

## Submission to the Inquiry into Child Custody Arrangements in the Event of Family Separation


*from Dr Paul Henman  
Research Manager  
Centre for Research on Social Inclusion  
Department of Sociology  
Macquarie University  
Sydney NSW 2109*

House of Representatives Standing Committee  
on Family and Community Affairs

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Secretary: \_\_\_\_\_

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1. This submission has been prepared by Dr Paul Henman of the Centre for Research on Social Inclusion, Macquarie University in response to a call for submissions by the House of Representatives Family and Community Affairs Committee. I have considerable expertise in the area being examined by the Inquiry established by the Committee, particularly regarding child support policy and the expenditure incurred by non-resident parents in having regular contact with their children. Copies of my relevant publications are enclosed with this submission.
  2. I welcome the opportunity to provide expert input into the important public policy issues being considered by the Committee. The following comments are based on cutting-edge social scientific knowledge based on a range of research, including original research which I have conducted.

**Terms of Reference: (a) given that the best interests of the child are the paramount consideration: (i) what other factors should be into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and (ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.**

3. Social research into family relationships have demonstrated that over the last three decades there has been considerable changes in the way households organise themselves and their internal relationships. In the past, the dominant model was of a full-time employed male breadwinner and a full-time female carer of children. While there remains considerable gender differences, relationships and household formations are increasingly the result of negotiation (eg Bauman 2000; Beck & Beck-Gernsheim 1995; 2001; Beck-Gernsheim 2002; Giddens 1993). The old gender stereotypes that defined family relations have been challenged and liquefied.
4. These transformations have resulted from many changes in society, including: the advancement of feminist critical analysis and the corresponding challenge of patriarchal power; increasing levels of marriage breakdown and the increase of defacto relationships; and changes in employment conditions for both women and men.

5. Bound up with these changes is a rethinking of household arrangements and gender divisions in caring and employment responsibilities. Increasingly women wish to be a part of the employed workforce and seek to more equally share domestic labour. Men increasingly are taking a more involved and caring interest in child-rearing. This is particularly pronounced after separation and divorce (eg Bradshaw et al 1999).
6. At present, family law and child support policy has been predicated on the old male breadwinner – female care model. In this context, it is entirely appropriate to re-assess and redefine such public policy to take account of changes in family arrangements and expectations in caring and working arrangements. I therefore recommend that *the principle in family law and child support policy must be an assumption of negotiated relationships and caring responsibilities, not of pre-existing gender stereotypes.*
7. The Terms of Reference ask of the appropriateness of an assumption of equal shared care. As many other submissions point out, research demonstrates that this is currently not a widely practiced behaviour and is unlikely that many fathers would want equal time with their children. Instead, they seem to want to equally share the leisure time of their children, that is, on weekends and during school holidays. Based on this research, it is an impractical and unrealistic policy assumption. Rather, it would be more realistic and workable to use the following principle: that *both post-separation parents have equal say in deciding access and caring responsibilities.* Such an approach would: be consistent with the growing contemporary reality of negotiated relationships; ameliorate the current inequality where custodial parents have effective veto power over access; and recognise the reality that men still predominantly choose to have unequal caring relationships with their children.

**Response to Terms of Reference: (b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.**

8. The Committee asks 'whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children'. In order to assess the fairness of the child support formula it is necessary to understand the expenditure incurred by both parents in the care of, and contact with, their children. There is a range of available Australian research to assess this. In short, the findings strongly suggest that *the child support formula fails to adequately recognise the costs of contact faced by non-resident parents in maintaining regular contact with their non-resident children.*

***Research on the costs of raising children***

9. Research on the costs of raising children are of crucial importance in assessing whether the amount of child support and government family benefits received is sufficient to meet the costs faced by parents in raising their children. Important recent Australian research on these costs using a variety of methods include AMP-NATSEM (2002), Henman (2001b), NATSEM (1999), SPRC (1998, pp. 591-599) and Valenzuela (1999). This growing body of research replaces the outdated research by Lee (1988) and Lovering (1984), although the Family Court still appears to use the earlier research.

10. In general, this research shows that:

- There is no fixed or absolute cost of a child. The cost of raising a child increases with household income, although the rate of increase in the estimated cost declines with income level. Higher income households have greater living standards, which children share. Such households, for example, are more likely to pay for private education, buy brand name clothes and go on expensive holidays;
- The cost of the first child is greater than that for each subsequent child. This is due to economies of scale resulting from hand-me-downs and shared infrastructure (such as bedrooms and furniture);
- Estimates of the cost of a child generally tend to increase with the age of the child. The main exception is when all-day child care is required for preschool age children to enable the parent(s) to undertake employment; and
- Depending on the sensitivity of the method used, the cost of a particular child varies according to the situations of the household, such as their geographical location and the working arrangements of the parent(s).

11. The 1994 Joint Select Committee on Certain Family Law Matters recommended the production of costs of children research – particularly based on a basket of goods and services approach – to assess the extent to which the child support formula adequately reflects the costs of raising children. Although no such analysis has been made public or published, the Department of Family and Community Services did undertake an internal analysis during 1999. Also, Henman (2001a) provides a very limited analysis for a very specific household type. *Such an analysis using present cost of children estimates and the current child support settings remains a pressing task to properly evaluate child support policy and to establish and bolster its legitimacy.*

12. However, these analyses are based on a dated conception of post-separation family life. They tend to assume: (i) a male breadwinner who is a non-resident parent and whose full-time salary provides the financial support for himself and his children; (ii) a female full-time carer who is the resident parent; and (iii) variations from this model, such as for contact by the non-resident parent, is small and has insignificant financial implications. As a result of this model, it is assumed that the cost of raising children in post-separation families is largely borne by the resident parent and funded through child support (and government benefits) by the non-resident parent. In this view, the fairness of child support policy is the extent to which the child support formula provides adequate income to the primary carer to enable her/his children to meet their previous living standards.

#### ***Research on the costs of contact***

13. However, when both of the separated parents have contact with their children, an assessment of the fairness of the child support formula requires knowledge of the expenditure in raising children for *both* parents. There is only a small amount of research – both in Australia and internationally – of these costs. In Australia, Woods (1999) surveyed non-resident parents to identify the types of costs – and not the amount – involved in maintaining contact with one's children. Using a basket of goods and services approach, Henman and Mitchell (2001) estimated the costs of maintaining regular contact

with non-resident children relative to the costs of raising children full-time in an intact couple household.

14. In particular, Kyle Mitchell and I (in Henman and Mitchell 2001) found that maintaining 20 per cent contact with one child incurs costs of between 39% and 56% of the cost of raising a child full-time in an intact couple household. Contact with two children incurs a cost of between 31% and 51% of the costs for intact households. The reasons for this disproportionate cost, relative to level of contact, results for the requirement in providing basic infrastructure for the child/ren – such as a bedroom, clothes and toys – and in telecommunication and travel costs to organise and transfer children between households. Although these findings are reasonably robust, there may be further variations due to the circumstances of particular households.
15. To my knowledge there is no equivalent research anywhere on the cost faced by resident parents in raising their children for a percentage of time (that is, children who have contact with their non-resident parent). However, based on my experience in conducting the above research, I would be confident in arguing that the costs of raising children for resident parents would not decrease in proportion with the level of contact. For example, a resident parent who has 80 per cent contact would incur costs greater than 80 per cent of the costs of raising a children full-time. Again, this is because of the need to provide infrastructure, for which there is no savings resulting from reduced contact, and to organise and transfer children between households.
16. As we stated in our paper, this research highlights 'the reality that *children cost more to support and raise in separated households than in intact households*' (2001, p. 519). In short, to maintain the same standard of living, the households must jointly spend more on their children than they did prior to separation.

#### *Policy implications and recommendations*

17. The policy implications of this are quite significant, as child support and family benefit policy currently presume that the cost of raising children is a 'zero-sum' game. That is, that the overall cost of children remains the same for families once they separate, and the role of policy is to appropriately distribute public and private monies between the households. As a result, the current child support formula is predicated on the idea that costs of contact are minimal, compared with the cost of raising a child. Accordingly, the formula currently does not take into account the cost of contact, except in cases when such costs are regarded as exceptional and a variation can be then be obtained. Anecdotal evidence suggests that such variations are hard to obtain and their impact in reducing child support liabilities and meeting the costs of contact minimal. As a result, child support policy currently imposes on the non-resident parent the financial burden of raising his/her child/ren, themselves and the costs of contact (except in cases of shared care and the resident parent has private income).
18. My research has shown, contrary to the policy assumption that costs of contact are normally small and occasionally large, that costs of contact are considerable regardless of the level of contact maintained by the non-resident parent. It seems probable that this misconception results in financial difficulties for many non-resident parents and undermines the perceived fairness of the scheme. Accordingly, public policy must be reassessed and revised to build the legitimacy and fairness of the system.

19. There are several policy options for fairly recognising and supporting the costs faced by separated parents in caring for their child/ren in separate households.
- 19.a. Introduce a social security or taxation benefit to non-resident parents who pay child support and have regular contact with their children (perhaps above 10%). Such a benefit would recognise the greater costs faced by separated parents in maintaining two households, particularly the costs of contact faced by the non-resident parent. Such a policy was advocated by the Australian Democrats in the 2001 debate over proposed child support changes. However, in the proposed new environment, the distinction between a resident as primary carer and a non-resident parent is irrelevant. There are also considerable political difficulties with this approach. It would be seen by some as being unfair to intact families and to provide an incentive for separation. Also, there would be problems with compliance: how can government be sure that a non-resident parent has contact?
- 19.b. Readjust the child support formula to recognise that normal costs of contact are substantial. As explained above, the current system is based on the model that 100 per cent contact equals 100 per cent cost and that any variation in contact between two parties is proportional in costs. However, the reality is as soon as a child has contact with two households, costs increase substantially, so that a 80%-20% contact split equates to an approximate 100%-40% split in costs. (An educated guess would be that 50%-50% contact split would result in a 70%-70% split in costs.) The child support formula could be adjusted – in cases when both parents have overnight contact of 10 per cent or greater, say – to recognise the proportion of total costs in caring for and maintaining contact with one's children. Further research work would, however, need to be done to accurately identify the appropriate split. *I recommend that this policy be implemented after such research has been conducted to fine-tune it.* One problem with this policy is the way in which contact of 10 per cent or greater could be accurately assessed.
- 19.c. Expand eligibility to Parenting Payment (Single) to parents who maintain a reasonable level of contact with their children. In cases when parents have no or low private income, the social security system currently allows only one parent to claim Parenting Payment (Single) in lieu of the caring activities for their child/ren. The other parent is expected to apply for Newstart Allowance (ie. unemployment benefit) which has a lower level of payment and stricter eligibility conditions and obligations. Again, this policy is based on an outdated notion of a female primary carer who is out of the workforce and a male breadwinner. However, in cases of both separated parents having significant caring responsibilities for and contact with their child/ren, this policy is inappropriate and inequitable, as it fails to adequately recognise the caring activities of *both* parents and the effect this has on employment availability. This policy change could be implemented without much difficulty and *I recommend that it should be implemented immediately.*
20. Along with changed policies, there needs to be some changes to the policy principles of child support and family assistance.
- 20.a. *Policy must recognise that post-separation families can not maintain their pre-separation living standards without a considerable increase in overall disposable*

income (or, in cases of wealthy households, a reduction in the rate of savings). Current policy, which is predicated on a full-time carer / full-time breadwinner model, believes that the breadwinner can continue to meet the children's pre-separation living standards if adequate child support is paid. While this is a feasible assumption when there is no contact by the non-resident parent, it is unrealistic when both parents have contact with their child/ren.

- 20.b. *Policy must recognise that maintaining considerable levels of care of and contact with ones child/ren can have employment implications*, particularly when the children are of pre-school age. It is widely recognised that the primary carer – usually mother – of young children often makes employment sacrifices in order to provide adequate care for their children. This may be in the complete withdrawal from the workforce, or a reduction to part-time employment and also reduced pursuit of promotions and career development. However, it is not yet recognised that non-resident parents (mainly fathers) may also need to make employment or career sacrifices to maintain contact with their children. There is anecdotal evidence of this, but which needs to be reinforced through further research. There is also evidence of non-resident parents being penalised by child support policy for reducing hours, on the unfair assumption that they only do this to reduce their child support liability.
- 20.c. *Policy must be built on the assumption of reasonable behaviour*. Much of the debate on family law and child support is imbued with pre-existing perceptions about unfair and bad behaviour by certain parties. Some commentators seem to assume that all men are bastards and child abusers. While others point to the manipulation and control of access by women. While there are clearly instances of both fathers and mothers behaving badly towards each other and their children, *policy must be based on the perspective that separated parents seek to act reasonably and fairly towards each other and their children* (eg. Uttley 1999). Clearly, there need to be checks in place to protect children and parents from unreasonable and damaging behaviours, but this should be the starting basis for public policy.

### *Criticisms of policy change*

21. In 2000, the Howard government proposed some child support policy changes to better recognise the cost to non-resident parents of maintaining regular contact with their child/ren. These changes were blocked in the Senate on the basis that reducing child support liabilities would increase child poverty and further disadvantage sole parents. Although these arguments seem credible on face value, they are biased and their reasoning flawed.
22. Firstly, the arguments only take the view of the resident parent. However, in cases when children have considerable contact with both parents, whether they live in poverty is a factor of the disposable income levels in both households. This is because research typically regards a child as living in poverty if the household is below a defined poverty line. When a child has contact with two households, each household must be assessed for their poverty level. Given that child support can account for a considerable amount of a payer's income and the cost of contact is normally substantial, it is possible that a payer who has contact lives in poverty, and thus their contact child does (while the resident parent may not). To argue that reducing child support liabilities for reasonable contact

increases child poverty fails to consider the extent to which the child also lives in poverty when in contact with the non-resident parent.

23. There is virtually no research on this matter, but my research on the costs of contact have highlighted the importance of re-assessing the poverty levels of non-resident parents. Normally the measurement of poverty of non-resident parents who maintain contact with their children disregards the costs of contact, and so greatly understates their income needs and thus underestimates their level of poverty. Empirical research is urgently needed to re-assess the level of poverty among non-resident parents. In addition, policy modelling also needs to be undertaken to ensure that payment of child support is reasonable and does not impoverish the non-resident parent, and by implication their contact child/ren, in the process. The two sides of the coin must be examined. Child poverty can occur in both households. It could well be that the critics are right to assume that poverty does not exist in non-resident parent households. However, the research suggesting that child support payments (combined with government benefits) represent most if not more than the total cost of children (Henman 2001a) and that costs of contact are quite substantial (Henman and Mitchell 2001), requires that a new look is needed to be sure.
24. The second problem with the arguments against amending child support to better recognise the costs of contact relates to the purpose of child support. Such critics confuse the reduction of poverty responsibilities of the government and society with non-resident parents' obligations to support their children to a level they can afford. The policy of child support was introduced for a range of reasons, primarily to ensure that non-resident parents contribute towards the cost of raising their children. A consequential objective was to reduce child poverty in sole parent households. (A further aim, which is more dominant and explicit in the UK than Australia, was to reduce government expenditure.) In other words, reducing child poverty was an important outcome of ensuring non-resident parents met their financial obligations towards their children. To be fair policy, a payer's obligations must be based on the actual costs of raising their children. It can not be based on what is required to lift one's non-resident children out of poverty. Such an objective may be beyond the financial capacity of the non-resident parent. Once a child support payer has met the cost of children to the extent that they are financially able, the objective of poverty alleviation can be only be legitimately be based on broader public policy.
25. The critics are, however, right to state that reducing a resident parent's contact from 100% to 80% does not result in a proportional reduction in their cost of caring. Indeed, costs may remain constant or increase. As indicated above, the research remains to be done. Only after a more complete understanding of the changes in costs of raising children, including costs of contact, as a result of family separation can an informed and fair child support policy be devised.

### *The way forward*

26. The small amount of research on the costs of children and the costs of contact provide an important way forward for assessing and revising child support policy that recognises the reality and objective of shared parenting. However, more research needs to be done. I would be pleased to contribute to this research with the support of the government and its agencies, and other research and advocacy bodies.

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## **Expertise and Biography of Dr Paul Henman**

*Dr Paul Henman* has conducted social policy related research for over a decade. He has worked in government, academic and community sectors. He is published widely in academic, governmental, professional and popular outlets, and his work has received widespread media attention. Paul has conducted and published original research on the cost of raising children in Australia and is the only Australian researcher to have calculated geographical variations in such costs. With Kyle Mitchell, Paul has conducted the only research on the costs of contact for non-resident parents.

### ***Qualifications & Professional Awards***

B.Sc. University of Queensland, 1987  
B.Sc.Hons (1<sup>st</sup>, computer science) University of Queensland, 1989  
Ph.D. (sociology) University of Queensland, 1996  
MIM Holdings Award, for best honours result in Computer Science (1989)  
1<sup>st</sup> prize, Inaugural Radical Statistics Critical Essay Competition (2002)

### ***Professional Membership***

Member, The Australian Sociological Association  
Member, Social Policy Association  
Member, Society for Social Study of Science

### ***Relevant Publications***

Paul Henman, *Updating Australian budget standards costs of children estimates*, Policy Research Paper No. 7, Australian Department of Family and Community Services, Canberra, January 2001, pp. viii + 102.

Paul Henman and Kyle Mitchell, 'Estimating the Costs of Contact for Non-resident Parents: a budget standards approach', *Journal of Social Policy*, 2001, 30(3), 495-520.

Paul Henman, 'Current Concerns in Australian Child Support Policy', *Benefits: A Journal of Social Security Research, Policy and Practice*, Issue 30, January/February 2001, pp16-19.

Paul Henman, 'Making real the assumptions of the Budget Standards Project: the strengths and weaknesses for policy work', *Social Security Journal*, 1998/1, 69-102.

Paul Henman, 'Different assumptions, different scenarios: extending and developing SPRC's budget standards', *Social Security Journal*, 1998/1, 171-193.

Peter Whiteford and Paul Henman, 'Assessing budget standards: conceptual issues in the treatment of durables', *Social Security Journal*, 1998/1, 103-146.

## Recent Employment History

Current	Research Manager Centre for Research on Social Inclusion Macquarie University
1999-2003	Research Fellow Department of Sociology Macquarie University
2000	Post-doctoral Research Fellow Department of Social Policy University of Edinburgh
1996-1999	Senior Project Officer & Assistant Director Strategic Policy and Analysis Branch Commonwealth Departments of Social Security, and Family and Community Services

## Recent Research Grants & Consultancies

2003	Queensland Department of Industrial Relations and Queensland Treasury, Consultancy on the Equivalent Cost of Living in Capital Cities (\$11,495)
2002-04	'E-government: prospects for public administration, citizenship & social theory', Australian Research Council (\$110,000) (with Prof. Mitchell Dean)
2001-02	'Information Technologies and the Changing Nature and Practices of Government', Macquarie University New Staff Grant (\$16,573).
2000	'An international comparative study of the computerisation of social security', IBM(UK) (\$18,350) (with Professor Michael Adler)
1999	'Evaluating Child Support policy using budget standards research', Commonwealth Department of Family and Community Services.
1999	'The use of information technology in British social security and banking', Anglo-Australian Bicentennial Fellowship & Macquarie University Research Grant (\$10,100)

## Contact Details

### Business

Department of Sociology  
Macquarie University NSW 2109  
(Balaclava Road, North Ryde, Sydney)

[REDACTED]  
[REDACTED]  
[REDACTED]