

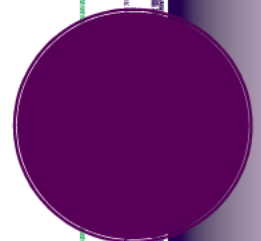
Child Support Inquiry 2014

Getting it Right

**The National Council
& of Single Mothers
Their Children Inc.**



(www.ncsmc.org.au)
ncsmc@ncsmc.com.au



WHO WE ARE:

The National Council of Single Mothers and their Children Incorporated (NCSMC) is an organisation dedicated to single mothers. The Council has become a platform whereby both the community and the government can communicate. It has led the way in obtaining a range of beneficial outcomes; has actively sought to reduce systemic prejudice; continually challenges existing norms, and over many years has achieved improved opportunities and outcomes for single mothers and their children.

One of our greatest strengths is our expertise and commitment in working with and for the advancement of women and children impacted by poverty, violence and gender inequality.

*“1 in 4 children living
in a sole parent family
will be impacted by
poverty”*

Hilda 2013

Child Support Inquiry

The National Council of Single Mothers and their Children Incorporated (NCSMC) welcomes the Child Support Inquiry and we look forward to further dialogue at the public meetings. It is our view that this significant public policy which underwent far reaching changes resultant in the 2006 reforms should have undergone a formal review prior to 2014 and therefore we are most supportive of this initiative. We also note that *compliance* was not included in the terms of referenceⁱ and therefore this core function has avoided high level and public scrutiny for too long and we strongly endorse its inclusion in this Inquiry.

‘Every Picture Tells a Story’ report states, the starting point for the Committee’s inquiry was the ‘best interests of the children’ while the Taskforce and the Reference Group; ‘In the best Interest of Children’, stated that they were also *motivated* by this concern.ⁱⁱ We support this principle and trust that it remains central to the deliberations of the 2014 Inquiry and that it will influence and shape the findings. We further support the founding statement that biological and/or legal parents have the responsibility to financially support and provide for their children.

NCSMC asserts that this Inquiry must ascertain if the reforms have indeed upheld the stated principle and that the scheme truly operates in the best interest of children. The Inquiry must address any unintended consequences that disproportionately impact upon a particular demographic. At a general level, non-resident parents (mostly fathers) were more likely than resident parents (mostly mothers) to experience net gains under the 2006 Scheme. Low-income families, and resident parents with part-time or casual employment were hardest hit by the recent reforms, the Government modelling suggests that net losses are likely to be \$20 or less a weekⁱⁱⁱ. We are concerned about the impact on low income families

Getting it Right

(mostly mothers) as they appear to have ‘lost’ scarce finances and have made recommendations to address this need.

OUR VOICE:

The National Council of Single Mothers and their Children Incorporated (NCSMC) is well placed to provide a solid perspective; drawing from the lived experience of single mother families, and in particular families who are low income and contend with hardship and violence. NCSMC has an established history as a continual participant in the Child Support National Stakeholder Engagement Group (since inception). NCSMC has delivered a range of policy and research papers, participated in consultation such as the Australian Law Reform Council, the White Paper on Delivering Reforms and has been a key voice in the context of child support and family violence. We make public commentary, present evidence at Inquiries and provide individual and systemic advocacy.

It is from this unique, but clear vantage point, that we contend that the child support scheme requires change before it can assert that it operates in the ‘best interests of children’. We have outlined recommendations for the Committee’s consideration which seek to achieve this goal.

ecommendations

The recommendations are not in order of priority but are lifted from the body of the submission as they address the Terms of Reference:

1. 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 should 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.
2. Early response to combat child support debt should take primacy. Intervention should occur once a payment is late and most definitely before a payment is ‘missed’. The CSA should have clear guidelines, strategies and key performance indicators and that the process of debt prevention is initiated by the agency. Despite extensive inquiries NCSMC remains unclear as to when or how a sporadic or late payment is treated and at what level of non-compliance is managed.



Getting it Right

3. Partial and/or sporadic payments should not be an avenue to avoid the enforceable child support liability. Intervention should occur once a payment is less than the stated amount, and certainly before the due date of the next payment. The CSA should have clear guidelines, strategies and key performance indicators to support this approach. Mothers (payees) have reported to NCSMC that the payers', 'who have made a couple of payments', will again become non-compliant once CSA scrutiny stops. We support that payers with a problematic history continue to be flagged and undergo case management to avoid the cycling in and out of non-compliance and debt.
4. Late Payment Penalties should be 'gifted' to the payee in recognition of the financial stress and hardship that non-payment or late or sporadic payment has incurred for them and their children. This approach would also serve as a compliance strategy.
5. Parents 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 CCS. We note the default assessment (2/3rd MATWE) and/or the last known lodgement is an attempt to address this concern but is inadequate and erodes the efficacy of the scheme. Child Support debt can be a result of reconciling a self-assessment against the actual income.
6. The CSA to continue to improve their internal operations such as the inception of taxation returns, the capacity to garnishee wages, departure prohibition orders and to explore other deterrents. We also note the Taskforce Committee (2005) rejected the recommendation to suspend driver's licences. NCSMC supports the exploration of all deterrents, building upon their evidence and lessons learnt from Australia and Overseas. We do expect a system to transfer payments on time and in full.
7. The CSA needs to have the power to reconcile debt when payers have 'elected' to use the private arrangements beyond three-months. There is a growing awareness in CSA that private arrangements are often due to pressure which is underpinned by violence, control and coercion. Typically, debt reconciliation is for a three month-period and this penalises families who have persevered despite the impact of debt, which could have spanned several years. The impact of private collect debt should not be minimised.
8. Review and advocate for a change in the current bankruptcy laws to enable the Australian Taxation Office to take legal action to recover child support debt and for the debt to be paid the payee.
9. Ensure that payees are not financially disadvantaged in the event that the CSA makes a decision to *write off a debt* or if the amount is *uncollectable*. The amount owed should be paid to the payee as the inability to collect and manage the child support



Getting it Right

liability was, and remains the responsibility of the CSA. Therefore the CSA failure to uphold their responsibility should not be at the expense of the payee and the child.

- 10.** Centrelink debts incurred by a payee due to debt and then the subsequent collection of that debt should not be repaid by the payee. The payee had no control over the level of debt or the timeframe of collection. The recommendation is presented noting that the management of the child support liability was, and remains the responsibility of the CSA, and that their failure to uphold their responsibility should not be at the expense of the payee and the child.
- 11.** The actual amounts of child support debt should be part of the monthly statement to payees and remains part of their monthly statement until that debt has been recovered. Currently payees have great difficulty in tracking and understanding the level of debt.
- 12.** Payees to be provided with one point of contact, a case manager, until the debt has been recovered.
- 13.** NCSMC calls for a review of the 'basket of goods' formula assessment, which is out of date. For example it excludes medical costs because it assumes that all medical costs for sole parents are covered by Medicare and bulk billing doctors. Not all sole parents are on an allowance and therefore are not eligible for bulk billing or a health care card. It was also developed at a time when government made a greater contribution to supporting low income sole parent families.
- 14.** Equalisation of Self-support amount: We are against the equalisation of the self-support for the primary carer. We contend that a 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 need to be available when a child is unwell and during school holiday. Essentially, the primary carer either forgoes revenue and/or bears an additional and unreflected cost. This needs to be acknowledged and reflected in the scheme which is more consistent with the arrangements prior to the 2006 reforms. Furthermore, the value and contribution of unpaid care is now completely absent from the scheme despite its significance and its value to the Australian Economy.^{iv}
- 14a.** Acknowledge the increased costs of children in larger families and make provision for the fourth and/or subsequent children.
- 15.** 24% discount for one overnight stay per week: We remain completely unconvinced that 24% discount in child support payments in exchange for as little as 13% care is fair or equitable. We are concerned that the significant and disproportional outcome is an economic driver, which is contradictory to the 'best interest of the child' and



Getting it Right

could be an incentive to *barter* as indicated by lawyers^v. Essentially, for the equivalent of one night of contact per week the non-resident parent receives a 24% reduction of their child support payment despite knowing that that the costs do not diminish for the primary resident carer. This equation is unbalanced and requires addressing. The financial responsibility for children is the primacy consideration of the Child Support Scheme and should be quarantined from bartering or care arrangements.

16. The minimising of income to artificially deflate or cease child support payments continues to be problematic. We appreciate that it's difficult to manage but also point to this issue being identified by the Taskforce (2005) and therefore would have expected greater headway. NCSMC remains concerned that the locating and providing of evidence to support this claim becomes the payee's responsibility. This raises safety concerns and produces conflict, it's an unfair expectation given the role and power of CSA and then it's a source of frustration for payees as they are powerless regarding the acting and enforcing even when supporting information is available. The CSA must take the lead in this area with clear mechanisms, timeframes and better communication processes. We also view merit in challenging an income assessment under the category of *lifestyle inaccuracies*. In circumstances where it is clear that the income assessment used is not compatible with and does not equate to standard income, (eg lifestyle enjoyed by an individual, residential address, car and/or other vehicles, holidays etc) such anomalies can be presented to child support for further investigation. Additionally, we welcome the Committee seeking and presenting further strategies to address this concern.
17. The cost of contact for payers was more than adequately provided for within in the 2006 reform (we argue overly and incorrectly compensated). In the event that this Inquiry does not remedy this, such as (a) the removal of the 24% discount for 13% of contact; and (b) modify the self-support amount; that reasons to further options to reduce child support upon the cost of care should be removed from the Change of Assessment. I bring to attention Reason 1: *the costs of maintaining the child are significantly affected by the high costs of spending time or communicating with the child* and Reason 7: *your necessary expenses significantly reduce your capacity to support the child*.
18. To explore the prospect of a specialist Domestic Violence Team; a team which sits outside of the Department of Human Services but has jurisdiction to work with all of the agencies that form DHS, other organisations and recipients who are impacted by violence. This would be a progressive step and would require input from key stakeholders. For more information please see page 16 & 17.
19. A formal review and monitoring process of the mechanisms, forms, processes and interaction to stop and not allow post-separation violence to commence, continue or thrive.



Getting it Right

20. Primacy in all correspondence is the name of the child/children and that correspondence serves as a reminder that the payment of the liability is for the child/children.
21. The low number of domestic violence exemptions sought and granted indicates an issue. We recommend greater transparency, promotion and knowledge of the available exemptions.
22. Granting of exemptions needs to be underpinned by a system of belief and supportive of the disclosure. There is no evidence to support that women gain or embellish the presence of violence and threats to their safety. In fact, contemporary evidence supports that it is under reported.
23. We strongly urge the Committee to revisit the formula which factored in a level of Government assistance that was available in 2005 and since a subject of ongoing and significant reductions with further announced reductions to be implemented (subject to the passage of legislation).
24. At the initial stages of establishing a child support case all parties need to be informed (verbal and documented) that this is the requirement (unless there are safety considerations) otherwise families may not receive the levels of family assistance to which they are entitled to and that assistance would be reduced to the base rate.
25. Maintenance Action Test: NCSMC question the legitimacy that payees can 'fail' something they're not informed about and would seek steps to ensure that they are fully informed about the requirements of a *maintenance action test* and that they are informed about the interaction with the family payment system. In the event that a person has *failed* (ie not commenced a child support case) the child support agency should review their information and to make further contact. Information needs to be complemented with knowledge of an exemption which is available on the grounds of safety.
26. The Maintenance Income Test (MIT) is an outstanding recommendation which arose from the Ministerial Taskforce Report, *'In the best Interest of Children - Reforming the Child Support Scheme'* and seek that the Committee adopts this long standing recommendation (9.3). 'The MIT's free area, taper rate and scope should be reviewed in order to ensure that the operation of the MIT does not claw back FTB A beyond the level paid to equivalent intact families. This recommendation is in response to the MIT working against many separated parents who receive less FTB Part A than they would if they were living together'.^{vi} We also recommend that this information is made to the payer for as per recommendation (24).
27. A more simplified Change of Assessment (COA) could be in place in certain areas for example once the cost of private school has been endorsed as an agreed an



Getting it Right

additional expense the transfer of payment should occur annually without either party going through a COA.

- 28.** A Safer COA: We caution the transferring of personal and identifying information and would seek that customers entering into a COA are asked about safety concerns and that special provision are made to address safety issues.
- 29.** CSA have the capacity to initiate a COA and we would endorse that to be used more frequently (with consent) in cases or circumstances where there is high conflict and violence and the CSA is aware that the victim of the violence will not initiate the process.
- 30.** Where there is no reported violence, safety threats and/or concerns we recommend mediation and counselling arrangements to be provided in a manner and over a timeframe which allows both the payer and payee to be informed. This would incorporate services from the socio-legal environment and in particular legal services.
- 31.** In circumstances where there has been violence and safety threats these services still should be available to the victim but not face-to-face (unless clearly expressed) and with an option for it to be ceased at the request of the person who is fearful without any repercussions.
- 32.** Mediation services be available when the child has turned 18 but is still a dependent adult so that the family maybe able to negotiate an outcome which provides support to the young dependent adult especially if they are going onto further studies. Better process to ensure that payees do not 'fail' their Action Maintenance Test for a child who has turned 18 years but is completing secondary school.
- 33.** CSA to make available internal personnel to assist customers with the objection process.
- 34.** Ensure that National Council of Single Mothers and their Children (representing single mother families) have a formal role during the life of the Inquiry; its findings and responses, the implementation phase, awareness and education and an ongoing monitoring role and voice.
- 35.** We urge the Committee to demonstrate leadership and employ respectful terms when describing families. NCSMC opposes the use of 'intact' to describe a two-parent family as the inference for a sole-parent family is offensive.

THE ADEQUACY OF CURRENT COMPLIANCE AND ENFORCEMENT POWERS FOR THE MANAGEMENT OF CHILD SUPPORT PAYMENTS

We welcome this focus. Before responding directly to the adequacy and enforcement powers we need to affirm that the role of the Child Support Agency is to assess and transfer payments on time and in full. It therefore remains a concern that there are fundamental issues experienced with this core function.

CURRENT COMPLIANCE

Child support debt; non-payments, late payments, sporadic payments and partial payments are a phenomenon for families which creates financial uncertainty, distress and poverty. However, the correlation between child support debt and childhood poverty has managed to avoid scrutiny. Child support debt typically sits outside the scope of various researchers and advocates who are concerned about matters of poverty, deprivation and exclusion. Additionally, researchers and academics that are connected with the Child Support Scheme (CSS) appear to have only a partial quantitative understanding of levels of child support debt and where the debt is situated. The latter can be somewhat explained as the Child Support Agency (CSA) only nominates debt that arises from child support collect ie when the CSA assess, collect and transfer the payment. This concern was noted in *The Best Interest of Children - Reforming the Child Support Scheme*. The Taskforce committee cited unpublished data on CSA Collect payers (produced by the CSA for the Taskforce) and stated that 20% of CSA Collect payers failed to pay any of their liabilities while only 43% paid all of their liabilities. They note that this information was in contrast to the CSA's published data on compliance (as provided in its annual Facts and Figures report) because the CSA assumes 100% compliance by Private Collect payers. The report concluded that it is not clear from these published statistics (CSA) on collection rates.^{vii}

NCSMC remains concerned that the CSA has not taken any steps to respond to this finding and won't collate child support debt when it arises from private collect. We agree with the Taskforce and assert that this artificially disguises the reality of non-compliance particularly as private collect has now overtaken agency collect as the most used form of collection. Consequently, the current figures available for child support debt are inaccurate and hide the real picture.

SINGLE MOTHER'S EXPERIENCE AND WHY WE NEED TO GET IT RIGHT:

The Child Support Scheme (CSS) was established in June 1988 as part of the Australian Taxation Office (ATO). The scheme grew out of concerns about the effects of marriage breakdown on the living standards of children, especially those living in sole parent households with their mothers. It was well-known that there were low levels of child

Getting it Right

support being paid by non-custodial parents (26%) and that mothers encountered barriers, difficulties and costs when updating and/or enforcing child maintenance obligations through the courts.

McInnes in her research reviewed the impact of the introduction of child support scheme, along with improvements in the social security system 10 years after the CSS had commenced. The research found that when child support was paid it was effective in reducing poverty levels in single mother households. McInnes cited the Australian Divorce Transitions Project which found that child support payments reduced the rates of poverty amongst single mothers in the paid workforce from 24% to 10%. For single mothers on income support, child support reduced the poverty rate from 78% to 50%.^{viii}

It is clear that getting the scheme right for single mother households is essential as they overwhelmingly provide the primary care but still disproportionately contend with poverty and hardship. In March 2013 the reputable longitudinal study; the Household, Income and Labour Dynamics in Australia (HILDA) survey found that 24% of children in sole-parent households are living in poverty, compared with 7.6% of those living with two parents and that child poverty in sole parent families had increased over the last decade by 15%.^{ix} Australian Institute of Family Studies state that 93% of single parent household are headed up by mothers which increases for children under the age of five^x. Additionally, it is widely accepted that child support debt is still extensively felt by single mother families and their children. Research undertaken by Patrick, Cook and Taket stated that, of single mothers with dependent children, 91% are entitled to child support payments. They further noted that 40% of single parents receive no child support and cited a study that found that only 28% of payees who had child support assessments of \$260 per year (the then minimum amount) reported always receiving their entitlement on time^{xi}.

C HILD SUPPORT AND HOUSING

In research undertaken by the Australian Housing and Urban Research Institute (AHURI) they found a correlation between housing outcomes and child support payments. AHURI identified that there were differences between resident parents and non-resident parents in their housing outcomes, and the subjective experience of their housing circumstances and that it related to the payment and receipt of child support. Additionally, these differences are interpreted in the context of poor housing outcomes for separated and divorced parents generally when compared to parents who lived together.

A prominent finding was the receipt of \$75 per week in child support assisted resident parents living apart to secure better quality housing for themselves and their children. Conversely, 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 research found that:



Getting it Right

- Separated parents were more likely to live in small dwellings, rate their home as being in poor or average condition, and report experiencing housing affordability problems than parents who lived together.
- Resident parents had the poorest housing outcomes of all.
- Parents apart who receive no child support are more likely to report difficulties in paying their rent or mortgage on time; the receipt of more than \$75 per week in child support is associated with better housing outcomes for resident parents and the children in their care.
- Resident parents on low incomes described consistency in the quantum of support paid and regularity of child support payment as having a direct impact on their housing circumstances.
- The payment of child support was not significantly associated with poorer housing outcomes for non-resident parent^{xii}.

A NEW APPROACH

Since its establishment the scheme relies upon firstly collecting the payment and then transferring collected funds. NCSMC believes that there is much more efficient and effective style of operation and one that provides greater financial certainty to the payee and most importantly their children. To this end we recommend that the Child Support Agency should ensure that the enforceable liability is paid to the payee whilst they collect the payments from the payer. In the event that CSA cannot collect that particular payment they will still make the expected transfer and then expend their energy and services to collect the payment. This would immediately remove the financial impact of non-payment or 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. Child support debt can be an intended outcome from abusive and controlling ex-partners.

We further believe that partial and sporadic payments and debt to a government agency would change the parameters of the debt and allow for differing and hopefully more effective enforcement options. We refute that this process would result in an increase of child support debt but rather we view that it could reduce the debt. NCMSC also contends that late payment penalties could be retained by the CSA to provide a source of resources while they obtain the payments. It would have an immediate benefit of the families in receipt of child support and it is our view that it would reduce conflict between families.



R recommendations

1. 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 should occur on time and in full irrespective of the payers approach or behaviour. This would immediately remove the financial impact of non-payment or late or sporadic payments upon the resident mother and her 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 child support debt can be an intended outcome from abusive and controlling ex-partners.
2. Early response to combat child support debt should take primacy. Intervention should occur once a payment is late and most definitely before payment is 'missed'. The CSA should have clear guidelines, strategies and key performance indicators and that the process of debt prevention is initiated by the Agency. NCSMC remains unclear as to when or how a sporadic or late payment is treated and at what level of non-compliance is managed by CSA.
3. Partial payments should not be an avenue to avoid the enforceable child support liability and that intervention occurs once a payment is less than the stated amount, and certainly before the due date of the next payment. The CSA should have clear guidelines, strategies and key performance indicators to support this approach. Mothers (payees) have reported to NCSMC that the payers', when under the watch of CSA, may make a couple of payments, but will again become non-compliant once CSA scrutiny has been removed. We support that payers with a problematic history continue be flagged and undergo case management to avoid the cycling in and out of non-compliance and debt.
4. Late Payment Penalties should be 'gifted' to the payee in recognition of the financial stress and hardship that non-payment or late or sporadic payment has incurred for them and their children. This approach would also provide an enforcement option.
5. Parents 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 CCS. We note the default assessment ($\frac{2}{3}$ MATWE) and/or the last known lodgement is an attempt to address this concern but it is inadequate and erodes the efficacy of the scheme. Child Support debt can be a result of reconciling a self-assessment against the actual income.

Getting it Right

6. The Child Support Agency (CSA) to continue to improve their internal operations such as the inception of taxation returns, the capacity to garnish wages, departure prohibition orders and to explore other deterrents. We also note the Task Force Committee rejected the recommendation to suspend driver's license. NCSMC supports the exploration of all deterrents, building upon evidence and lessons learnt from the Australia and Overseas experience. We do expect to a system to transfer payments on time and in full.
7. The CSA to have the power to reconcile debt when payers have 'elected' to use the private arrangements beyond the current timeframe of three months (unless exceptional circumstances). There is a growing awareness in CSA that private arrangements are often due to pressure which is unpinned by violence, control and coercion. Typically, debt reconciliation is for a three month-period and this penalises families who have persevered. The impact of private collect debt should not be minimized and better managed.
8. Review and advocate for a change in the current bankruptcy laws to enable the Australian Taxation Office to take legal action to recover child support debt and for the debt to be paid the payee.
9. Ensure that payees are not financially disadvantaged in the event that the CSA makes a decision to *write off a debt* or that it cannot be collected. If CSA cannot fulfil their obligation then the amount owed must be paid to the payee. The Committee could discuss timeframes for this to occur and not be at the expense of the payee and the child/children.
10. Centrelink debt incurred by a payee and the subsequent collection of that debt should not be repaid by the payee. The payee had no control over the level of debt and/or the timeframe of collection and should not be held responsible. The recommendation is presented noting that the management of the child support liability was, and remains the responsibility of the CSA, and that their failure to uphold their responsibly should not be at the expense of the payee and the child.
11. The actual amounts of child support debt should be part of the monthly statement to payees and remains part of their monthly statement until that debt has been recovered. Currently payees have great difficulty in tracking and understanding the level of debt.
12. Payees to be provided with one point of contact, a case manager, while the debt has been recovered.

ASSESSING THE METHODOLOGY FOR CALCULATING PAYMENTS

THE FORMULA

The enforceable child support liability is determined by a formula which takes into account the cost of children, the income of parents, family structure and circumstances of both the payer and payee. Notwithstanding that, NCSMC views the current formula as gendered bias; giving greater weight to the cost of contact when compared to the cost of care, an over correction of the 2006 reforms. We believe this Inquiry provides an opportunity to redress the balance which would improve the current formula.

NCSMC calls for a review of the 'basket of goods' formula assessment, which is out of date. For example it excludes medical costs because it assumes that all medical costs for sole parents are covered by Medicare and bulk billing doctors. Not all sole parents are on an allowance and therefore are not eligible for bulk billing or a health care card. We are further concerned that the 24% discount for the equivalent of one night of contact per week for the non-resident parent is disproportional outcome is an economic driver which is contradictory to 'the best interest of the child'. The AIFS stated that over 68% of lawyers interviewed as part of the evaluation agreed that some potential child support payers are trying to get more care time with their children in order to reduce their child support liability and that some payees are trying to prevent their ex partner from exercising more care to avoid a reduction in child support.^{xiii} Essentially, for the equivalent of one night of contact per week the non-resident parent receives a 24% reduction of their child support payment despite knowing that that the costs do not diminish for the primary resident carer. Furthermore, we remain confused about the original assertion that there is no cost impact in raising the fourth or subsequent child and that the cost of tables cease at the third child. NCSMC has not located one larger family who has found this finding to be accurate.

Recommendations

- 13.** Equalisation of Self-support amount: We are against the equalisation of the self-support for the primary carer. We contend that a 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 need to be available when a child is unwell and

Getting it Right

during school holiday. Essentially, the primary carer either forgoes revenue and/or bears an additional and unreflected cost. This needs to be acknowledged and reflected in the scheme which is more consistent of the arrangements prior to the 2006 reforms. Furthermore, the value and contribution of unpaid care is now completely absent from the scheme despite its significance and its value to the Australian Economy and recognition of such unpaid work by the Family Court of Australia.

14. Acknowledge the cost of children in larger families and make provision for the fourth and/or subsequent children.
15. 24% discount for one overnight stay per week: We remain completely unconvinced that 24% discount in the child support payment in exchange for as little as 13% care is a fair or equitable outcome and remain concerned that the significant and disproportional outcome is an economic driver which is contradictory to 'the best interest of the child'. Essentially, for the equivalent of one night of contact per week the non-resident parent receives a 24% reduction of their child support payment despite knowing that the cost do not diminish for the primary resident carer. This equation is unbalanced and requires addressing. The financial responsibility for children is the primacy consideration of the Child Support Scheme and should be quarantined from bartering or care arrangements.
16. The minimising of income to artificially deflate or cease child support payments continues to be problematic. We appreciate that it's difficult to manage but also point to this issue being identified by the Taskforce and therefore would have expected greater headway by 2014. NCSMC remains concern that the locating and providing of evidence to support this claims becomes the payees responsibly. This raises safety concerns and produces conflict, it's an unfair expectation given the role and power of CSA and then it's a source of frustration for payees as they are powerless regarding the acting and enforcing even when supporting information is available. The CSA must take the lead in this area with clear mechanisms, timeframes and better communication processes. We view merit in challenging an income assessment under the category of *lifestyle inaccuracies*. In circumstances where it is clear that the income assessment used is not compatible with and does not equate to standard income (eg lifestyle enjoyed by an individual, residential address, car and/or other vehicles, holidays etc) such anomalies can be presented to child support for further investigation. Additionally, we welcome the Committee seeking and presenting further strategies to address this concern.

Change of Assessment: Since 1 July 1992, customers can apply to have their assessment changed if their special circumstances are not adequately reflected in their child support assessment. A customer who applies for a Change of Assessment (COA) must apply under

one or more of the 10 reasons outlined in the legislation. The COA process remains largely unchanged today, and has maintained the complexity and intrusiveness of the court process. It usually takes parents between 75 and 90 days to receive a new assessment, and if a parent objects to the decision internally, that process can take an additional 60 days. In addition, since 2007, parents who remain dissatisfied can apply to the Social Security Appeals Tribunal for re-consideration. NCSMC makes the following recommendations:

- 17.** The cost of contact for payers was more than adequately provided for within in the 2006 reform (we argue overly and incorrectly compensated). In the event that this Inquiry does not remedy this such as (a) the removal of the 24% discount for 14% of contact and (b) modify the self-support amount that reasons to further reduce child support upon the cost of care should be removed from the Change of Assessment. I bring to the attention Reason 1: the costs of maintaining the child are significantly affected by the high costs of spending time or communicating with the child and Reason 7: your necessary expenses significantly reduce your capacity to support the child.

HIGH CONFLICT AND FAMILY VIOLENCE

NCSMC welcomes the Inquiry reviewing this issue as we can contend that high conflict families are likely to be part of the scheme as families who are without conflict and/or violence are more likely to manage their own affairs (notwithstanding the implications of the maintenance action test and family payments) and may not be part of the child support scheme.

The National Council of Single Mothers and their Children has witnessed greater internal discussion and focus from Department of Human Services on the matter of responding to family violence and we support their endeavours. We also welcome the findings of the Australian Law Reform Commission, more recently NCSMC has been privy to presentations regarding DHS Family Violence Strategy. We note some progressive changes such as the focus on asking customers about safety for themselves and children, looking at trigger points ie moving from child support collect private collect along with a focus upon training (albeit internal). However, the response is still incomplete. NCSMC believes that there is more work to do to improve the safety and security of all customers commencing with an understanding of the gendered experience of post-separation violence. Research confirms that for women violence continues well after separation which is uncommon for men.^{xiv} NCSMC in various meetings and consultations have provided a host of examples where the CSA through its communication, processes and systems has inadvertently supported the perpetrator of violence and/or controlling behaviour.

NCSMC believes that there is more work to do to improve the safety and security of all customers. We further believe that with the Department of Human Services provides an opportunity to explore the possibility of a Specialist Domestic Violence Team. This team

Getting it Right

would respond; interact and work across the government agencies which now form the DHS including the Child Support Agency. This team would be the first point of contact for victims and/or survivors of domestic violence. This team would assume a range of responsibilities that could include, but are not limited to the following:

- Provide information regarding the support and services that are available within the nominated government agency and how to obtain them.
- Act as a conduit between the victim/survivor and the government agency.
- Organise exemptions and reviews.
- Provide information regarding other support services such as legal and non-government organisations.
- Be the contact and referral service for the government agencies.
- Oversee information that is provided to the women from and to all government agencies.

This team would be specialist team with best practice screening tools and a professional background and expertise in domestic violence. The team would have complaint mechanism and processes of review which are consistent with current government agencies.

RECOMMENDATION TO REDUCE CONFLICT AND INCREASE SAFETY

- 18.** To explore the merit of domestic violence team which is positioned outside of the Department of Human Services but works with them and their customers who are impacted on by violence. This would be a progressive step and would require input from a range of key stakeholders to ensure that the team is as effective as possible.
- 19.** A formal review and monitoring process of the mechanisms, forms, processes and interaction to stop and not allow post-separation violence to commence, continue or thrive.

Exemptions are the key protective mechanism within the Department of Human Services. A fundamental finding from the Australian Law Reform Commission^{xv} was the need for women to be informed and that self-determination is a critical safety element for women who are at risk or subjected to domestic violence. Within the context of the Department of Human Services this would translate to information been transparent, consistent which is readily available and accessible to them, their support networks and services. This would include Child Support Partial Collect Exemptions, Maintenance Action Test Exemption and Workforce Participation Exemptions. Furthermore, such information would not be *controlled* by agency staff and information would not be premised upon disclosure. In March 2011, 61,590 social security recipients were exempt from the activity test for a variety of reasons. The main reason for an exemption was a temporary illness or injury, which accounts for around 38,000, or 62% of all exemptions. Domestic violence and



Getting it Right

relationship breakdowns accounted for just 0.086 % of all activity test exemptions indicating an issue.^{xvi}

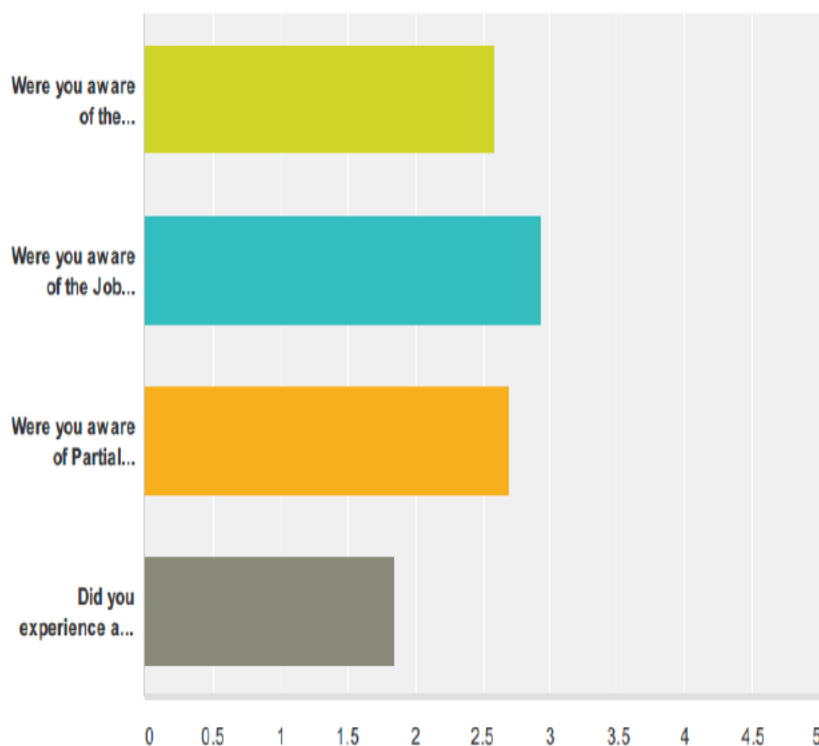
NCSMC's recent research (table page 18) which sought to *understand the barriers that women subjected by violence experience when accessing Government services* validates an extremely low level of knowledge regarding the available exemptions.

Getting it Right

Barriers women subjected to Domestic Violence experience when accessing Government

Q3 Domestic Violence Exemptions

Answered: 30 Skipped: 14



	Yes	Somewhat	No	N/A	Total	Average Rating
Were you aware of the Maintenance Action Test Exemption (collection child support)?	13.33% 4	13.33% 4	70.00% 21	3.33% 1	30	2.59
Were you aware of the Job Seeking Domestic Violence Exemption (16 weeks)?	3.33% 1	0.00% 0	93.33% 28	3.33% 1	30	2.93
Were you aware of Partial Collect Exemption (child support - private collect)?	10.00% 3	10.00% 3	76.67% 23	3.33% 1	30	2.69
Did you experience any challenges in seeking these Exemption/s?	22.22% 6	11.11% 3	14.81% 4	51.85% 14	27	1.85



TO IMPROVE THIS PROCESS WE RECOMMEND:

- 21.** The low number of exemptions sought and granted is noted as an issue and that greater transparency, promotion and knowledge of the available exemptions is made available to all stakeholders.
- 22.** Granting of exemptions needs to be underpinned by a system of belief and supportive of the disclosure. There is no evidence to support that women gain or embellish the presence of violence and threats to their safety. In fact contemporary evidence supports that it is under reported.

THE ALIGNMENT OF THE CHILD SUPPORT AND FAMILY ASSISTANCE FRAMEWORKS

NCSMC strongly urges the Committee to revisit the cost considerations that influenced the formula in 2005. At that time the Taskforce stated;

Estimates of the gross costs of children are based upon total household income, including government benefits. In order to assess how much the parents spend of their own incomes on children, it is therefore necessary to take account of those benefits. Raising children in intact families is a partnership of both parents and the Government. The Government assists most families with the costs of children, especially through FTB Part A, which is paid on a per child basis. For lower-income families in particular, it provides substantial tax-free financial assistance. In order to work out the amount that it would be reasonable to expect a non-resident parent to pay in child support, it was therefore necessary for the Taskforce to take account of the FTB Part A that is paid to parents in an intact family at different income levels. The estimates of the costs of children, less the amount of FTB Part A in an intact family at that level of household income, gave the Taskforce an estimate of the 'net costs' of children in intact families. Its recommendations concerning the level of child support that ought to be paid are based as far as possible on these estimates of the net costs of children.

Since the formula was devised the available income support through payments and the Family Payment System (Part A & B) have significantly changed and have diminished. In 2005 single mothers had access to the Parenting Payment Single (until their youngest child turns 16 years) a modest but higher payment than the Newstart Principal Carer which commenced on 1st July 2006 for new recipients (once their youngest child turned 8 years). On 1st January 2013, 65,000 sole parent families joined the 46,000 families who were in receipt of Newstart Principal Carer with more families to be impacted. Furthermore, indexation on Family Families was paused in 2009 with a further pause to come into effect on 1st July 2014

(subject to passage of legislation). A further significant change for sole parent families is not having access to Family Payment (Part B) when their child turns 6 and no access to the sole parent supplement after 12 years. Previously parents had access to this payment until the youngest child was 16 years (subject to passage of legislation).

R^ecommendation

- 23.** The Committee revisit the formula which factored in a level of Government assistance that was available in 2005 knowing that it has since been the subject of ongoing reductions with announced further reductions to be implemented.

It is our experience that the child support system in itself is extremely complex, difficult to understand and navigate. This is further compounded with the interaction of the family payment system. These statements are supported by the findings of research undertaken by Bruce Smyth which found that parents who pay or receive child support have low levels of understanding with less than one in 10 having accurate knowledge while 80% didn't know or were confused about the rules. Furthermore, one in five thought they knew the rules but actually they were wrong or ended up saying that actually they didn't know what the rules were^{xvii}. NCSMC has encountered anger from payers which predominantly stems from erroneous knowledge about the interconnectedness of family payments and child support. We believe that promoting accessible and correct information dispels myths and it may reduce conflict.

R^ecommendations

- 24.** At the initial stages of establishing a child support case all parties need to be informed (verbal and documented) that this is the requirement (unless there are safety considerations) otherwise families may not receive the levels of family assistance to which they are entitled to and that it would be reduced to the base rate.
- 25.** Maintenance Action Test: NCSMC question the legitimacy that payees can 'fail' something they're not informed about and would seek steps to ensure that they are fully informed about the requirements of a *maintenance action test* and that they are informed about the interaction with the family payment system. In the event that a person has *failed* (ie not commenced a child support case) the child support agency

Getting it Right

should review their information and to make further contact. This information needs to be complemented with knowledge that an exemption is available on the grounds of safety.

- 26.** The Maintenance Income Test (MIT) is an outstanding recommendation which arose from the Ministerial Taskforce Report, 'In the best Interest of Children - Reforming the Child Support Scheme' and we support the adoption of this recommendation (9.3). 'The MIT's free area, taper rate and scope should be reviewed in order to ensure that the operation of the MIT does not claw back FTB A beyond the level paid to equivalent intact families. This recommendation is in response to the MIT working against many separated parents who receive less FTB Part A than they would if they were living together.^{xviii} We also recommend that this information is made to the payer for as per recommendation (24)'.

Recipients of Family Tax Benefit Part A (and not subject to the Maintenance Income Test) are entitled to \$48,837 before it is reduced by 20 cents for each dollar above the threshold until the payment reaches the base rate of Family Tax Benefit Part A^{xix}. Below are the tables for receipts of Family Tax Benefit Part A and are subject to the Maintenance Income Test. This illustrates the stark contrast and low levels of Maintenance-income test free areas when compared to a two-parent family.

Maintenance-income test free areas (per year)	
If you get more child support or spousal maintenance than the amounts below, it may reduce your Family Tax Benefit Part A by 50 cents in the dollar, until it reaches the base rate of Family Tax Benefit Part A.	
Status Child Support Received (per year)	
Single parent or member of a couple, receiving maintenance	\$1,478.25
Couple, both receiving maintenance	\$2,956.50
For each additional child, add	\$492.75
We may automatically adjust your regular payments to avoid or reduce a projected Family Tax Benefit overpayment. This will apply to you if you get your Family Tax Benefit payment in fortnightly instalments.	

<http://www.humanservices.gov.au/customer/enablers/centrelink/family-tax-benefit-part-a-part-b/ftb-a-income-test>

Change of Assessment: Since 1 July 1992, customers can apply to have their assessment changed if their special circumstances are not adequately reflected in their child support assessment. A customer who applies for a Change of Assessment (COA) must apply under one or more of the 10 reasons outlined in the legislation. The COA process remains largely unchanged today, and has maintained the complexity and intrusiveness of the court process. It usually takes parents between 75 and 90 days to receive a new assessment, and if a parent objects to the decision internally, that process can take an additional 60 days. In addition, since 2007, parents who remain dissatisfied can apply to the Social Security

Getting it Right

Appeals Tribunal for re-consideration. NCSMC makes the following recommendations which aims to improve the process and reduce conflict:

- 27.** A more simplified COA could be in place in certain areas for example once the cost of private school has been endorsed as an agreed additional expense the transferring of payment should happen yearly without going through a Change of Assessment.
- 28.** A Safer COA: We caution the transferring of personal and identifying information and would seek that customers entering into a Change of Assessment are asked about safety concerns.
- 29.** CSA have the capacity to initiate a Change of Assessment and we would endorse that to be used more frequently in the areas that there is high conflict and violence (with consent) and the CSA is aware that the victim of the violence will not initiate the process.

THE EFFECTIVENESS OF MEDIATION AND COUNSELLING ARRANGEMENTS AS PART OF FAMILY ASSISTANCE FRAMEWORKS

NCSMC has mixed views regarding the value of the mediation and counselling arrangements. Our mixed views are based from diverse, opposing and strong opinions of women who have used the services. We have spoken with women who have been deeply distressed. One such examples was the practice of a Family Relationship Services that required the mother to attend a parenting course, she arrived unknowing that it was of mixed genders and given her recent violence and abuse that she had endured, the forced attendance added to her distress. A common negative response is the power imbalance and how this was not managed by the services but led to the mothers just giving into the system. The experiences reported to NCSMC echoes the findings of research which stated that there were high levels of dissatisfaction and low levels of satisfaction from both men and women and the Australian level of satisfaction was poor when compared to overseas^{xx}. Given the elevation of such services it is essential that they operate in a manner that provides and responds to safety and is valued by separated parents. Furthermore, women who have disclosed domestic violence are often not believed or there experience trivialised. It was found that only 40% of women disclosed family violence within the Family Relationship services and that 10.5% of respondents who reported violence to a family dispute resolution services were given an exemption from using the service thus indicating a serious flaw and a need for improved training, process and understanding.^{xxi}

Conversely, the most consistent and positive feedback is when the counselling services also offer legal advice and information. In the context of the trauma of a relationship breakdown, the difficult terrain of navigating through parenting plans and the complex



Getting it Right

discussion of property settlement and finances we support a multi-facet approach which provides accurate information as well as an opportunity to negotiate through mediation and counselling. Mediating with incorrect information leads to a more complicated and flawed process. NCSMC also notes the initial intent of mediation and counselling services (FRC's) was to facilitate information.

Centrelink and CSA are not the only organisations that may be able to work collaboratively with the FRCs. The interactions between family law, government family payments and child support are intricate and complex. It would not be expected that FRCs would themselves have available expertise in all relevant areas. The FRCs should take advantage of such possibilities for collaboration and government and community based sources of legal advice to make opportunities to receive specialist advice more accessible to parents using the FRCs.^{xxii}

R recommendations

30. Where there is no reported violence, safety threats and/or concerns we recommend mediation and counselling arrangements to be provided in a manner and over a timeframe which allows parents (both the payer and payee) to be informed, ie a combination of information, legal advice and mediation.
31. In the circumstance of violence and safety threats these services still should be available, but not face-to-face (unless with consent) and with an option for it to be ceased at the bequest of the person who is fearful without repercussions.
32. These services are available when the child has turned 18 but is still a dependent adult and that the family may be able to negotiate an outcome which provides some security and negotiated option which can support that young dependent adult especially if they are going onto further studies. Better process be established to ensure that payees do not 'fail' their Action Maintenance Test as they have not sought an extension of child support after the child has turned 18 years but is completing secondary school.

C CHILD SUPPORT FATIGUE

Complaint processes and the capacity to appeal are important elements of the child support system and have been welcomed developments. However, we are constantly informed by women that they are exhausted, dejected and that the option to challenge a decision is beyond their capacity. It is therefore critical that the Inquiry explores

Getting it Right

and makes recommendations that will assist to get it right the first time such as timely and accurate financial information (supported by the lodgement of tax returns). We also cognisant that external bodies require the CSA complaints process to be accessed and then exhausted before their services can be used. We support this principle but would like to see a more robust and effective system. One such option is the establishments of personnel within CSA who can assist those were objecting to gain a greater understanding of the process, the information that may be required and timeframes. It could operate similar to the duty lawyer who operates in family courts ie they don't provide individual legal advice but help self-litigants to successfully navigate the system. It may also restore some of the inequitable balance as it is most hard to seek information and clarity from the same organisation that you are lodging an objection with. Furthermore, it would overcome the concern or sense that a mother 'challenging' the system is then viewed as *problematic* which may prejudice future support and assistance.

We seek that this Committee as the Taskforce (2005) for the in the '*Best interest of children - Reforming the Child Support Scheme*' understands and formally acknowledge the vital importance of organisations such as the National Council of Single Mothers and their Children Inc. Such organisations can represent stakeholders and speak without the competing demands and restrictions that are present for service providers. We value our formal role with the Child Support Stakeholder Engagement Group Meeting, and seek a similar recommendation from the Taskforce for the *in the best interest of children - Reforming the Child Support Scheme* and a stakeholder group be established/ maintained that is inclusive of NCSMC.

- 33.** CSA to make available internal personnel to assist customers with the objection process.
- 34.** Ensure that National Council of Single Mothers and their Children (representing single mother families) have a formal role during the life of the Inquiry; its findings and responses, the implementation phase, awareness and education and an ongoing monitoring role and voice.
- 35.** We finally urge the Committee demonstrate leadership and employ respectful terms when describing families. NCSMC opposes the use of 'intact' to describe a two-parent family as the inference for a sole-parent family is offensive.

©NCSMC

www.ncsmc.org.au

ncsmc@ncsmc.org.au



ⁱ In the best Interest of Children - Reforming the Child Support Scheme, May 2005 pp 3. Report of the Ministerial Task Force on Child Support

http://www.dss.gov.au/sites/default/files/documents/best_interests_children_full_report.pdf

ⁱⁱ In the best Interest of Children - Reforming the Child Support Scheme, May 2005 pp 42. Report of the Ministerial Task Force on Child Support

http://www.dss.gov.au/sites/default/files/documents/best_interests_children_full_report.pdf

ⁱⁱⁱ Smyth, Bruce and Henman, Paul (2010) 16 1: 5-32, The distributional and financial impacts of the new Australian Child Support Scheme: A 'before and day-after reform' comparison of assessed liability. Journal of Family Studies,

^{iv} Valerie Adams, June 2010, Scoping the Australian Care Economy A Gender Equity Perspective. A Report for Security4Women. <http://www.security4women.org.au/wp-content/uploads/Scoping-the-care-economy-report-FINAL2.pdf>

^v Kaspiew, R, Gray M, Weston R, Moloney L, Hand K, Qu L, December 2009, Evaluation of the 2006 family law reforms, The Australian Institute of Families Studies

^{vi} In the best Interest of Children - Reforming the Child Support Scheme, May 2005 pp 19. Report of the Ministerial Task Force on Child Support.

http://www.dss.gov.au/sites/default/files/documents/best_interests_children_full_report.pdf

^{vii} In the best Interest of Children - Reforming the Child Support Scheme, May 2005 pp 85. Report of the Ministerial Task Force on Child Support

http://www.dss.gov.au/sites/default/files/documents/best_interests_children_full_report.pdf

^{viii} McInnes, E., (2001), 'Public Policy and Private Lives: Single Mothers, Social Policy and Gendered Violence', Thesis Collection, Flinders University of SA.

^{ix} Household, Income and Labour Dynamics in Australia (HILDA) Survey, 2013 Sounds the alarm on child poverty, Melbourne Institute

^x Australian Bureau of Statistics, September 2009, Australian Social Trends - using statistics to paint a picture of Australian social trends, Canberra

^{xi} Patrick R, Cook K, Tackett A, Just Policy No. 45, October 2007, Multiple Barriers to Obtaining Child Support: Experiences of Women Leaving Violent Partners, Critical Social Policy Sage Publications

^{xii} 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

^{xiii} Kaspiw, R, Gray M, Weston R, Moloney L, Hand K, Qu L, December 2009, Evaluation of the 2006 family law reforms, The Australian Institute of Families Studies

^{xiv} Family Violence and Family Law in Australia (The experience and views of Children and Adults from families who separated post-1995 and Post-2006), April 2010 p181, Bagshaw D; Wendt S; Campbell A; McInnes E; Tinning B; Batagol B; Sifris A; Tyson D; Baker J; Fernandez Aria P. Family

^{xv} Australian Law Reform Commission, ALRC Report 117 November 2011, Family Violence and Commonwealth Laws— Improving Legal Frameworks, The Australian Government

^{xvi} National Welfare Rights, VOL 29 No.3 • SEPT 2011 pp 6, Domestic violence exemptions not working, Rights Review

https://www.welfarerights.org.au/sites/default/files/field_publication_documents/4828/Rights%20Review%20September%202011.pdf

^{xvii} Smyth, B, Rodgers, B, Vu, B et al 2012, 'Separated parents' knowledge of how changes in parenting-time can affect child support payments and Family Tax Benefit splitting in Australia: A pre-/post-reform comparison', Australian Journal of Family Law, vol. 26, no. 3, pp. 181-213.

^{xviii} In the best Interest of Children - Reforming the Child Support Scheme, May 2005 pp 19 . Report of the Ministerial Task Force on Child Support

http://www.dss.gov.au/sites/default/files/documents/best_interests_children_full_report.pdf

In the best Interest of Children - Reforming the Child Support Scheme, May 2005 pp 85. Report of the Ministerial Task Force on Child Support

http://www.dss.gov.au/sites/default/files/documents/best_interests_children_full_report.pdf

^{xix} <http://www.humanservices.gov.au/customer/enablers/centrelink/family-tax-benefit-part-a-part-b/ftb-a-income-test>

^{xx} Family Violence and Family Law in Australia (The experience and views of Children and Adults from families who separated post-1995 and Post -2006), April 2010 p181, Bagshaw D; Wendt S; Campbell A; McInnes E; Tinning B; Batagol B; Sifris A; Tyson D; Baker J; Fernandez Aria P. Family

^{xxi} Family Violence and Family Law in Australia (The experience and views of Children and Adults from families who separated post-1995 and Post -2006), April 2010 p181, Bagshaw D; Wendt S; Campbell A; McInnes E; Tinning B; Batagol B; Sifris A; Tyson D; Baker J; Fernandez Aria P. Family

^{xxii} In the best Interest of Children - Reforming the Child Support Scheme, May 2005 pp 233.
Report of the Ministerial Task Force on Child Support

http://www.dss.gov.au/sites/default/files/documents/best_interests_children_full_report.pdf