

Child Support Opportunities & Options

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The National Council
& of Single Mothers
Their Children Inc.

June 2017



CONTENTS

Glossary of Terms	3
What is child support	4
Economic Security 4 Women & Child Support	5
Historical Context	6 & 7
Additional Background	8
Additional Information: Gender Equality	9
Additional Information: The importance of the Scheme	9
Additional Information: Social Security & Child Support	10
Additional Information: Single Mothers & Poverty	11
Key Policy Concerns: Child Support Debt	11
Key Policy Concerns: Lodgement of Tax returns	12
Key Policy Concerns: Self-Support amount	13
Recommendations:	14
1. State Guaranteed Payment	15
2. Tax Returns	15
3. Research Paper	16

The discussion paper was written by the National Council of Single Mothers & their Children Inc, made possible by received support from economic Security4Women, one of the five National Women's Alliances funded by the Australian Federal Government

Glossary of Terms

<i>Department of Human Services/DHS</i>	<i>Responsible for administering Australia's child support scheme</i>
<i>Child Support</i>	<i>The financial amount</i>
<i>Child Support Scheme</i>	<i>CSS</i>
<i>Child Support Agency</i>	<i>DHS-CS or CSA</i>
<i>No-Resident, No-Custodial</i>	<i>Parent who does not provide the primary care</i>
<i>Primary Care</i>	<i>Parent/guardian who provides more than 50% of the care</i>
<i>Payer/Paying parent</i>	<i>Parent who transfers money for the financial support of their child/children</i>
<i>Payee/receiving parent</i>	<i>Parent who receives transfers of money for the financial support of their child/children</i>
<i>Administrative assessment.</i>	<i>The process to determine child support by Child Support Agency</i>
<i>Child Support Collect Agreement</i>	<i>CSA will set the payment amount, collect payments from the paying parent, and transfer them to the receiving parent</i>
<i>Private Agreement</i>	<i>CSA confirms the amount and both parents agree to the process of transferring payments. This can occur if applied by the receiving parent, or jointly</i>
<i>Child Support Formula.</i>	<i>The formula used to determine child support</i>
<i>Family Tax Payments</i>	<i>A two-part payment that helps with the cost of raising children. Must meet eligible guide</i>

Child Support

Parents are responsible for the financial support of their child/children. Parents can make agreements about child support or they can apply to the Department of Human Services (Child Support) for an administrative assessment. Child support is usually paid until a child turns 18. This responsibility is not changed by:

- Separation and divorce.
- Where the child live or the amount of time they spend with a parent.
- The remarriage of one or both parents.

Some situations where it may be stopped early include:

- If the child becomes self-sufficient.
- If the child marries or enters into a 'de-facto' or marriage like relationship.
- If the child is adopted.
- If the child dies.

Extending Child Support payments beyond 18 years of age

It is possible to extend Child Support payments beyond 18 years of age in certain circumstances.

An application is made to continue Child Support payments beyond 18 years of age where the child is turning 18 and is completing Year 12. The residential parent needs to liaise with the Child Support Agency before the child turns 18 years old for an extension of the Assessment. This will enable payments to continue until the end of the school year when the child completes their final year of school.

If the adult child is at university or has a physical or mental disability that restricts their ability to obtain employment, an application can be made to the Federal Circuit Court for ongoing financial support.

Economic Security 4 Women

Economic Security 4 Women is well placed to take the lead on Child Support within the National Womens Alliance Program given its role and purview. Child Support has the potential to increase economic resilience for women who head-up a sole parent family. In Australia, the clear majority (83%) of one-parent families with children or dependent students are headed by a single mother.

The purpose of this paper is to provide the alliance with an introduction to the Child Support Scheme, which was established in 1988, the subsequent reviews leading up to and including the 2014 Inquiry. This discussion paper will enable the Alliance and/or individual members to be more informed about the scheme, to have links, which provide access to further information, to gain appreciation of the importance of the scheme, and reaffirm how it can aid or reduce the economic resilience for single mother families.

There is a natural link between the rich body of work undertaken by the ES4W such as the [Care Economy](#) and Child Support, most notably through the Child Support *self-support amount*. The self-support was the only financial consideration built into the Child Support scheme, which explicitly took into consideration the role and contribution of unpaid care, and accordingly provided a higher threshold to the parent who undertook the majority, or all of, this role. The self-support amount is the *stated financial* amount that payers (mostly non-custodial fathers) and payees (mostly primary carer mothers) have quarantined from their income for child support calculations.



*Child Support
has the potential
to increase
economic*

In 2006, the spotlight was put on the self-support amount and for the primary carer, it was for all the wrong reasons as this amount was *equalised*. Consequently, in 2008 the change removed a higher financial level for the parent who was undertaking the primary care responsibilities. Voices who value the role and contribution of unpaid care opposed this outcome but it has remained. More detail of the self-support can be located on page 8.

The discussion paper informs the Economic Security 4 Women alliance of the inter-relationship between social security and the Child Support scheme. It introduces the alliance to some key Child Support conundrums such as Child Support debt and it will offer two recommendations for the alliance to debate and/or adopt as positions for future engagement with key stakeholders. The discussion paper will also propose that

the alliance engages with child support beyond this discussion paper. There is capacity and opportunity for the engagement to include the other National Womens Alliances.

Irrespective of the response to the included policies and proposal, the intent of this discussion paper is for Economic Security 4 Women to have gained insight into the Child Support Program.

Historical Context

Pre1988: The Child Support Scheme grew out of concerns about the effects of marriage breakdown on the living standards of children, especially those living in sole parent household with their mothers. It was well known that there were low levels of child support being paid by non-custodial parents (26%)¹ and that mothers encountered barriers, difficulties and costs when updating and/or enforcing child maintenance obligations through the courts. Furthermore, the scheme was premised upon the notion to 'strike a fairer balance between public and private forms of support for children and the child support scheme was one of the elements to support the national focus to reduce child poverty, especially within sole parent families'.

1993-94: The scheme had undergone changes since its introduction, which had mainly arisen from the findings of parliamentary inquiries and external reviews commencing in 1993-94. The Department of Human Services reported that the review of 93-94 grew out of 'criticism' by Child Support payer and payee lobby groups' Furthermore, it stated that the 93-94 Committee supported the continuation of the Scheme but found there were many significant problems with its design and operation. The Department of Social Services (DSS) stated that the Committee made 163 recommendations and that the 'majority of these recommendations were fully or partially agreed to and implemented'.

2003 - 2005: In 2003 the House of Representatives Standing Committee on Family and Community Affairs undertook an inquiry on child custody arrangements in the event of family breakdown. Its report, *Every Picture Tells a Story* recommended that a ministerial taskforce be established to examine the Child Support formula. The review of the formula which broadened to include 'other aspects of the Scheme', were undertaken by a Ministerial Taskforce headed by Professor Patrick Parkinson in 2005.

¹ E. McInnes, Public Policy and Private Lives: Single Mothers, Social Policy and Gendered Violence, Thesis Collection, Flinders University of South Australia, 2001

The Ministerial Taskforce report, *In the Best Interests of Children – Reforming the Child Support Scheme*, was released in May 2005.

2006 - 2008: As a consequence of this review, the scheme underwent further changes, which took effect in three-waves from July 2006 through to July 2008. It remains the prevailing view that these reforms were dominated and in response to the men's voices, which were mostly non-custodial father. The Australian Institute of Urban Research stated that in 2003, reacting to continuing discontent with Child Support arrangements, particularly from fathers' groups, the House of Representatives Standing Committee on Family and Community Affairs (HRSCFA) conducted a national inquiry. *It is a belief that overt influence and domination of this voice has proven to have unfairly influenced the reforms, including matters relating to Child Support debt, a reduction in Child Support payments and a system that is inadequate in responding to family and domestic violence*². Commentators and review of the findings found that the 'winners' from the review were high-income non-custodial fathers and the losers were low-income primary carer mothers and their children. Analysis completed by the Australian National University and University of Queensland, "*Day before and a Day After assessed liability*" (2010) found that there was \$70 million dollars less going to the household in which children of separated parents live.

2012: The Child Support conundrum continued as illustrated by Federal MP Mr Andrew Wilkie, who stated that, he was 'approached by many people, both men and women, who are angry and exhausted by the Family Law and Child Support systems'. Mr Wilkie called for a review of Family Law and the Child Support systems in May 2012. The motion was passed by the House of Representatives and it contained the following four points:

1. Acknowledged the large number of mothers and fathers with serious grievances with family law and the Child Support system;
2. Noted that there has not been a comprehensive review of the Child Support system since the 2005 review "In the Best Interests of Children - Reforming the Child Support Scheme";
3. Called on the Government to undertake a comprehensive review of family law and the Child Support system; and
4. Recommended that the Terms of Reference of this review be formulated to ensure that the safety and well-being of children are paramount.

² Natalier K, Walter M, Wulff M, Reynolds M, Baxter J and Hewitt B, March 2007, Child Support and Housing Outcomes, Australian Housing and Urban Research Institute

The motion was passed by the House of Representatives but did not take effect and the matter of a review and/or inquiry remained absent until 2014³.

2014: The then Minister for Social Services, The Hon Kevin Andrews MP announced on the 27th March 2014 that he had asked the Committee to inquire into and report on the Child Support Program⁴. The Inquiry generated strong interest and using online questionnaires it received more than 10,000 responses as well as 130 submissions from academics and other stakeholders. The Standing Committee has tabled their findings in a report, '[From Conflict to Cooperation](#) – Inquiry into the Child Support Program' to which the Australian Government has responded. The inquiry has raised expectations regarding the purpose and role of the Child Support scheme.

Additional Background

The scheme started its life within the Australian Taxation Office and is enabled by two Acts, both of which took effect in the late 1980's. The Child Support (Registration and Collection) Act 1988 was enacted to ensure that:

- children receive from their parents the financial support that the parents are liable to provide; and
- periodic amounts payable by parents towards the maintenance of their children are paid on a regular and timely basis; and
- Australia is able to give effect to its obligations under international agreements or arrangements relating to maintenance obligations arising from family relationship, parentage or marriage.

The second Act is known as the Child Support (Assessment) Act 1989 and it arrives with the following objectives that ensure that:

- children receive a proper level of financial support from their parents;

³ Andrew Wilkie MP, 28 May 2012, Family Law and Child Support System.

Accessed 22nd September 2014,

http://www.andrewwilkie.org/content/index.php/awmp/speeches_extended/family_law_and_child_support_system

Standing Committee on Social Policy and Legal Affairs, 30th April 2014, *New Parliamentary inquiry to examine Child Support Program, House of Representatives*

- the level of financial support to be provided by parents for their children is determined according to their capacity to provide financial support and, that parents with a like capacity to provide financial support for their children should provide like amounts of financial support;
- the level of financial support to be provided by parents for their children should be determined in accordance with the costs of children;
- persons who provide ongoing daily care for children should be able to have the level of financial support to be provided for the children readily determined without the need to resort to court proceedings;
- children share in changes in the standard of living of both their parents, whether they are living with both or either of them;
- Australia can give effect to its obligations under international agreements or arrangements relating to maintenance obligations arising from family relationship, parentage or marriage⁵.

Gender Equality: Interest Groups

The Department of Human Services confirmed to the Senate Inquiry (2014) that at the time of the Inquiry there were five agencies funded by the Department of Human Services to provide grass roots advice and represent those who interact with the scheme and are customers of the Child Support program. The agencies that have the specific funding to undertake this role were:

1. Dads in Distress Support Services (Father's Interest).
2. Lone Fathers Association Australia (Father's Interest).
3. National Council of Single Mothers and their Children (Mothers and their children interest).
4. Shared Parenting Council of Australia (Predominately non-custodial Father's Interest).
5. Drummond Street Services (Step families)⁶.

The Department of Human Services did not confirm the time span in which there was a gendered imbalance. It did note that the future was uncertain as the funding to provide Child Support advocacy is 'under review' with funding contracts due to expire

⁵ Department of Social Services and Department of Human Services, July 2014 Submission 99 p5, Parliamentary Inquiry into the Child Support Program

⁶ Department of Social Services and Department of Human Services, July 2014 Submission 99 p52, Parliamentary Inquiry into the Child Support Program

in December 2014. The National Council of Single Mothers and their Children did receive correspondence informing them that the Child Support advocacy funding has ceased and that the National Child Support Stakeholders have not convened since the end of November 2014, leaving a vacuum in the shadows of the National Inquiry.

The Importance of the Scheme

The Inquiry and its findings should not be underestimated. The Department of Human Services informed the Inquiry that there were around 1.3 million parents involved in the Scheme and that in 2012-13, the Scheme covered about 1.1 million children. It also stated that younger children (693,000 aged 0-12 years) than older children (393,000 aged 13 or older) were part of the scheme⁷.

These figures appear consistent as current statistics. The Department of Human Services in its [2015–16 Annual report](#) stated that it had ‘worked with separated parents to transfer \$3.5 billion to support approximately 1.2 million children’. This signals the importance of a scheme as it touches close to a quarter of Australian children (under 18 years).

Social Security and Child Support

There is a direct relationship between Child Support and family assistance on several levels including what is known as the Income Maintenance Test (IMT). The IMT sets the level at which family assistance is received once the assessed level of Child Support is taken into consideration. This matter was explored in the 2003 Inquiry, resultant in a recommendation to increase the thresholds. Currently, Family Tax Benefit (Part A) is reduced by 50 cents for every dollar once child support exceeds \$1,565.85 per annum, despite the low level it remains an outstanding recommendation (9.3). It is worthy to note that the current Child Support formula, which arose from the 2005 review, was established taking into consideration the level of government income assistance. Since the Child Support formula was instituted, the level of Government assistance has significantly declined. Most notably due to the denial of a parenting payment when the youngest child turns 8 years.

Sole parents are ‘transferred’ onto the lower Newstart allowance. The decrease in income support did not result in a corresponding increase in the Child Support formula. It is an ambition of NCSMC to quantify the economic loss similar the economic modelling undertaken by the Australian National University Centre for Social Research

⁷ Department of Social Services and Department of Human Services, July 2014 Submission 99 p 6, Parliamentary Inquiry into the Child Support Program

and Methods (ANU) regarding the impact of Welfare to Work Policy has had on single mother families. The ANU [report](#) stated that:

- A family with no private income and two children over 8 years of age, policy changes since 2005 have left them around \$5,750 a year worse off or about 17.2% by 2018.
- A single parent who works three days per week on the minimum wage were \$6,391 worse off or 14.8%.

Overall, due to lower Government benefits and lower payment indexation many single parent families are considerably worse off as a direct result of policy change enacted by various governments since 2005.

Parenting Payment Single	Newstart Allowance
\$748.10 per fortnight (Incl Pension supplement)	\$579.30 per fortnight (principle carer)
Earn and retain \$237.80 per fortnight until payment was reduced by 40 cents in the dollar	Earn and retain \$104 per fortnight until payment was reduced by 40 cents in the dollar
Retain a part-payment if earnings are less \$2,088.85 per fortnight	Retain a part-payment if earnings are less \$1,576.00 per fortnight

Table 1 outlining the difference between Parenting Payment Single and Newstart Allowance June 2017

Single Mothers & Poverty

Women who parent a sole parent-family are overwhelmingly represented in poverty, hardship, deprivation and/or domestic violence. The ACOSS Poverty Report (2016) found that child poverty is on the rise with 731,300 children under the age of 15 (17.4% of all children) living below the poverty line whilst our most up-to-date figures found that 40% of children raised in a sole parent family will live with poverty. The findings use the latest available ABS data (2014) and it is the first data to capture the effect of denying access to the parenting payment on 1st January 2013. The impact of this decision has resulted in a 4% increase in poverty - over two years (2012 to 2014).

Key Policy Concerns

The discussion paper has used survey responses to list three key matters.

- Child Support Debt
- Lodgement of Tax returns
- Self-Support amount and the non-valuing of care (impact on child support formula)

Child Support: Transfers & Debt

The Child Support Agency has two different agreements:

- Child Support Collect: Department of Human Services Child Support (DHS – CS) determined the amount and complete the transfer between parents.
- Private Agreement: Department of Human Services Child Support (DHS – CS) determined the amount and the transfer is completed between parents. Child Support Agency actively encourage the Private Agreement, which now exceeds child support collect (52%) [page 67](#).

Department of Human Services in their submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs stated that the most cases, (37%) and/or 271,775 cases of Child Support transferred was in the **0 to \$500** per annum bracket. It further reported that the department was responsible for collection in 138,359 of these cases (Child Support Collect), while 133,416 are Private Collect. Of the 138,359 Child Support collect cases which means that it is the responsibility of Department of Human Services - Child Support to transfer money, 60,839 cases are in arrears.

Debt as at August 2014:

- \$977 million of the total debt is associated with domestic cases;
- \$388.6 million is associated with international cases;
- \$178.1 million of customer debt is less than 1 year old;
- \$608.9 million is between 1 year and 5 years old;
- \$375.2 million is between 5 years and 10 years old; and
- \$203.3 million is older than 10 years⁸.

It is important to note that commentators do not accept the stated debt figures as correct and describe the statistics are '*air brushed*'. The department only records and

⁸ Department of Human Services, Supplementary Submission (99 - 99.1) Child Support Programme Parliamentary Inquiry into the Child Support Program,

report on the debts that arise from a Child Support Collect agreement which is 48% of their cases and not debt from Private Collect (52%) as the Department *assumes* that payments within Private Collect are transferred in full and on time.

Lodgement of Tax returns

In 2013-14, there were 435,425 [\(pg 70\)](#) Customers with outstanding tax returns. It can be contested that the non-lodgement of tax returns serves several purposes. It enables practices such as the hiding and/or minimizing the actual income to reduce and/or avoid Child Support. However, these practices do occur even for parents who lodge a return. Furthermore, the non-lodging forces the CSA to work from an 'estimated income' and again it serves a purpose a financial gain.

Self-Support Amount; Value of Care

There are [eight steps](#) that the Child Support Agency works through in determining the Child Support amount. The calculation includes quarantining a stated amount which is known as the Self-Support Amount and this amount is not included in individual parent's income for determining the Child Support liability. Pre-2008 the 'resident parent' (primary carer) had the first \$45,505 of their income disregarded, while the non-resident parent had \$15,378. On 1st July 2008, the amount was equalized and both the 'resident parent' (primary carer) and the non-resident parent had the amount of \$18,252.

Prior to the equalisation of the *self-support amount*, Child Support customers who had primary care had a higher amount, which was the financial recognition of the cost and implications of providing unpaid care. The primary carer has limitations and time restrictions which impede their capacity to undertake full-time paid employment, complete over-time, take up field work or other opportunities that involve being away from home and/or travel for work, undertake study and other self-improvement opportunities.

More often, they (the primary carer) needed to be available when a child is unwell, before and after school as well as during school holidays.

Essentially, the primary carer either forgoes revenue and/or bears an additional and/or un-reflected cost, which was reflected in the self-support amount before the 2006 reforms, which came into effect in 2008. The value and contribution of unpaid care is now completely absent from the Child Support Scheme despite its significance and its value to the Australian Economy.

Women speak about the harsh impacts of the reforms and how the child support formula is currently inadequate but what is less known is the role that the equalizing on the self-support amount has had on the calculations.

Recommendations

1. State Guaranteed Payment

The Child Support Agency should ensure that the enforceable Child Support liability is paid to the payee whilst they collect the payments from the payer. This payment would occur on time and in full irrespective of the payer's approach. This would immediately remove the financial impact of non-payment, late or sporadic payments upon the resident mother and their children.

Furthermore, it would sever the use of Child Support as an avenue to practice abusive and controlling behaviour (as the payment has occurred). We note that mothers who have left violent men state that Child Support debt can be an intended outcome from abusive and controlling ex-partners.

This policy was a recommendation from the Inquiry and can be found in the Committees report, '**From conflict to cooperation – Inquiry into the Child Support Program**'.

The Committee recommends that the Australian Government:

- *examine the social and economic impacts in other jurisdictions of a limited child support guarantee system, conduct modelling to assess if there is capacity to apply such a limited guarantee to the Australian context, and then consider the feasibility of conducting a trial of a limited guarantee for either vulnerable families or for a random sample of Child Support Program clients).*

Recommendation **25** [\(pg14\)](#)

However, the Australian Government stated that it 'does not agree with this recommendation', the benefits are considerable and it should not be dismissed without, at a minimum, a trial.

2. Tax Returns

Australians with an enforceable Child Support liability must lodge their tax return as per prescribed dates and not breach their legal obligation. The lodgement of a tax return should not be negotiable and have no legal recourse. The perennial

issue of not having an accurate and timely assessment of income corrodes the overall effectiveness of the Child Support Scheme.

We note the default assessment ($\frac{2}{3}$ rd MATWE) and/or the last known lodgement is an attempt to address this concern but is inadequate and erodes the efficacy of the scheme.

A debt to the government, mostly from payees (receiving mothers) can be a result of reconciling a 'self-assessment' against the actual income.

This matter featured in the '***From conflict to cooperation – Inquiry into the Child Support Program***' report:

The Committee recommends the Australian Government amend current policy to ensure that the penalties applicable to the non-lodgement or late lodgement of tax returns are enforced for all clients of the Child Support Program. The penalty should allow for defences where the individual has a reasonable excuse for non-lodgement, such as circumstances outside their control. Consideration should also be given to the annual indexation of the penalty. A working group comprising representatives of the Australian Taxation Office, the Department of Social Services and Department of Human Services should be established to recommend the size of the penalty. Recommendation 7 ([page 5](#))

The Australian Government stated that they 'agree in-principle with this recommendation'.

The Government will investigate the best ways to ensure the lodgement of tax returns as part of the support of the Child Support Program. This will include an examination of the way in which the current penalty regime is enforced and how it could be improved, including the regularity of enforcement, and the nature and size of the penalty. The Government will also examine other measures aside from penalties that may encourage compliance.

3. Research Paper

Economic Security 4 Women take the lead on further work and that work could be either a standalone from ES4W or it could be endorsed, and/or contributed by the other National Women's Alliance. Child support is a national policy that should provoke interest and a shared quest for a better outcome for women who head-up a sole parent family. The Australian Housing and Urban Research Institute (2008) in a [position paper](#) stated that

The receipt of more than \$75 per week in child support assisted resident parents living apart to secure better quality housing for themselves and their children. For non-resident parents living apart, the payment of child support appeared to have no measurable effect upon the standard of their housing

Furthermore, the House of Representatives Standing Committee on Social Policy and Legal Affairs report: recommended that the Australian Government respond to Australian Law Reform Commission *Report 117 Family Violence and Commonwealth Laws – Improving Legal Frameworks* (recommendation 23) ‘as a priority’. The Committee also recommended that:

The Australian Government take steps to collect comprehensive demographic information on all clients of the Child Support Program, and use that information to ensure that child support tools, practices and procedures are culturally and linguistically tailored for the range of Child Support Program clients. The Australian Government agreed with this recommendation.

There are key aspects of the child support program that are conducive to all the National Women’s Alliances. In December 1990 Australia ratified *The Convention on the Rights of the Child (CRC)*. The CRC contains the full range of human rights – civil, cultural, economic, political and social right. To the best of our knowledge *child support* and the escalating debt, which denies the child their entitled financial assistance, has not featured in the domestic process that report to the United nations and it would be progressive step to develop some collaborative work around this matter.

Additional Information: The National Council of Single Mothers and their Children (NCSMC) in partnership with Swinburne University has collaborated on a child support project. The project will collect survey data about single mothers’ experiences of child support. ‘In Australia, like elsewhere, single parents, who are overwhelmingly mothers, are disproportionately likely to experience poverty and financial hardship’.

It was hoped that the findings of this survey could be included in this discussion paper but the process and time to develop a survey and gain ethics approval combined with the tight timeframe for this paper was not conducive. The policy recommendations, which are part of this discussion paper, are reflective of the work undertaken for the 2014 Inquiry. If there is agreement to adopt and proceed with further work which could include Australian’s international obligations, it is advantages to note that there is an extensive national survey ready for implementation that would enrich and inform the next stage.