

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 339

Date received: 5-8-03

Secretary:

Sent: Tuesday, 5 August 2003 11:03 AM
 To: Committee, FCA (REPS)
 Subject: Submission - Child Support Agency Formula

I wish to submit the following information for consideration by the Inquiry Committee. This information may hold the key to a fairer and more equitable system of child support assessment calculation in future where required. 50-50 Shared parenting will assist the current situation greatly.

Section 4(2)(a) of the Child Support Act 1989 states:

"that the level of financial support to be provided by parents for their children is determined according to their capacity to provide financial support and, in particular, that parents with a like capacity to provide financial support for their children should provide like amounts of financial support"

This is a crucial section of the Act, as it directs the parents to share the cost of raising a child equitably, in accordance with their respective financial capacities.

I will establish, from my own circumstances, that the operation of the Child Support Formula results in an outcome that is in violation of the above Section of the Act.

3.2 The result of the formula

My gross income is approximately \$72,000 per annum. Application of the Child Support Formula yields a weekly child support bill of \$206 a week.

3.3 The Cost of Children

The results of some research into the cost of children is presented below.

Source	Cost (pw)
Lee[4]	\$225
Percival and Harding[5]	\$167
Budget Standards (BSU) Approach[6]	\$136

Table 1. Costs of Children, various sources.

To date, the Family Court has preferred the Lee method for establishing the cost of children[4]. There have however been some recent decisions where the more comprehensive BSU approach has been used in applications for departure from the Child Support formula, and the figures produced using this approach have been accepted by the court [7].

At most, I should only ever have to pay 100% the cost of raising a child, and that should occur only my wife is not earning anything, and has no capacity to earn anything. If I pay more than 100% the cost of raising a child, then I am in fact paying spousal maintenance. However, spousal maintenance is covered under the Family Law Act, and should not be collected using the authority of the Child Support Act.

The proportion of the child raising costs borne by me is shown as a function of my wife's income in Figure 1. The figure also shows the proportion of costs that *should* be borne by me, if there was true equality in the levels of support having regard to each parent's income.

Regardless of the method used to determine the cost of raising a child, it is clear that at I pay more than I should, having regard to each parents income. This disparity is most apparent just below the resident parents disregarded income amount, \$36213. At this income, even using the Lee estimate for the cost of a child, I am paying 92% of the total cost of care, however if the level of support was weighted according to each parent's income, I should only be paying about 70%

The disparity is most clear when both parents earn \$72000. At this point, I am still paying 64% the total cost of raising the child, according to the Lee tables. This cannot be seen as anything other than inequitable.

Proportion of Cost of Care Between Parents

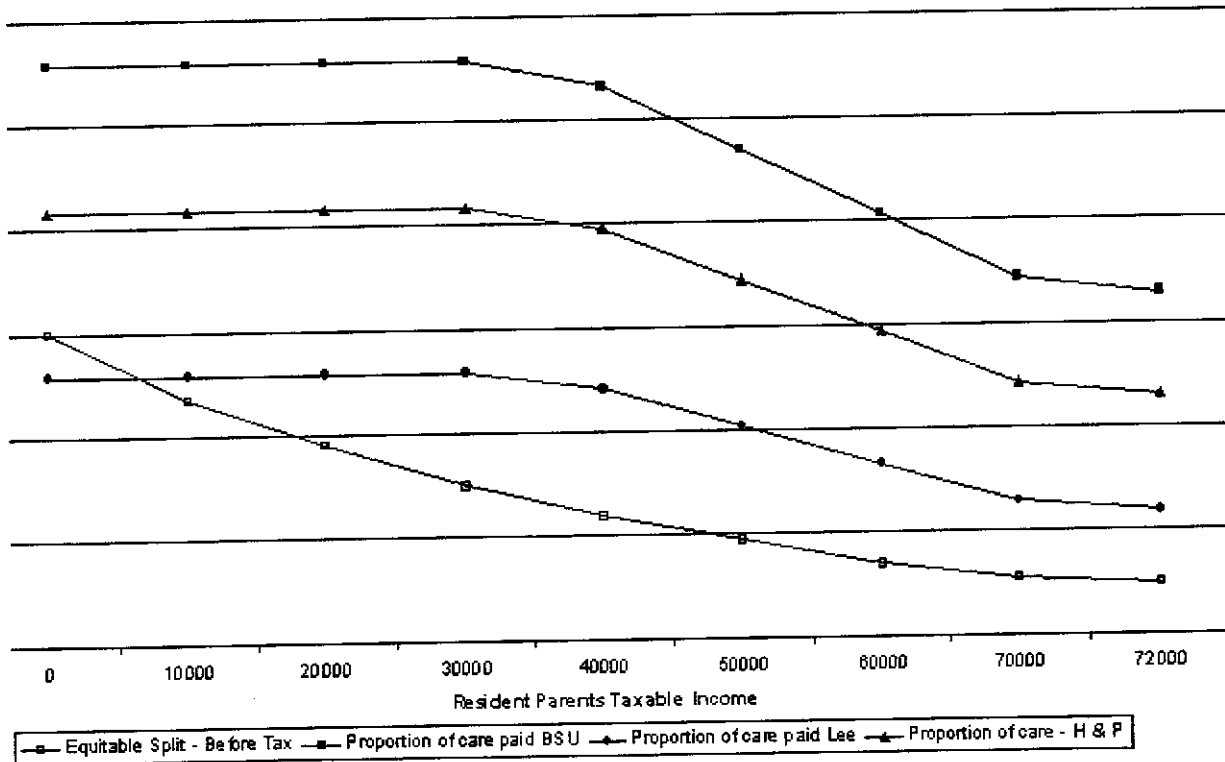


Figure 1. Effect of resident parent's income on the proportion of costs borne by the non-resident parent earning \$72000 per annum.

The disparity is even greater when after tax income is considered, due to the impact of marginal tax rates. I cannot conceive how it is reasonable to determine the child support amount on taxable income, when much of that sum given up in tax.

The British Child Support System has recently been changed so that the child support amount is calculated based on the after-tax income of the non-resident parent.

This formula does not take into account the time that my child is in my care. In fact, I may care for my child for 108 nights, or 29.5% of the entire year, but receive no relief or recognition for this contribution under the existing formula.

Further, the formula does not take into account the effect of Family Tax Benefit, which is a non-means tested pension to single parent families. Using the Lee tables, the cost a child is about \$250 per fortnight. The value of the Family Tax Benefit is about \$140 per fortnight. The nett cost to the resident parent of raising the child is \$110 per fortnight. If the non-resident parent

then gives \$412 a fortnight to the resident parent, the child is now a source of tax-free income to the resident parent of \$302 per fortnight.

Figure 2 shows the effect that the income of the non-resident parent has on the proportion of costs borne by them in raising a child. In this figure, it is assumed that the resident parent is earning \$36000.

From this Figure, it can be seen that if the non-resident parent is earning below \$30000 pa, then the cost of raising a child is unfairly distributed in respect of the resident parent.

However once the income of the non-resident exceeds \$50000 pa the cost of raising the child is unfairly distributed in respect of the non-resident parent.



It is also clear from this Figure that once the non-residents income exceeds \$80000 pa, they are paying 100% the cost of raising the child, and this inequity increases with increasing income.

Figure 2. *Effect of non-resident parent's income on the proportion of costs borne by the non-resident parent. The resident parent is assumed to be earning \$36000 per annum.*

The combined effect of the tax system and the child support formula can result in marginal tax rates for higher income earners of between 68% - 86%. This acts as a major disincentive for people in this position to increase the earning capacity through accepting additional responsibilities, training or working additional hours.

In fact, if I receive a 10% pay increase, or \$7200 pay increase, I would, after taxes and Child Support, have an additional \$2304 in my pocket, which represents an effective pay increase of 3.2%, which is less than inflation in many years. Of course a 10% pay increase is unrealistic year-in year-out, so in many years my real standard of living is actually dropping.

The resident parent receiving child support from a high earning non-resident parent also has a disincentive to increase their earning capacity. Child support paid to the resident is tax-free, and is far more attractive than the equivalent money earned in taxed employment.

3.4 The Child Support Scheme – A fairer formula

In the preceding sections, I have outline the following crucial failings of the Child Support Formula:

1. It makes no reference to the true cost of child.
2. It can result in determinations that exceed any estimated cost of the child.
3. It treats the income and financial resources of parents inequitably.
4. It does not take into account any proportion of care less than 30%.
5. It is based on gross income, and is therefore not representative of the true take-home financial resources of the parents.
6. It is a major disincentive for non-resident parents earning more than \$50000 to increase their income.

The following Child Support Formula will result in a more equitable determination.



Where:

A: *Is the child support income of the payer, which is their income net of tax less any allowances for dependants.*

B: *Is the child support income of the payee, which is their income net of tax less any allowances for dependants.*

C: *Is the cost of a child, which may be calculated from published research and adjusted for inflation on a yearly basis. It may be that this value is dependant upon the sum of A and B, to reflect the increasing cost of care as it relates to increased family income.*

D: *Is the proportion of time the child is in the care of the non-resident parent. This proportion should be based starting from zero.*

Neither parent should have their income considered for the purposes of Child Support if that income, net of tax and the cost of dependants, falls below a reasonable amount. This amount should be the same for both the resident and non-resident parent.

Using this formula, it is not possible for the paying parent to pay more than 100% the cost of raising a child to the resident parent.

Yours sincerely,