the findings are invalid. Ritchie & Lewis (2003) suggest that the primary “validity” question that qualitative researchers have to address is: “Are we accurately reflecting the phenomena under study as perceived by the study population” (p274). This question in turn gives rise to subsidiary tests²⁶ that can be used to assess the validity of findings. These will be briefly examined in order to argue that the research approach used in this study was focused on ensuring that the findings would be valid.

Sample coverage: The criteria for sample selection and reasons for choosing these criteria were outlined in chapter two. But, as just mentioned the sample frame contained bias. Nonetheless, despite this shortcoming, the sampling coverage as far as possible promoted validity, not least because of the transparency of and the planning that went into the sampling approach.

Capture of phenomena: By using a semi-structured interview protocol (i.e. standard schedule & topic guide), questioning was sufficiently detailed, open and flexible for participants to fully express and explore their views and experiences.

Identification or labelling: a thematic or coding framework was created so that the phenomena could be identified and categorised. This was achieved by referring to the topic guide, the research notes taken after interviews, the meanings assigned by respondents, and the emergent themes and research questions in mind.

Interpretation: As described in chapter two the analytical approach “Framework” was used to interpret men’s explanatory accounts by identifying sufficient evidence. Charts were drawn up for each key subject area, and entries made for every respondent. These subject areas were structured using two considerations: chronological events over time and men’s perspectives on different subjects.

²⁶ These are: sample coverage, capture of the phenomena, identification or labelling, interpretation, display of findings. (See Ritchie & Lewis, 2003:274).

Display: Men's accounts were extensively portrayed particularly in chapters three and four. Doing so provided the basis to reveal the analytic constructions that were made. Men's accounts were shown in a manner that remained valid to the original data. For example, features that may seem contradictory (e.g. the consequences of men's hands-off vs. hands-on parenting aspirations) were analysed and displayed.

To conclude, in some ways generalisability to the wider separated fatherhood population was a lower priority to understanding their social events and processes around child support arrangements. In addition, it was possible to examine quite distinct phenomena (e.g. why men continued to comply with child support arrangements; men's response to enforcement tools being activated) than what might otherwise have been achieved if a more structured survey research approach had been employed. At the same time it was argued that the research findings were still valid because of the nature of the research design and how the study was conducted²⁷.

However, it should also be acknowledged that the experiences of other kinds of "non-resident" parents were not addressed in this study. Such parents include young non-resident fathers; fathers that have never lived with the mother of their children; non-resident mothers and re-partnered fathers with stepchildren.

Therefore, it needs to be acknowledged that if the experiences of other subgroups of non-resident parents were researched, alternative findings may have emerged. For example, Garfinkel et al. (1998a:54) in a US study note that while 7% of *all* nonpayers of child support were in jail, homeless, or unattached to a household so that they were uncounched in the US census, for men with children born out of marriage this figure increased to 19%.

Similarly, another limitation of this research is that the experiences of different subgroups of non-resident parents were not compared nor contrasted. However, even if this had occurred, the generalisation of findings may not have been possible. For example, as Garfinkel et al. (1998a:33) note: "...one cannot generalize from any one of these (sub)groups to nonresident fathers as a whole. Even within these subgroups, generalization is problematic".

There are a number of reasons why the focus of this study was restricted.

²⁷ As Murphy et al. (1998: 194) suggest, "...clear exposition of the processes of data collection and analysis, in which the data are related to the circumstances of their production, is essential to the evaluation of the findings from qualitative research... The risk of error will be reduced where the researcher pays systematic attention to the analysis of negative cases and to achieving fair dealings in the analysis and reporting of data".

First, given the limited time and resources available to conduct this qualitative research, it was felt that it would be more practical and effective to focus on *particular* non-resident parents. Rather than adopting a scattergun approach that may have seen very limited numbers of all non-resident parents being interviewed, it was felt to be more productive to focus on limiting the study to non-resident fathers whose dependent children were no longer primarily living with them²⁸. Focusing on a certain -rather than every- type of non-resident parent addressed Hammersley's (1985) criticism that much qualitative research fails to sample adequately within cases. Furthermore, the strategy adopted in this study in relation to subgroup/ "within-in case" sampling allowed for "content validity" – see Goodwin & Goodwin (1984)- to be achieved.

Second, the predominant subgroup of non-resident parents in Ireland *is* separated fathers. Even with the advent of divorce in Ireland in 1996, Figure 1.1 illustrated the high ratio of separated to divorced people as reported in the 2002 Irish census. There were nearly three times as many separated men as divorced men. Therefore, by their sheer numbers and the previous evidence of their non-compliance with child support arrangements, it was felt that it would be a beneficial to examine the experiences of this group. The child support accounts of these men in Ireland have been somewhat neglected in research.

Third, in planning this study it was never intended to exclude young fathers as respondents. In hindsight, the type of sources²⁹ used to identify interviewees and some of the selection³⁰ criteria in place were factors that thwarted the presence of young non-resident fathers forming part of the sample. Locating this subgroup of non-resident parents may require careful attention, not least because as Bradshaw et al. (1999) have indicated, many of them may not have been married³¹.

Therefore, future research is required in order to examine the experiences of other kinds of "non-resident" parents not included in this study.

²⁸ See Chapter 2.2(a).

²⁹ Because non-resident fathers are a difficult group to locate, referral sampling was utilised in this study. A range of sources was used to contact men.

³⁰ It was decided to select men who had either been married for at least one year or who had cohabited for at least five years. A decision was also taken to interview men whose relationship had broken down for at least two years because it was more likely that they would have re-established some stability (Chase-Lansdale & Hetherington, 1990).

³¹ Bradshaw et al. (1999: 26) noted that while only 10% of their sample-aiming for representativeness and drawn from a UK national omnibus survey - of non-resident fathers were single unmarried non-resident fathers, 36% of these unmarried men were less than 20 years old when their first child was born. In contrast, 67% of men in their sample had been married but only 11% were under 20 years old when their first child was born.

8.4 Research Limitations

DeHaven-Smith (1990:122) suggests that an analysis of public policy needs to examine the effects of policies on its various target groups. In terms of child support the immediate target groups are the resident parent, the non-resident parent, the children and the State. Other target groups include wider family members and second families. However, this research shares a weakness with much of the research undertaken in this area of social policy, namely that the interpretation of proceedings surrounding child support was from the perspective of just one target group.

In other words, this research drew upon the child support stories of non-resident fathers to understand their experiences as a way to explore the implications for child support policy. This research is limited by fact that the experiences of stakeholders linked to the respondents are unknown.

However, it is also fair to argue that up until recent years if the issues around Irish child support policy were at all examined they were done so from the perspective of Irish lone parent families and seldom from the viewpoint of non-resident fathers. The findings from this study despite the limitations of the research design provide an opportunity to understand the impact of child support policy from a rarely consulted target group.

Another limitation of focusing upon one target group was that men's accounts could not be "triangulated" with the accounts of their former partners or their children. As Patton (2002:556) notes, "it is in data analysis that the strategy of triangulation really pays off, not only in providing diverse ways of looking at the same phenomenon but in adding to credibility by strengthening confidence in whatever conclusions are drawn".

However, the absence of triangulation is a recurrent problem in this area of research. Because there is often a lack of goodwill and trust between the separated parties it can be difficult to acquire respondents' permission to interview their ex-partners. There is also the possibility that respondents may hold back on their views if they felt there was a lack of confidentiality in the proceedings. For example, a number of respondents needed to be reassured about confidentiality because they feared that their answers to certain questions could result in an escalation of conflict with their former partners.

As it was many respondents were initially hesitant to open up in the interviews, partly as a result of their accounts bringing up strong emotions and partly as a result of being circumspect of the interviewer's motives. Respondents had be reminded that the

interviewer was not working on behalf of a government agency and that their identities would remain confidential.

In addition, a number of respondents confused and contradicted their accounts. This mainly occurred where proceedings and processes occurred in the distant past. This could result in event sequences being unclear (e.g. number of mediation sessions; when and how mediated agreement translated into separation agreement). This required the researcher often to tease out and clarify men's stories. In an ideal world, with sufficient time, resources and access, this obstacle could be overcome if a group of separated fathers could be repeatedly interviewed over time.

Furthermore, it should also be acknowledged that some of the meanings that may underlie men's accounts could have been addressed more critically. For example, when non-resident fathers exchanged maintenance for increased access to their children, it is possible that their motivations may have also been influenced by a wish to have control over their children's and/or their ex-partner's lives. For instance, Burgoyne & Miller (1994:101) in a UK study note that "a more extreme version of having contact with the children might be the desire to keep control, to somehow use maintenance as a lever to gain particular ends or even sometimes as a form of revenge".

Such meanings may have become evident in this study if the qualitative approach adopted followed in the phenomenology/ethnomethodology research tradition rather than the symbolic interactionism tradition (see Ritchie & Lewis, 2003:12). Using discourse analysis, for example, allows for an examination of ways in which "versions of the world, of society, events and inner psychological worlds are produced in discourse" (Potter, 1997: 146).

Instead the primary focus of analysis in this study was principally concerned with "capturing and interpreting common sense, substantive meanings in the data" (Ritchie & Lewis, 2003: 202), not least to explore behaviour and social roles from the perspective of how non-resident fathers interpret and react to their environment. It was felt that this approach was justifiable since the narratives of non-resident fathers in Ireland have up to now been relatively unknown and neglected. Therefore, it was deemed worthwhile to illustrate processes and events from different men's viewpoints. It is recognised that further research would provide an opportunity to examine non-resident fathers' narratives in Ireland more critically.

8.5 Future Research

The findings from this research point to a need for further research in a number of areas.

One outcome of this study has been to reveal a range of men's experiences and aspirations. Perhaps this is not surprising since at many levels of everyday life, including small details and all things that used to be determined by routine and traditions, people are now faced with questions about who they are and what they want to be (Giddens, 1992: 81). Identity in late modernity is less an ascribed fate; it becomes dependent upon decision, risk and reflexivity: "What gender identity is, and how it should be expressed, has become itself a matter of multiple options" (Giddens, 1992: 217). Therefore, it should not be too unexpected that fathers have different post-separation expectations in terms of both their parenting and lifestyle aspirations.

However, these parenting and lifestyle aspirations have not been sufficiently acknowledged or costed. Consequently, in the wake of the limited resources available to post-separation households it would be useful for policymakers to be more fully in tune with the range and level of costs associated with men's aspirations. This could involve identifying the level and quality of father-child contact prior to relationship breakdown.

One reason for finding out this information is that men's views about and sometimes their compliance with child support arrangements can be influenced by whether their aspirations are being met. In turn knowing about men's aspirations and the associated costs can inform a wider debate on whether these aspirations/costs (and which kind) are legitimate, given the needs of post-separation households. This information could also inform the basis for a standard assessment of child costs being created for different access arrangements, based on a limited budget and taking into account the varying circumstances of parents.

In a similar vein, there is no longer a common currency –if there ever was–by which to define the role of non-resident fathers or how that role should be executed. Thus, as this research has shown, whilst non-resident fathers do accept the principle of a financial duty to their children, it does not necessarily follow that they see this duty only being executable in terms of formal child support provision.

Although theoretical concepts of "individualization" and "elective affinities" (see Beck & Beck-Gernsheim's (2002)) were referred to in chapter 5, more attention needs to be

paid to examining the extent to which understandings of parenthood are socially constructed and changing. The main reason why this was not done in this study was due to limitations in the sample and data. This constrained what could be said about the potential significance of non-resident fathers' perceptions of social parenthood. It is acknowledged that future research needs to consider the consequences of step-parenthood and/or elective affinities for children cared for in reconstituted families, for whom fathers may experience a more immediate social responsibility than to socially distinct biological offspring. Also of interest and touched upon in this study are men's perceptions of their obligations to biological children from different relationships, which are possibly less informed by traditional rules of ascription and more by a sense of social relations (see Beck & Beck-Gernsheim's (2002)).

For men supporting their children also consists of other types of provision (e.g. wider separation settlement) made to the lone parent family unit and also their own direct and indirect expenditure when they are in contact with their children. However, there is little information on how men, living in different socio-economic circumstances, provide support to their children by means other than child support provision. The availability of such information could be used to make better judgements concerning how well men support their children after a relationship breakdown. Therefore, it would be useful to obtain precise information on the different kinds and the extent of men's expenditure on their children³².

It would also be useful to consider whether Ireland could follow Australia, England and Wales by basing a maintenance liability on a simple percentage of the non-resident parent's net income. The intention of using percentage rates is to simplify a complex system, striking a balance between the needs of children and the expenses that non-resident parents have to meet. However, before considering such an approach it would be useful to understand how such systems in other countries have performed. Attention would also need to be given to how such a system would interface with the wider process of redistributing resources at legal separation or divorce in Ireland.

Finally, it was shown that there was inconsistency around child support decision-making in the absence of child support guidelines. It would therefore be beneficial to interview court officials, mediators and lawyers to find out child support decisions are made, from their perspectives. Specifically, it would be interesting to know how meeting

³² And also how expenditure may vary over time. Table 5.6 fell just short of demonstrating statistical significance in the relationship between length of time since legal separation and child support compliance.

the needs of children were considered in relation to how it was believed such decisions would affect fathers, materially and emotionally.

8.6 Conclusion

The dual system of child support in Ireland is based on the principle that parents are legally obliged to support their children. In practice this means that when parents separate non-resident fathers are usually seen to have a financial responsibility for their children. The role of the State is to facilitate and to ensure this happens through men making child support payments. The State in such circumstances engages in a particular kind of family-state relationship, namely that it identifies and enforces men's financial responsibilities to their children. But how feasible is this in light of the findings from this study?

Social Policy, The Family & The State

Simpson (1998:87) suggests the "officially expected continuities" between parents and children after relationship breakdowns are meant to occur partly through the sustained financial support from the non-resident parent. Since this parent is usually a man such an expectation has reinforced particular notions of paternal masculinity and in particular that of the "good father". However, the findings from this research would suggest that the state's attempt to promote a version of family responsibilities is not always in step with what non-resident fathers find acceptable.

The reality is that whilst non-resident fathers do accept the principle of a financial duty to their children, it does not simply follow that this responsibility is only executable in terms of formal child support provision. For men "child support" also consists of other – both financial and in-kind – provision made to the lone parent family unit and also men's own direct and indirect expenditure on children.

Fathers are also different, not least because as Lash & Friedman (1991:7) suggest, modernity increasingly witnesses the spirit of "identity choice" on the part of its participants. Consequently, like Bradshaw et al. (1999:226), fathers consider their financial obligation in the light of their own lives and those of their ex-partners and children. Fathers who are sympathetic to a traditional division of labour may be more inclined to accept formal child support channels as a means of fulfilling their financial responsibility. There was a sense that the fulfilment of their financial responsibility through formal child support channels was in itself sufficient. They did not expect anything in return for the payment of child support.

For fathers who want a more active parenting role the provision of resources can be a more complicated affair and has consequences for how they see the role of the child support regime in their own lives. For them the provision of resources is for their own - either in terms of facilitating parenting relations or meeting the need to be recognised as an adequate parent - as well as their children's benefit. In particular, they question the extent to which the child support regime facilitates this to happen.

Some acknowledge a financial duty but want something in return (i.e. reciprocal exchange) either in terms of affirmation or contact. For others this is not enough. They can question the level of resources paid particularly in those situations where it is felt that the lone parent family unit has access (or has the capacity to access) other resources. Therefore, as Bradshaw et al. (1999: 227) also suggested, paying child support for men rarely feels like an unconditional obligation; "it always depended on circumstances".

This research also revealed that men might not always appreciate the costs of raising children in lone parent family units. In such circumstances they may come to believe³³ that the level of child support could be reduced. Instead they *themselves* could spend resources on their children. In some ways this position can be seen to contribute to a paradox about child support. Namely, as Bradshaw et al. (1999:232) indicated, it is because men want to be active fathers and want a close relationship with their children that they can become less than enthusiastic child support payers.

At the same time the provision of child support can have different meanings for men. Spending money on one's children can have symbolic (e.g. caring father), instrumental³⁴ (i.e. informed self-interest (see Pruitt & Carnevale's (1993:109)), entitlement (e.g. meeting the costs of children), reciprocal (e.g. to acquire better access) or imposed (e.g. maintenance order) connotations for men. Thus the problem for Irish child support policy formulation is that it does not acknowledge that non-resident fathers' social construction of child support goes beyond providing for their children in the lone parent family unit.

³³ This belief is reinforced if they feel that they are paying too much child support in order to facilitate child contact. It is also reinforced where they believe that there is insufficient public recognition of the financial costs involved in securing a parenting relationship (e.g. the cost of providing satisfactory accommodation for them when they stay; the costs arising from contact).

³⁴ For example, dependant on ex-partner's co-operation in future.

The State overlooks the array of meanings and associations that financial giving³⁵ has for men, as highlighted in earlier chapters. For example, as Simpson (1998:87) also found, there was a clear desire by some men after separation when there was a flow of financial support “to preserve and maximise the gift-like nature of the transaction and the personal, emotional and communicative impact of the gift”. For many men it is doubtful whether the concept of child support meets this desire. Indeed, few men in this study expressed satisfaction from paying support.

This is not surprising for as Finch (1989:243) notes, governments are quite capable of promoting a view of family obligations which is out of step with what people regard as proper or reasonable, and without acknowledging that commitments are arrived at through “the delicate processes of negotiation”. In other words, while the intention of child support policy is compatible with men’s acceptance of their financial responsibilities, policymakers have not given sufficient consideration to the complex environment in which child support decision-making takes place³⁶. Moreover, the direction of child support policy may be inconsistent with the requirements of its patron, namely the non-resident father.

Specifically, there has been a move in the last decade towards using stricter enforcement measures in Western child support regimes. Fox-Harding (1996: 187) labels this as a particular model of family-state relationship, namely “*the enforcement of responsibilities in specific areas*”. She argues that this is an attempt to promote a particularly ideology of parenthood and family responsibility, with the aim of reducing public expenditure and strengthening the social order. Where individuals do not comply, they confront the power of the state and its battery of weapons (e.g. child support enforcement tools).

As was indicated in chapter four penalties and sanctions for non-compliance do result in men paying. However, where men feel they have little else to lose, the use of such tools may have unfortunate and unintended consequences (e.g. negative impact on mental health, work disincentive effects, conflict with ex-partner).

³⁵ Moreover, in Ireland the wider financial redistributing context in which child support decisions take place needs also to be considered.

³⁶ For example, as a result of a recent Irish Supreme Court case (T v T, unreported, October 14, 2002), Coveney (2003:10) suggests, “it appears that little difference is likely to be made in the future [law cases] between the roles of homemaker and breadwinner, with their contributions regarded as equally valuable to the family”. This may have negative consequences for men who aspire to an involved post-separation parenting role.

Another difficulty stems from the onus placed on men by the Irish State. Lewis (1999:194) suggests that Ireland has a strong attachment to the “male breadwinner” typology of welfare regimes. She notes that assumptions about female dependence on a male wage have been explicitly embedded in the categorical benefits that are available to lone mothers, which classify them in terms of their relationships past and present. It also appears to be embedded in the workings of the family law system³⁷.

Consequently, owing to type of welfare regime in place, the issue of equity between one and two parent earner families has not received sufficient attention. Moreover, it also contributes to situations where single-earner men with post-separation aspirations are most likely to be dissatisfied with the consequences of separation settlements. Furthermore, the male breadwinner model also buttresses traditional gender roles continuing after separation.

The challenge for Irish policymakers is to reconcile the interests of individuals with those of both the family unit and society. Specifically in relation to child support policy attention needs to be paid to either sustaining the lone parent family unit or to focus on the interests of individual members. This in turn may reveal tensions over fundamental principles. On the one hand, the legitimacy of state intervention to protect the social institution of the family and on the other hand, the objective of upholding individual human rights (Hantruis, 1996). In deciding how private child support obligations and State social benefits should be balanced, the terms of the relationship between the family and civil society needs to be defined.

Alternative Hypotheses

In suggesting how public policies can be better analysed, DeHaven-Smith (1990) notes the benefit of using auxiliary hypotheses to reinterpret the results of their implementation. Policy efforts to promote responsible fatherhood have largely focused on collecting payments from non-resident fathers (Sylvester & Reich, 2002:24). One central hypothesis around child support policy is that low child support compliance rates imply that non-resident fathers are “feckless” in terms of their financial responsibilities to their children.

However, as has been shown in this research it is simply too dangerous to read off the level of a man’s financial commitment to his children by the extent to which he complies

³⁷ This is contrasted with the Scandinavian model where countries have moved away from the male breadwinner model towards an assumption that all adults will be in the labour market. This is assisted by the availability of citizenship-based benefits (e.g. child care, programmes that secure parental leave).

with child support arrangements. This panorama is but one truth. It denies another truth. This is that the intimate, personal view of men's experiences is infinitely nuanced. It is in these gradations that the joyful, angry, sad, fearful and the unexpected live³⁸.

In addition, while Finch (1999:241) suggests that kin relationships are distinctive by having a sense of obligation, – indeed, no man in this research denied some form of responsibility for their offspring – at the same time she also notes that there are normative guidelines concerned with working out what to do. However, principles to do with justice and fairness³⁹ and guidelines to do with reciprocity, independence, and timing were not always present in working out formal child support decisions. Moreover, drawing on Pruitt & Carnevale's (1993) framework, it was noted that there were variations in men's abilities to self-reflect and to analyse their circumstances, to clarify and define future post-separation aspirations, and to develop a negotiating strategy and tactics. This is not to mention the uniqueness in each lone parent's position and in the level of available resources. As a result, child support decisions vary in the extent to which they are either a legitimate outcome of or a secure basis for further "developing commitments" (see Finch & Mason, 1993:167).

Furthermore, even where men do appear to come to amicable arrangements with their ex-partners without the presence of third parties, they do so in the presence of a family law system. As a result, men's ability to actively shape the nature of their relationships can be curtailed by the implicit or explicit imposition (or the threat of) of external rules. Consequently, drawing on Finch & Mason (1993:94), men's commitment to formal child support obligations may be less "powerful" because the support arrangements put in place have not been fully achieved through their own negotiations but have to some extent been influenced (or imposed) from outside.

In this regard, Bradshaw et al. (1999:226) may not have sufficiently considered the extent to which formal maintenance obligations are *genuinely* negotiated. As a result, while men do appear to weigh up the strength of their financial obligations in light of their own circumstances and those of their ex-partners and children (see Bradshaw et al., 1999:226), it does not follow that their commitment to pay maintenance solely arrives from these deliberations. Moreover, for this and other reasons⁴⁰ men do not always consider their financial obligations only in terms of child support provision.

³⁸ Nuala O'Faolain, *The Guardian* (13/9/03) inspired this thought.

³⁹ It is also arguable that Nussbaum's work on capabilities could be used to inform a guideline concerning how an individual's aspirations can affect their negotiations over commitments.

⁴⁰ For example, overall settlement; direct expenditure on children; when Finch's (1989) principles and guidelines are not in place (e.g. financial equity across households).

Hence, it is difficult to see how paying child support always demonstrates a commitment that helps to “establish an individual’s personal reputation and social identity” (Finch, 1989:242). Men can be unhappy payers as paying does not necessarily give rise to a symbol of personal identity worth fostering (see Finch & Mason, 1993:160). Unsurprisingly, less powerful commitments are stiffened by the presence of enforcement measures.

Consequently, not paying does not mean that men’s identities are negatively affected. In doing so men justified non-compliance actions for particular reasons⁴¹. In not complying each man also argued that their children had access to other resources. From their perspective they did not see themselves as feckless or irresponsible. It is up to others to judge whether these are grounds for indicting them of negligence.

Where men pay child support does this necessarily indicate that they are being financially responsible? Bauman & May (2001:67) suggest that most human actions are motivated by people’s own needs. As well as a need for survival there is also another set of needs that relate to the meaningful constitution of social reality that provides for a degree of satisfaction. They go on to say that the fulfilment of such needs is dependent upon the autonomy of our actions. It is in this sense that the provision of resources to children after separation should be considered.

For some fathers their autonomy (i.e. their capability to act) is not so affected by the child support regime in place. Both in terms of their parenting role and in the level of resources required by them, the provision of child support does not result in a social reality with which they are dissatisfied. For them child support demonstrates their financial responsibility to their children.

For others this is not the case. The child support regime constricts their freedom of choice, in the sense that it limits their parenting capability (i.e. to act as a parent). Bauman & May (2001:62) note that people’s difference in their freedom of choice refers to “social exclusion”; “being relatively less powerful, or powerless, means having the freedom of choice limited by the decisions made by others via their capability to determine our actions. One person exercising their autonomy can result in the experience of heteronomy by another (p63)”.

⁴¹ For example, when access was restricted, when there were changes in parenting arrangements, when they became unemployed or because they had other financial demands.

With this in mind it may be useful to re-interpret the influence of the socio-legal environment on child support. There is an interaction between agents and the institutional structures in place with the latter perceiving the welfare needs of children as best served within the lone parent family unit. From an institutional perspective the provision of child support is *seen* to make this possible.

But as Bauman & May (2001:63) suggest, for this to happen when it is not welcomed (namely the devaluation of freedom), coercion and enlisting methods can be employed to achieve this goal. In the case of child support this occurs when enforcement mechanisms are put in place (or threatened) or the carrot of parent-child contact is offered.

Where there is a sense that child support arrangements have been enforced, that they were unfair or that they limit the capacity to parent, a sense of powerlessness emerged. When viewed from this perspective a different hypothesis may materialise around child support compliance, namely that many men are dissatisfied paying child support but are afraid of the consequences of not paying it. In other words, compliance with child support arrangements cannot be necessarily interpreted that men are demonstrating their financial responsibility, *as they would like to*.

Therefore, an effective formulation of child support policy would acknowledge the intricacies and nuances of everyday family life where issues seldom get resolved in an abstract, logical or disjointed manner. However, to develop a responsive policy may be difficult to achieve⁴², not least because “a multiplicity of moral or ideological-discursive repertoires are present in popular discourse” (Dean, 2003:704).

Men's Experiences as Part of the Public Discourse

Mandell (2002: 226) suggests that current issues around child support can be understood as illustrations of how longstanding social problems are constructed by discourses reflecting different interests and ideologies. In Ireland the current dominant discourse defines support as the private responsibility of fathers as family providers with the State fulfilling a residual role when men are assessed as being unable to pay.

The perspectives of non-resident fathers have not reached the stage where *their* views about child support have been socially constructed or accepted. Because of a lack of

⁴² For example, In the US where much attention have been given to researching and reframing policy over the past 15 years, Cancian & Meyer (2002:89) note that US “child support policy is struggling to respond to complex family forms not only with regard to who pays but also with regard to the guidelines that establish how much is paid, and to whom”.

appreciation of men's viewpoints, the "generic processes involved in creating a culture of public problems"(Plummer, 1995) has led to a situation where non-compliance actions by non-resident fathers are seen as a major concern with the result they constitute the public discourse about child support⁴³. In turn the political and social processes of policy review take place within the terms of this discourse⁴⁴. Bradshaw et al. (1999) and this study provide some material for a richer construction of the social reality of child support decision-making in Britain and Ireland. Both studies reveal a picture of "men struggling to be fathers of non-resident children" (Bradshaw et al.: 1999:224).

The comments of respondents from this research generally supported Finch & Mason's (1993:168) sentiments that "when children are young, parent-child relationships are defined as relationships in which parents take responsibility for the material and emotional welfare of their children". At the same time their stories also revealed a range of factors, which influenced how they viewed this responsibility, their preferences for addressing it and what they actually did in practice. Non-resident fathers did not accept that their financial responsibility to their children can only be executed through child support provision. The corollary is that when child support is paid, it can be done for reasons little to do with men demonstrating their financial responsibility to their children. In addition, when child support is not paid men do not consider such actions as unjustifiable or feckless.

In conclusion, although non-resident fathers may be a group, they are not a singular entity nor do they share a unique characteristic, except for the fact that they are no longer in an intact family relationship with their children and their children's mother. They have a rich tapestry of individual experiences. As Beck & Beck-Gernsheim (2002:90) suggest, men are increasingly linked to the family through different expectations and interests, experiencing different opportunities and burdens. However, there has been little recognition of their stories in child support policy formation.

As a result the "default template" has been to judge them as inconsiderate unless they pay child support. Labelling them as deadbeat excuses an aggressive enforcement

⁴³ In other words, "competing discourses are suppressed, the subjective positions of non-parent and deadbeat are produced for fathers to take up, and other possible solutions are ignored" (Mandell (2002:227)).

⁴⁴ For example, the Review of the One-Parent Family Payment Report (2000) makes a number of suggestions on enhanced liable relative action because there are "liable relatives who are abdicating their responsibilities to their spouses and/or children ...and more needs to be done to ensure that they face up to their responsibilities" (10.36:p115). The conclusion that may be drawn is that the non-provision of child support suggests the non-acceptance of financial responsibility by men.

policy. It also discourages an examination of their needs or constraints. As the respondent "Kevin" noted:

I mean I always pose the question of how come so many law-abiding men break the law in this one instance [non-compliance], in every other way they keep the law and I think that needs to be looked at. 1012/1

The challenge for Irish child support policy and indeed for the political and social structures is for the variation in men's experiences to be appreciated, legitimated and incorporated in the policy-making process, while at the same time ensuring that the post-separation welfare needs of children are addressed.

Appendix 1

Non-Resident Fathers' Questionnaire

Questionnaire Completion Date: (_ / _ / 9 _)

Interview Number: ()

Respondent's Name:

Respondent's Contact Details:

Section 1: Personal Details of Father

1.) What is the year of your birth: 19__ or age group:

15-19 ₁ 20-24 ₂ 25-29 ₃ 30-34 ₄

35-39 ₅ 40-44 ₆ 45-49 ₇ 50-54 ₈

55-59 ₉ 60-64 ₁₀ 65+ ₁₁

Section 2: Relationships

1.) Which of the following terms would best classify the type of relationship you had with the mother of your child/children ?

Marriage ₁
Extended cohabitation(more than one year) ₂
Occasional or short term cohabitation(less than one year) ₃
Non-cohabiting relationship/affair ₄
Other(specify)_____ ₅

2.) How long were you in this relationship ?

- < 1 year ₁ 1-3 years ₂ 3-5 years ₃
 5-10 years ₄ 10-15 years ₅ 15-20 years ₆
 > 20 years ₇

3.) What is the current status of this relationship ?

- Informally separated ₁
 Barring order in place ₂
 Desertion ₃
 Legally separated ₄
 Divorced ₅
 Church annulment and not
 legally separated ₆
 Other _____ ₇

4.) How long have you lived apart _____ ₁

Section 3: Details Of Non-Resident Father's Children

1.) How many children(of any age) do you have ? Include only children from relationship with separated partner ? _____

2.) Record age, sex and residence of dependent children below - (i.e. children aged under 18, or children aged 18 or over who are living with and being supported by parent(s)). (If more than 6, record 6 for oldest only).

Children	Age	Sex	Residence
			1. Full-time with both parents
			2. Mainly with mother
			3. Mainly with father
			4. Equally with each in turn
			5. Mainly with neither
Child 1			Code: _____
Child 2			Code: _____
Child 3			Code: _____
Child 4			Code: _____
Child 5			Code: _____
Child 6			Code: _____

Section 4: Income

1.) What is your principal source of income ?

- Own paid work 1
- Social Welfare 2
- Private pension 3
- Support from co-residing spouse/partner 4
- Support from absent spouse/partner 5
- Other(specify)_____ 6

2.) How much is your total income from all sources, net of tax (but not maintenance for the child/ren and/or ex-partner) deductions ? State the general range if exact information is not available.

£_____

(Note: re-calculate per week (if stated monthly divide by 4))

3.) What is your employment status?

- Full-time employer/self-employed 1
- Full-time employee 2
- Part-time employer/employee 3
- Unemployed 4
- In home duties 5
- Retired 6
- Other(specify)_____ 7

4.) What is the your ex-partner's principal source of income?

- Own paid work 1
- Social Welfare 2
- Private pension 3
- Support from CO-residing spouse/partner 4
- Support from absent spouse/partner 5
- Other(specify)_____ 6
- Do not know 7

5.) How much is her total income from all sources, net of tax (but not maintenance for her and/or the child/ren) deductions ? State the general range if exact information is not available.

£ _____

(Note: re-calculate per week (if stated monthly divide by 4))

Do not know 1

6.) What is your ex-partner's employment status?

- Full-time employer/self-employed 1
- Full-time employee 2
- Part-time employer/employee 3
- Unemployed 4
- In home duties 5
- Retired 6
- Other(specify) _____ 7
- Do not know 8

7a.) Please specify your type of accommodation

7b.) How much is your accommodation (please specify weekly amount)?

£ _____

7c.) Please specify your ex-partner and child/ren's type of accommodation? _____

7d.) How much is your ex-partner and child/ren's accommodation?
(please specify weekly amount)

£ _____

Section 5: Financial Support Arrangements for Mother and Children

1.) Is there or has there ever been a maintenance arrangement in place?

Yes 1 No 2

If yes go to Question 2

If no go to Question 7

2.) Was the maintenance agreement arrived at by

- Agreement ₁
- Judicial order ₂
- Other(specify)_____ ₃

3.) What is the weekly amount of your maintenance agreement? £_____ (if payable monthly, divide by 4 and record as weekly)

4.) Does the maintenance agreement distinguish between your ex-partner and the child/ren ?

- Yes ₁ No ₂

If the answer is Yes please complete 4(i) & 4(ii)

If the answer is No please complete 4(iii)

4(i) Weekly amount for Ex-Partner £_____ (if payable monthly, divide by 4 and record as weekly)

4(ii) Weekly amount for Children £_____ (if payable monthly, divide by 4 and record as weekly)

4(iii) Weekly amount for Ex-partner& Children £_____ (if payable monthly, divide by 4 and record as weekly)

5.) Are the payments up to date? Yes ₁ No ₂

If not up to date, by how many weeks are payments in arrears?
_____ weeks

6.) Has an attachment of earnings order been made ? Yes ₁ No ₂

7.) Has the Department of Social, Community and Family Affairs (DSCFA) issued you with a Determination Order(DO) ?

- Yes ₁ No ₂

If the answer is Yes please complete 8

If the answer is No please go to Section 6

8.) Weekly amount
and record as weekly)

£_____ (if payable monthly, divide by 4

9.) Are the payments up to date?

Yes ₁

No ₂

If not up to date, by how many weeks are payments in arrears?
_____ weeks

Section 6: Notes/Comments

1.) Would you like to say anything else in relation to the questions asked so far ?

Interviewer's notes/comments:

Appendix 2

Topic Guide

Children

Contact with Child/ren

- *How was structure of contact negotiated
- *How frequent/duration
- *Where does it take place
- *Other practicalities (day to day negotiations - e.g. pick up, drop off)
- *How does it feel meeting/being with them/leaving them
- *Any changes over time

Other relevant issues

- *New relationships
- *Ex-partner's role
- *Transport Issues
- *Housing (space)
- *Financial & non-financial costs of seeing children
- *Changes over time in the quality of the relationship with child
- *What currently determines contact vs. factors that should be determining contact
- *How involved are you in decision-making about the child/ren's welfare

Ex-partner

Dynamics with mother of children

- *How relationship broke up - Whose fault
- *Quality of current contact with ex-partner
- *Ex-partner's new relationships
- *Does she want you to be involved with the children – how (e.g. decision-making)
- *Any current or previous legal disputes

Child Support

Central Issues

- *Background to paying - describe the process
- *What are the mechanics around paying (e.g. when, by what means, how much, etc.)
- *Does agreement distinguish between sums for ex-partner and children - how do you feel about this
- *Any changes/issues arisen since agreement came into effect (e.g. withholding, re-negotiation, complaints, denial/restriction of contact (i.e. custody/access), change of circumstances, etc.)
- *Attitude to paying
- *How long should the child support agreement be in place for
 - any grounds for re-negotiation
 - changes in circumstances(e.g. if either partner remarries or changes in employment/income level situation)
- *Any grounds for not paying/restricting the payment of child support
- *Determination Orders vis-à-vis Child Maintenance

Other sources of income for the children

- *Should the mother of your child/ren work - under what circumstances
- *Should child support come from a range of sources - under what circumstances
- *What should the role of the State/Courts be(e.g. set awards, reviews, enforcement procedures, link to other issues(e.g. contact), etc.))
- *If father does not support child, who should support

Enforcement

- *Formal Enforcement - Should one exist; why; how should it be implemented (e.g. Courts/Administrative system)

***Informal Enforcement - Views & pressures of your/ex-partners
relatives or friends**

Other Issues

***What should vs. are the factors determining levels of child support**

***Is your capability to make child support provision a significant
factor(e.g. other expenditure priorities, percentage of income vs. actual
payment levels, etc.)**

***How do you see your responsibility toward your child/ren and how do
you reconcile different kinds of responsibilities (e.g. new family)**

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