

Ms Bev Forbes
Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House
Canberra ACT 2600

Dear Ms Forbes

**FACS SUBMISSION TO INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE
EVENT OF FAMILY SEPARATION**

On 6 August and 18 August 2003, I wrote to you advising that the Department of Family and Community Services would be making a submission to the Committee's inquiry into child custody arrangements, and requesting an extension of the time for the department to lodge its submission to Friday 22 August. Regrettably, we were unable to finalise the submission by the date mentioned.

A hard copy of the department's submission is now attached. The submission has been authorised by the Secretary of the Department, Mark Sullivan.

A copy of the submission has also been emailed to fca.reps@aph.gov.au.

The department looks forward to assisting the Committee's Inquiry.

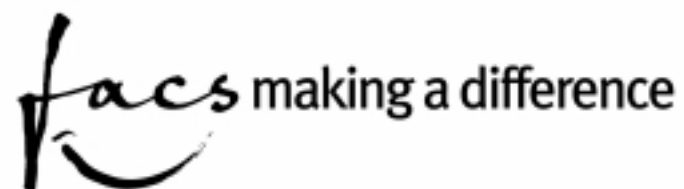
Yours sincerely

(signed)

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5 September 2003

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DEPARTMENT OF FAMILY AND COMMUNITY
SERVICES (FACS) SUBMISSION TO THE
HOUSE OF REPRESENTATIVES STANDING
COMMITTEE ON FAMILY AND COMMUNITY
AFFAIRS

**INQUIRY INTO CHILD CUSTODY
ARRANGEMENTS IN THE EVENT OF FAMILY
SEPARATION**

**FACS SUBMISSION TO THE INQUIRY INTO CHILD CUSTODY
ARRANGEMENTS IN THE EVENT OF FAMILY SEPARATION**

Terms of Reference

Having regard to the Government's recent response to the Report of the Family Law Pathways Advisory Group, the Committee should inquire into, report on and make recommendations for action:

- (a) given that the best interests of the child are the paramount consideration:
 - (i) what other factors should be taken 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.
- (b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.
- (c) with the Committee to report to the Parliament by 31 December 2003.

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1. CONTEXT

1.1. FaCS' Interest

The Department of Family and Community Services (FaCS) implements the Government's commitment to support and strengthen families as the fundamental unit of society through a range of income support and community services measures. FaCS recognises the contribution of families to the overall health and well-being of children, young people and individuals and has two key interests in this Inquiry: building and maintaining the capacity and resilience of families including through supporting and strengthening relationships; and improving economic and social outcomes for all family members.

The outcomes that FaCS is working to achieve are: that families are strong; communities are strong; and individuals reach their potential. Family well-being is central to allow parents to carry out their role in nurturing the development of children and young people over the life course of families. In some instances FaCS-funded programs can reduce the prospect of parents separating. Where separation occurs, FaCS is concerned to facilitate the least damaging path through separation: to promote parenting that leads to positive outcomes for children and to assist parents to be self-reliant and support their children after separation.

The Government provides significant financial and other support to separating families. The 1998 Parliamentary Report *To have and to hold*, conservatively estimated that the Federal Government spent \$3 billion annually on direct costs related to family breakdown, including social security payments, court costs, legal aid, support services, the child support scheme and taxation rebates for lone parents. An updated figure using similar parameters estimates Government expenditure conservatively at around \$3.6 billion.^a

FaCS delivers a range of services funded under the Family Relationships Services Program (FRSP) that specifically support family relationships and improve the resilience of parents and children. The Attorney-General's Department (AGD) contributes about half the funding for the FRSP and has a business partnership agreement with FaCS to jointly manage this program.

FaCS provides social security payments and assistance to families to create a safety net for people in genuine need but within a system that encourages personal responsibility, independence and self-help. Without this safety net, many families would be living in poverty and many children, particularly those in separated families, would be at risk of hardship.

FaCS has key policy interests in financial assistance for families and provision of services for both intact and separated families. FaCS is responsible both for policy and service delivery of the Child Support Scheme. The Child Support Agency, as part

^a This figure includes the lone parent rebate at the 1999-2000 dollar value. 1999-2000 is the last year that separate lone parent rebate figures were available. Under the new Family Tax Benefit arrangements introduced in 2000, Family Tax Benefit Part B combines the former lone parent rebate and the dependent spouse rebate for single income families.

of FaCS, administers the Scheme. FaCS is also encouraging economic and social participation for individuals to reduce long-term welfare dependency.

In addition to income support, the Government also assists families with the cost of children through the Family Tax Benefit, costs of child care and a wide range of family and community services.

FaCS as part of the inter-departmental Taskforce on Work and Family is reviewing policies and developing options that might better facilitate choice for parents in balancing their work and family lives. The Government is also examining the current range of financial supports for families, child care arrangements and how the workplace relations system is delivering family-friendly practices.

The Government is developing a National Agenda for Early Childhood which will focus on improving the development, health and wellbeing of Australian children. The National Agenda will guide future investment and build on the Government's existing investment in early childhood.

In its policies and programs FaCS promotes the "best interest of the child" principle and shared parenting responsibility for both separated and intact families. Its funded services encourage parents and extended family members, such as grandparents, to maintain contact with children after separation. Details of current FaCS funded programs relevant to this Inquiry are provided at [Attachment A](#).

The Government responded to the Family Law Pathways Advisory Group (FLPAG) Report and a Taskforce is currently developing a coordinated policy framework for separating families and families in conflict.

1.2. Current Circumstances around Separation and Contact

In 1997 the ABS found that about 74 per cent of children (0-17 years) lived in intact families. About 21 per cent of children lived in lone parent, step or blended families and had a natural parent living elsewhere. Nearly three per cent of children lived in a shared care arrangement (where both parents care for the child at least 30 per cent of the time).

Of the 516 800 lone parents with dependants, 30 per cent reported that they were not previously registered married, 63 per cent that they were either separated or divorced, and 7 per cent that they were widowed (ABS 1997).

The majority of children living with one parent had frequent contact with both parents (42 per cent seeing them at least once a fortnight). However, about 36 per cent of children rarely or never saw one biological parent. Of those who rarely saw their other parent, one third had contact by telephone or letter. The younger the child, the more frequently they were likely to visit the other parent (ABS 1997). Recent research based on the Household and Income and Labour Dynamics (HILDA) survey, suggests that more than one third of youngest children of separated parents living with their mothers do not see their fathers (Parkinson & Smyth 2003).

There is evidence that people will seek help to maintain their relationship rather than viewing separation or divorce as the only option (Bickerdike 2003). Research concludes that women are generally aware of marital stress and problems earlier than men and are more likely to seek some form of help or advice prior to separation (Wolcott & Hughes 1999). Recent Relationships Australia statistics show that only 6 per cent of clients attended counselling specifically to discuss separation, and that 68 per cent of their counselling clients were still in their relationships six months after the counselling (Bickerdike 2003).

The likelihood of marriages ending in divorce in the general population is 32 per cent. In 2001, around half of all divorces involved children under 18 years, concerning 53 400 children in total. Where divorces involve children, it is more likely that women will instigate the divorce application. In 2001, more women (56 per cent) than men (28 per cent) were the applicant where children were involved, and joint applications were lower (17 per cent) (ABS 2002b). Australian divorced men and women have given these reasons for divorce: communication problems, infidelity, abuse, alcohol/ drug use, external pressures and physical/mental health issues (Wolcott & Hughes 1999). Other research has cited financial stress, housing stress and joblessness as contributing to relationship breakdown (McClelland 2000) while 30 per cent of people give family violence as a reason for seeking separation in applications to the Family Court (Brown 2003).

A growing proportion of families are headed by a lone parent (ABS 2002a). The percentage of all families with children under 15 that are headed by a lone parent increased from 16.4 per cent in 1992 to 23.0 per cent in 2002 (ABS 2003). Those lone parents are more likely to have been in a couple relationship and separated than to have been a single parent who has never lived with the other parent (Parker 2003; ABS 2003). For example, in 2001 there were 53 400 children from divorced families, but there were only 9180 births where the father was not acknowledged (ABS 2002b; ABS 2001). Although separation is the main pathway to lone parenting, these parents are not necessarily alone. The level of support they receive from the child's other parent can range from child support (in most instances), involved non-residential parenting to no contact at all.

2. FACTORS DETERMINING CONTACT

2.1. Current Legislative and Policy Settings

The benefits to children of positive ongoing contact with both parents are well documented. In its 1992 report, *Patterns of Parenting After Separation*, the Family Law Council noted that children's development, capacity to adjust and self esteem post-separation, can be detrimentally affected by the long term or permanent absence of a parent. Research shows that the support and involvement of both parents is associated with a number of positive outcomes, including social competence, a positive self-concept, good behaviour and academic achievement (Amato 1993; Amato & Gilbreth 1999).

The importance of ongoing, positive, parental involvement is reflected in Part VII of the *Family Law Act 1975* (FLA). Reforms to the FLA implemented in 1996 emphasised parents' ongoing role in their children's lives by introducing the concept of 'parental responsibility'. To the extent the FLA now refers to rights, the emphasis is on children's rather than parental rights. In making an order concerning a child, the best interests of the child are the court's paramount consideration (s65E).

In 2001, the Family Law Pathways Advisory Group (FLPAG) launched its Report to Government entitled *Out of the Maze: Pathways to the Future for Families Experiencing Separation*. The Advisory Group noted that any future reform to the family law system should recognise and reinforce the best interests of the child principle and support parents to achieve the best outcome for their children.

The Government's Response to the Advisory Group's Report was released as part of the 2003-04 Budget. In outlining its support for the Advisory Group's recommendations, the Government set out three broad themes for guiding future policy development and service delivery:

- early help: connecting people to information and services;
- better outcomes for children and young people; and
- an integrated system that meets families' needs.

2.2. Parental Contact

Recent Australian research of parenting patterns amongst parents drawn from the general population of separated families^b found that around one-third of the fathers (36 per cent) did not have any face-to-face contact with their children. Almost half the fathers (48 per cent) had their children stay overnight, while the remaining 17 per cent saw their children only during the day. Consistent with other studies, the research also found that a significant proportion of both mothers and fathers would like the father to have more contact (41 per cent of resident mothers and 74 per cent of non-resident fathers). In contrast, of those fathers with little or no contact, 21 per cent are uninterested in having more contact (Parkinson & Smyth 2003).

Many families are achieving good post-separation parenting outcomes for their children without turning to the legal system. Most families are demonstrating that they are best placed to understand their individual needs and to develop appropriate arrangements. Parents who can put their children's needs first are also better placed to deal co-operatively with challenges over the longer term. Research on separated parents who share parental care indicates that the success of shared parenting depends upon parents having voluntarily agreed to the arrangement, and upon a previous history of co-operation (Rhoades, Graycar & Harrison 2000).

Australian and US research has found that increased involvement by non-resident parents after separation is closely associated with better child outcomes only when parent conflict post-divorce is low (McIntosh 2002; Hetherington, Cox & Cox 1982; Healy, Malley & Stewart 1990).

^b In other words, not just families within the family law system.

In its Report to Government, the Family Law Pathways Advisory Group noted that families who can resolve their issues independently should not be brought into the family law system (FLPAG 2001). The report stated that any legislative change to contact requirements should support families' ability to make flexible parenting arrangements suited to their individual circumstances outside the family law system, and for parents to cooperate in the interests of children after separation. In doing so, the system should pay particular attention to the ongoing parenting roles and support needs of both parents and provide services for those family members who face particular difficulties in adjusting to post-separation changes (FLPAG 2001).

2.2.1. Flexible Arrangements that Meet Changing Family Needs

After separation, most residence, contact and support arrangements for children are made by agreement between parents, sometimes with the help of mediators. Among applications for final court orders on matters such as residence, contact and property, only some 6 per cent proceed to trial (FCA 2002). Many other arrangements are created privately between parents with minimal or no involvement in the family law system.

Research of parents who share equally in the care of their children points to the logistical challenges inherent in managing shared care and the conditions necessary for successful shared care arrangements, including: proximity – all of the parents lived close to each other (within 10 km); work flexibility – all of the men had reduced or relatively flexible work arrangements; financial independence – all of the parents were in paid employment, enabling them to make choices about their work-life balance; and a sense of paternal competence in being a primary carer (Smyth, Carruna and Ferro 2003).

Depending on the family, structural factors such as the costs of contact, distance, age of a child and parental perceptions of what is best for a child of that age may play a significant role in a family's decision-making about contact arrangements. Over time, separating families implement different parenting arrangements as children grow and parents' circumstances change, including income, location, re-partnering and additional children (Smyth et al 2003).

2.3. Parental Conflict and its Effect on Children

While children benefit from positive, ongoing relationships with both parents, children are adversely affected where parental conflict is entrenched. Research indicates that ongoing parental conflict:

- can violate children's core developmental needs, posing a serious threat to their psychological growth (25 per cent of divorced children, compared with 10 per cent of children of non-divorced parents) (McIntosh 2002);
- has a profound influence on adolescent development and future adult behaviour and can be the strongest predictor of violent delinquency;
- is a more potent predictor of poor child adjustment than divorce; and
- is detrimental to the fathering role, partly due to some mothers' obstruction of contact that enhances the father-child relationship (FLPAG 2001).

McIntosh (2002) suggests about one-third of divorces involve high levels of conflict. Conflict is significantly reduced after divorce, however some 8-12 per cent of parents remain in very high conflict. In its Response to the Family Law Pathways Advisory Group's Report, the Government noted that, "such conflict is damaging to the individuals involved, particularly to children, and has detrimental and costly effects for governments and the wider community" (Commonwealth of Australia 2003).

There is evidence that dysfunctional parenting from both resident and non-resident parents experiencing entrenched conflict can impede early childhood development. McIntosh has found that "high ongoing levels of parental conflict disrupts the organisation of experience in early childhood, the template for learning and being" (McIntosh 2002).

Where children have been, or are likely to be, exposed to family violence, child abuse or chronic levels of parental conflict, ongoing contact with both parents may put the child at risk (Smyth et al 2003).

Judicial determination of a particular contact arrangement cannot of itself improve the relationship between hostile parents. Research undertaken in the US showed that couples who had the most legal conflict prior to a joint custody order were experiencing considerably more conflict and less cooperative parenting three and a half years after separation than couples who had agreed about joint custody (Maccoby & Mnookin 1992).

A recent Australian study found that 51 per cent of fathers were more likely to be comfortable with their children's living arrangements if they had negotiated them without a court order. There was a significantly lower level satisfaction among fathers (26 per cent) who had their parenting arrangements formalised through the court (Smyth et al 2001).

The Family Law Pathways Advisory Group Report to Government found that a number of people are frustrated and discontented about the way the family law system currently operates. Some men, in particular, expressed a view that the system is biased against them. The report therefore recommended the integrated family law system ensure fair and equitable treatment for all, particularly to the emerging needs of men as fathers (FLPAG 2001).

2.3.1. Government Funded Assistance to Families in Conflict

Awareness of the impact of parental conflict has seen the Australian Government promote earlier conflict resolution and agreement in separating families and less adversarial behaviour. Helping families to minimise conflict was a key outcome sought by the Government in establishing the Family Law Pathways Advisory Group (FLPAG 2001).

Reforms enacted in 1996 to Part III of the FLA were aimed at encouraging people to use primary dispute resolution mechanisms rather than judicial processes to resolve issues of family conflict and transition (FLPAG 2001; s14 FLA). Evidence suggests that, at least in the short term, primary dispute resolution mechanisms such as

mediation deliver higher client satisfaction levels than litigation and result in better child outcomes. Recent research shows that in comparison to adversarial proceedings, mediation results in non-resident parents maintaining higher levels of contact and involvement with their children (Fisher & Pullen 2002).

The Government funds a range of services which aim to encourage healthy relationships and, where separation becomes inevitable, to promote early interventions that assist parents to resolve conflict and to successfully co-parent post separation. Services include counselling, mediation and conciliation services funded under the Family Relationships Services Program (FRSP). Relationships and parenting education and services to support men in their family relationships are also funded under the Program.

Within the FRSP, the Contact Orders Program targets families where there have been high levels of entrenched conflict about contact issues in order to reduce that conflict and to help parents move towards management of their contact arrangements without court intervention. An evaluation of the pilot program found that over 70 per cent of clients reported receiving a positive benefit and the services were able to shift even the most highly conflicted families from their entrenched adversarial positions, by focusing on the needs of their children. Funding for a modest expansion of these services was announced in the 2003-04 Budget.

Children's Contact Services offer additional support to families where ongoing contact is at risk. The Services provide a safe venue for supervised contact between non-resident parents and their children and changeover of contact between resident and non-resident parents, enabling children and non-resident parents to continue or renew their relationships previously affected by family conflict or violence. Since 1996, the Commonwealth Government has funded a total of 35 Children's Contact Services.

An evaluation of the original ten Children's Contact Services showed a strong demand for the services, with most having waiting lists. Nearly all parents surveyed believed that their children had benefited from visiting at the services through diminished exposure to conflict. Overall, the child's non-resident parent reported greater gains for the child. The majority of parents reported that they cope better with visits than previously. The emphasis of service providers now is to assist families move toward self-management of contact with children.

The Men and Family Relationships program offers services and support (85 services) targeted to men to assist them to better manage their family relationships, including with their children. The Government also funds Men's Line Australia, a national 24 hour family relationships counselling service accessible throughout Australia. As at June 2003, the service had answered 24 412 calls since it was launched in September 2001, and received 722 820 hits on its website.

An evaluation of the Men and Family Relationships program:

- highlighted the importance of specialised services which are specifically badged as a men's service;
- found that the men's services have successfully delivered effective services to men with 96 per cent of surveyed clients rating the services as either good or very good and;
- recognised that the men's services provide a highly valued point of referral for other service workers.

The Government's focus on non-adversarial interventions was endorsed by the Family Law Pathways Advisory Group.

FaCS notes the strong positive role that this range of early intervention and conflict resolution programs play in producing better outcomes for families and children. Despite additional resources from Government to expand service provision, services are not always easily accessible across Australia.

2.4. Other Possible Implications of Change to the Current Model

The Family Law Pathways Advisory Group report emphasised that while debate exists about the incidence of violence versus alleged violence within the family law system, violence within families, especially separating families, is too often a reality (FLPAG 2001). 2001-02 data from the Family Relationships Services Program shows that 29 per cent of cases (at both the pre and post separation stages) across services funded under the Program involve family violence.

The Advisory Group recommended that when violence or abuse is present, the safety of family members must be a key priority. Any further change should not increase the risk of violence to women and children by providing additional opportunities or reasons for conflict to arise (FLPAG 2001).

The terms of reference ask in what circumstances could a presumption of equal time be rebutted. FaCS refers to shared care when discussing care that is of equal time (40-60 per cent of contact time) and sharing care when discussing care of lower contact time.

The research establishes that the best interests of the child principle should not be compromised. FaCS suggests that the factors listed in the guidelines for determining a child's best interests found in Division 10 of the *Family Law Act*, are a good start. These include factors such as the child's wishes, their age and maturity, the nature of the child's relationship with each of the parents, the impact on the child of changes to their living arrangements, practical difficulties and costs associated with contact with both parents, the capacity of the parents to meet the child's developmental needs and their attitude to parenting responsibilities and the need to protect the child from harm associated with exposure to violence.

Greater prevalence of shared care arrangements will have implications for the design of the income support system and more broadly, labour market participation among resident and non-resident parents. Changes will need to ensure that parents' responsibilities are recognised and that individuals make the most of opportunities to support themselves and their families. There are also implications for the government funded system of child care, and issues relating to flexible work arrangements to meet work and family commitments for both parents.

The Family Law Pathways Advisory Group found that the family law system does not always provide the right help and information to families at the time they need it most. It found that some people manage their separation with little interaction with the system while others feel frustrated, believing that the system works against them. It identified insufficient assessment of all the needs of individual families. Some parts of the system work well, but overall, a better coordinated and integrated approach is needed.

The Advisory Group recommended (FLPAG 2001) that:

- the value of family relationships should be acknowledged and that government should seek to provide families with a range of support services and information at various points in the family life cycle;
- value and support be provided regarding the ongoing capacity of families, whether intact or separated, to provide nurturing parenting to their children;
- the damage of separation and conflict to partner relationships and to children be minimised, and the capacity to re-partner effectively be maximised; and
- opportunities and incentives for families to reach agreement themselves be provided.

This builds on four fundamental principles set out in existing legislation, namely:

- the best interests of the children always come first;
- non-adversarial dispute resolution is a priority;
- the safety of family members from violence must be assured; and
- parents are responsible for financially supporting their children.

FaCS supports the above principles, and notes their applicability more broadly beyond the family law system.

3. THE CHILD SUPPORT SCHEME

3.1. Principles and Philosophy

The Child Support Scheme (CSS) was introduced with the bi-partisan support of Parliament to address serious concerns about child and lone parent poverty (Australia Parliament 1986).

Private parental responsibility for the financial wellbeing of children, rather than reliance on Government funded programs, is the underlying philosophy of the Scheme.

The objectives of the Scheme were amended by the Government in 1997. They are:

- Parents share in the cost of supporting their children according to their capacity;
- Adequate support is available to all children not living with both parents;
- Commonwealth involvement and expenditure is limited to the minimum necessary for ensuring children's needs are met;
- Work incentives for both parents to participate in the labour force are not impaired; and
- The overall arrangements are non intrusive to personal privacy and are simple, flexible and efficient (Australia Parliament 1997).

The legislative framework for the operation of the Child Support Scheme is contained in the *Child Support (Registration and Collection) Act 1988*, and the *Child Support (Assessment) Act 1989*. The child support legislation provides for administrative assessment of child support payable (the formula).

The *Family Law Act 1975* covers other relevant matters, including children's matters in relation to residence and contact, property and spousal maintenance. This legislation is administered by courts with family law jurisdiction, primarily the Federal Magistrates Service and the Family Court of Australia.

Prior to the introduction of the Scheme, child support could only be obtained by parents reaching an agreement or by seeking an order from the court determining the relative financial contribution of each parent. This meant that child support was effectively denied to those children whose parents could not reach an agreement or afford to go to court. In addition, court orders were often set for relatively small amounts, so they would not reduce social security payable to the resident (custodial) parent. Compliance with court orders was extremely low, leaving many children without adequate financial support. If parents didn't pay, enforcement was also through the court system.

Since 1988, the Scheme has been reviewed on a number of occasions. The evaluations include:

- *The Child Support Scheme: Progress of Stage 1*, Child Support Consultative Group (CSCG), August 1989;
- *Who Pays for the Children?* Australian Institute of Family Studies, 1990;
- *Paying for the Children*, Australian Institute of Family Studies, 1991;
- *Child Support in Australia, Final Report of the evaluation of the Child Support Scheme*, Child Support Evaluation Advisory Group (CSEAG), 1991; and
- *The Operation and Effectiveness of the Child Support Scheme*, The Joint Select Committee (JSC) on Certain Family Law Issues, 1994.

The Government remains committed to the Child Support Scheme. It has introduced three packages of changes to the child support legislation – one passed in 1999, one in 2000, and one in 2001. In brief the reforms were aimed at:

- improving the Scheme's flexibility;
- providing greater equity between resident and non-resident parents; and
- providing more regular financial support for children.

There is no doubt that the Scheme has been highly successful in meeting its objectives. The National Centre for Social and Economic Modelling (NATSEM) acknowledged that “if the Australian Child Support Scheme had not existed, child poverty could have been about 1.2 per cent higher, representing 58 000 children”. The report also found that while children living in female headed lone parent families were still the most financially disadvantaged in the community, their situation has improved as a direct consequence of the CSS (Harding & Szukalska 2000).

A much larger proportion of non-resident parents now contribute to the costs of their children and substantially larger amounts of child support are being paid.

The Child Support Agency (CSA) was established in 1988 to administer the Child Support Scheme. Now part of the Department of Family and Community Services, the CSA was originally part of the Australian Taxation Office.

The CSA’s role is to:

- register cases;
- assess child support payable;
- collect payments when requested;
- enforce payments where non-compliance occurs; and
- provide an information service for parents on child support matters.

3.2. Key Statistics and Performance Measures

As at 30 June 2003 there were 711 541 CSA cases, representing **640 707 payers** and **636 694 payees**, with responsibility for the financial support of almost 1.1 million children (CSA, unpublished data). A number of clients are involved in more than one case, meaning that there are fewer payers or payees than there are cases.

The caseload was comprised of Private Collect cases (50.6 per cent) and CSA Collect cases (49.4 per cent). Importantly, 69 per cent of all new clients (those who have separated within the last six to nine months) had elected to have Private Collect arrangements^c(CSA, unpublished data). This is consistent with the objective of the CSS that “the overall arrangements are non-intrusive to personal privacy and are simple, flexible and efficient.” Moreover it builds on broader family law system objectives to encourage cooperative arrangements between parents.

In 2002-2003 the CSA administered the transfer of nearly \$2 billion in child support:

- CSA Collect: \$0.67 billion
- Private Collect: \$1.27 billion
- Total: \$1.94 billion

Collection performance since the beginning of the Scheme (1988) is reported as:

- Domestic Collection Rate – 94.6 per cent. This figure includes domestic cases in both CSA Collect and Private Collect categories.
- CSA Collect Collection Rate – 88.7 per cent.
- Total Scheme Collection Rate – 94.1 per cent. This figure includes international cases (where one parent resides in a reciprocating jurisdiction) which comprise

^c Private Collect cases are registered and assessed by CSA and parents transfer child support directly.

1.9 per cent of the CSA caseload and performance is reported separately (CSA, unpublished data).

The Australian CSA is recognised as a world leader in terms of collection performance. Attachment F compares Australia with four overseas child support jurisdictions. Most separated Australian parents do the right thing and pay their child support. Since the beginning of the Scheme (1988), \$14.1 billion in child support liabilities has been raised and \$13.4 billion has been collected (CSA unpublished data).

Capacity to pay child support is primarily determined by a parent's income. The following table outlines the weekly child support liability of parents registered with CSA.

Table 1: **How much do parents pay?**

Proportion of CSA payers	Weekly child support
39.7%	\$5 or less
56.2%	\$40 or less
78.5%	\$100 or less
21.5%	\$100 or more

Source: CSA Client Research Dataset, June 2003

The large proportion of CSA payers paying very modest amounts of child support is a reflection of the high concentration of payers with low incomes.

Despite an established capacity to pay, there will always be some parents who do not accept their responsibility and do not pay. Indeed there has been a significant increase recently in the value of CSA debts. Over the four years to June 2001, the trend for the cumulative Gross Maintenance Debt (GMD) was a steady increase, with an average debt increase of 6.7 per cent annually. By 30 June 2001, GMD reached \$670 million. This increase largely reflects a 37.9 per cent growth in the CSA Collect client base over this period. However, by 30 June 2002 GMD rose significantly to \$759 million, representing an increase of 13.2 per cent. At 30 June 2003 GMD was \$844 million, an 11.2 per cent increase on the previous year (CSA, unpublished data).

The factors mainly contributing to this increase have been identified as:

- the increase in debt associated with cases that have come to Australia with large start-up debts from overseas child support jurisdictions (International cases);
- higher than expected growth in the active caseload; and
- the growth in debt associated with the introduction of the minimum child support liability (\$260 per year).

Despite recent growth in debt, the reality is that child support debt in Australia is not large. For example, of all parents who are required to pay child support:

- 64 per cent have no debt;
- another 20 per cent have debts less than \$1000; and
- another 16 per cent of parents have debts over \$1000 (of these only four per cent of parents have debts of more than \$10 000) (CSA, unpublished data).

To further help address the growth in debt and to streamline and strengthen the services CSA delivers to parents a National Collection Strategy was developed in 2002-2003. The strategy brings a stronger focus to CSA collections and debt reduction activities.

Furthermore, the additional funding announced in the 2003-04 Budget will give the CSA increased resources to collect this child support. It is expected that over 105 000 children will benefit from the measure as an additional \$130 million of child support is anticipated to be transferred from non-compliant payers through intensive collection activity.

3.3. Contact and Care in the Child Support Scheme

Child support is administratively assessed, using the formula as detailed in the legislation. The formula is based on each parent’s financial capacity to support their children. It is expressed in percentage terms and applied to adjusted taxable income after deducting an amount for personal support (currently a minimum of \$12 315). The percentage varies according to the number of children.

Table 2: **Child support formula percentage by the number of children**

Number of children	One Child	Two Children	Three Children	Four Children	Five or More Children
Formula	18%	27%	32%	34%	36%

Where children spend 30 per cent or more time with each parent, different formulae are used. The legislation provides for three different levels of care:

- Substantial care – one parent has care of the child between 30 and 40 per cent;
- Shared care – care is shared approximately equally, i.e. between 40 and 60 per cent; and
- Major care – one parent has care of the child between 60 and 70 per cent.

In these formulae both parents are assessed as liable to pay and also eligible to receive child support. The calculations are offset. The exempt income and the percentages used in the formulae change. This is to recognise that there are costs associated with having a level of care, but also that where a child is living in two households, the overall costs are greater than a child living in only one household.

Where care is shared approximately equally, the exempt income for both parents increases from \$12 315 to \$14 550 or \$16 987 depending on the age of the child. The percentage reduces from 18 per cent to 12 per cent for one child and from 27 per cent to 18 per cent for two children. Prior to 1999, the exempt income for both parents was the same amount as it was for a parent who did not have any care of the child (currently \$12 315).

Where a parent has substantial contact with a child (between 30 and 40 per cent), the exempt income is the same as for a parent whose contact is below this level. However, the percentage payable reduces from 18 per cent for one child to 14 per cent and from 27 per cent for two children to 22 per cent. The other parent, with major care, has an exempt income equal to the same amount as a parent who has care of a child from another relationship. The percentage payable is 8 per cent for one child and 14 per cent for two children. Further detail is in [Attachment G](#).

A strength of these formulae is that they are sufficiently flexible to cater for the range of care arrangements within the same family, including where there are different levels of care for different children.

The Child Support Consultative Group (CSCG) which designed the child support formula stated that it took into account the cost of having contact care for less than 30 per cent of the time when the level of the formula percentages was set. The designers stated that in arriving at the percentage contribution rates a number of other factors were taken into account, including indirect costs of children, contact costs, additional costs of children where parents do not live together, incentive effects and community views (Commonwealth of Australia 1988). However, the CSCG left no record of how much was allowed for the costs of contact, and little research on such costs was available to the CSCG at the time.

The following table describes patterns of care following separation among parents registered with CSA.

Table 3: Stage 2 caseload by care code (May 2003)

Time children spend with payee		CSA Collect		Private Collect		Total	
Care code	% of Nights	Number	%	Number	%	Number	%
Substantial	30.0-39.9	953	0.3	2 105	0.6	3 058	0.5
Shared	40.0-59.9	6 349	2.0	20 500	6.1	26 849	4.1
Major	60.0-69.9	5 661	1.8	10 629	3.2	16 290	2.5
Sole	70.0 and over	308 263	96.0	301 465	90.1	609 728	93.0
Total		321 226	100.0	334 699	100.0	621 871	100.0

Source: CSA Client Research Dataset, CSA, June 2003.

Note: Percentages may not add due to rounding.

From the CSA statistics, very few families – only seven per cent of families registered with CSA - share care more than 30 per cent of the time. Shared care, as defined in the legislation (roughly equal time), is reported in four per cent of all CSA cases. For parents transferring child support privately (Private Collect), the rate of shared care is slightly higher at six per cent. Other statistics on the amounts of shared care are discussed at [Attachment B](#).

It is important to note that, in determining the contact arrangement under the formula assessment, CSA relies on the information provided by the parents. In most instances

parents agree. If there is a dispute, then CSA will ask for additional information, including information about court orders and the number of nights involved.

In addition to the way the formula takes into account patterns of care following separation, the legislation provides further flexibility in that high costs of contact can be taken into account through the change of assessment process. Where it can be established that it costs more than five per cent of the paying parent's income to maintain contact arrangements, parents can apply for a variation to the formula assessment. Some 4 100 payers in 2002-2003 used this process, with 1870 (45 per cent) having a change made to their assessment (CSA unpublished data).

3.3.1. Impact of the Previously Proposed Contact Measures

Proposed amendments to the legislation, which were not passed by Parliament, were designed to recognise patterns of care between 10 and less than 30 per cent of the time. These measures would have generally reduced the child support percentages by two or three percentage points. For example, a parent having contact with one child between 20 and 29 per cent of the time would have their child support liability reduced from 18 per cent to 15 per cent.

Research (Woods & Assoc. 1999) conducted for the then Department of Social Security indicated that non-resident parents exercising contact incurred costs, particularly in relation to accommodation (for example, almost all provide a separate bedroom for their children during contact), in addition to day to day costs. While the types of expenditures were recorded there was no quantification of costs. Other research suggests that a non-resident parent with contact of 20 per cent of nights will have costs of around 40 per cent of the total costs of raising a child in an intact family (Henman & Mitchell 2001).

Attachment E part (b) provides examples of the impact of the current contact provisions on the amount of child support payable. It also shows the impact of the previously proposed "contact" measures.

3.4. Government Assistance to Separated Families

The Government provides assistance for families within a system that encourages personal responsibility, independence and self-help. Without this assistance, some families would be living in poverty and many children, particularly those in separated families, would be at risk of hardship.

It is important to recognise that the Government does not underwrite the standard of living of separated parents. While the Government provides a range of assistance to families, many families will almost inevitably experience a reduction in their standard of living following a separation, at least in the initial stages when two households are formed, despite the additional costs incurred by Government in assisting separated families.

The Government provides additional support to lone parents through measures such as higher rates of Parenting Payment, more generous income test and concession card

arrangements, and entitlement to more supplementary benefits such as Education Entry Payment, Employment Entry Payment and Pensioner Education Supplement.

In addition to income support, the Government also assists families with the cost of children through the payment of Family Tax Benefit (FTB). If the parents are separated and care of the children is shared, FTB is available to both parents, based on the percentage of time each cares for the children, between 10 and 90 per cent of the time.

The Government has a responsibility to ensure that the Australian social transfer system remains sustainable and affordable for Australian taxpayers within community norms. The Government expects that separated parents take the primary responsibility for the support of their children, based on their capacity to do so.

This principle is applied to eligibility for FTB Part A. Consequently, where a parent is eligible to apply for child support for their child, it is considered appropriate for them to take reasonable action to obtain child support (the maintenance action test). If a parent does not take reasonable action, they receive only the base rate of FTB Part A for that child.

Child support **received** reduces FTB Part A by 50 cents in the dollar for any child support above \$1127.85 per year (lone parent with one child) until the base rate is reached. Details of the maintenance income test are provided in [Attachment D](#). Child support **paid** is deducted from that household's income for FTB assessment purposes.

As a result of the collection and transfer of child support between parents the Government's expenditure on FTB has been reduced by \$423 million (estimated) in 2001-02. The total cost of the Child Support Scheme in 2001-02 was \$222 million. Therefore the net saving to Government expenditure in the same year was \$201 million. The net gain to children from child support payments after the application of the maintenance income test was just over \$1.0 billion in 2001-02 (Child Support Agency 2003).

[Attachment E](#) part (a) contains details of the child support, income support and FTB in intact and separated families. One example (Table 2) shows the outcomes where one parent is earning \$35 000 per year. In an intact family with one child, the after tax income and FTB of \$4 466 results in a disposable household income of \$32 269. Where the parents are separated and the child resides with a parent not in the workforce, the disposable income to the resident parent is \$19 644 (including \$15 561 in Parenting Payment and FTB). The non-resident parent has a disposable income of \$23 720. If the non-resident parent has repartnered and has a child, the household income increases to \$30 731 (including \$5 125 in FTB).

Some payers and payees have argued that additional assistance is required for separated families (e.g., a supplement to FTB Part A) to recognise the higher costs of maintaining two households and of maintaining contact with both parents. While there are clearly higher costs for separated families, the wider community may perceive even greater assistance to separated families as inequitable, and raise concerns that it encourages or supports family break-up. In addition, as noted above,

it is not the Government's intention to underwrite the standard of living of separated families.

3.5. Concerns about the Child Support Scheme

While outside the terms of reference for this Inquiry, it may be useful to briefly canvas some of the main areas of concern about the Child Support Scheme.

3.5.1. The Cost of Children

The Joint Select Committee on Certain Family Law Issues (1994) recommended research to determine whether the percentages in the child support formula correctly reflected the costs of children.

Two major reports followed, one from the National Centre for Social and Economic Modelling (NATSEM) (Percival & McDonald 1999) and one from the Social Policy Research Centre (SPRC) (Saunders et al. 1998), providing different perspectives on calculating the costs of children. Essentially, the Budget Standards produced by SPRC estimate what parents need to spend to provide a particular standard of living for their children, while the NATSEM report estimates the actual average spending on children by Australian families. It used ABS household expenditure data to estimate the average total expenditure on children in intact households at various income points. Updated versions of these reports are now available and are drawn on in this discussion (Henman 1999; AMP NATSEM 2002).

Both the NATSEM and SPRC research report only on the *direct* cost of, or expenditure on, children. However, in the development of the child support formula in 1987 the CSCG stated that the percentages reflected both the direct and indirect costs of children. These costs included the cost of raising a child where parents do not live together, costs of children to resident parents, the loss of workplace participation and contact costs incurred by non-resident parents.

Calculation of the costs of children is a complex task in itself. Comparing the results with the child support formula is not simple. Comparison may however, provide a useful benchmark against which to assess the outcomes of the child support formula.

At a low income (\$29 500), the NATSEM direct expenditure estimates suggest that payers paying child support for one child would pay approximately half the average amount spent by intact families on one child. If the child is young, the child support will often be higher than half, and if the child is older it will be less than half.

At a middle income (defined by NATSEM as approximately \$62 000), the estimates suggest that many payers would pay amounts similar to the total average spending by intact families on one child.

Although the formula is currently capped at \$119 470, at a high income (NATSEM uses \$126 000), a payer could pay 140 per cent of the estimated amount intact families directly spend on one child. For more than one child, the "excess" is smaller.

The NATSEM research found that families in higher income brackets spend a greater amount on their children across all age groups. However, while there was a steady rise in the expenditure on a child as family income increased, expenditure considered as a proportion of family income fell.

A measure introduced into Parliament in 2001 would have lowered the maximum payer income used to assess child support liabilities (“the cap”), thereby addressing this problem. This measure was rejected in the Senate.

In both the NATSEM and SPRC research the costs of children varied with the age of a child. Generally, young children cost much less than teenage children, except in the SPRC research where two parents with pre-school age children were working full-time and accessing child care. By contrast, the current formula percentages do not vary with the age of a child.

Both reports found that the proportion of income spent on children was greatest for families with one child, with evidence of economies of scale for second and subsequent children. The CSS recognises economies of scale in the formula percentages, i.e. 18 per cent for one child and 27 per cent for two children, which are somewhat larger than those suggested by the research.

3.5.2. Possible Impact on Incentives to Work

Work Incentives for Payers

From the outset, the Scheme has had as an objective that it not act as a workforce disincentive. Consideration of this issue is compounded by intra- and inter- family transfers pre and post separation.

At the aggregate level, there is no empirical evidence to suggest that the CSS affects work incentives. There may however be some payers for whom child support influences their employment decisions.

Anecdotal evidence indicates that some payers clearly perceive or experience their child support liability as a tax. This perception may affect their willingness to increase income, accept promotion, disclose income or even accept a job if unemployed.

While the payer population has lower incomes and a higher unemployment rate than the workforce as a whole, this could in part be explained by their earnings and labour force status on entry to the scheme. Further, it would be reasonable to hypothesise that at least in some cases, the loss of employment or poor earning capacity may have contributed to the separation.

People on income support can face very high effective marginal tax rates (EMTRs) due to the combined effect of income tax rates and the withdrawal of other social security benefits or family assistance. Child support payers face the additional cost of child support:

- child support can be the least significant single contributor in itself, but still, in combination with the others, lead to a situation of very high EMTRs;
- some examples of this are given in Part (c) of Attachment E.

While there is continual anecdotal evidence of behavioural change as a result of these high EMTRs, there is no reliable statistical evidence to demonstrate it.

However, even if a work disincentive effect were established, the judgment could still be made that the settings of the Child Support Scheme are correct, taking into account all the objectives of the scheme such as that parents contribute financially to their children's upbringing in the line with their financial capacity. Alternatively, the response to any observed effect could be to fine tune other systems, such as income support or family assistance, which interact with the child support scheme.

Work Incentives for Payees

Of all lone parents with dependent children aged under 16 years, FaCS estimates that more than 80 per cent receive a full or part rate of Parenting Payment single or other payment. Research such as that by Chalmers (1997), suggests that lone parents in receipt of maintenance payments are more likely to remain on income support for longer periods than those not receiving maintenance. The author hypothesises that 'maintenance recipients may not feel as financially pressured as other lone parents to seek insecure and relatively low paid employment'.

Other research, such as that conducted by Barrett (2002), suggests that on average lone parents receiving maintenance leave income support earlier than those who do not, but that those receiving higher levels of child support stay on income support longer. While it is clear that there are poor work incentives for people in some situations, it is unclear whether they result in a behavioural effect.

Trends in employment of lone parents compared to partnered parents suggest that payees may be discouraged from full-time work by the risk to their child support payments or other losses of entitlement when their income exceeds \$32 000. Alternatively this could reflect the difficulties in maintaining full time employment with parenting responsibility in lone parent households.

3.5.3. Taxation Issues

Payers have criticised the formula for being based on taxable income, rather than after tax income. In their view, after tax income more realistically reflects the resources available to payers from which to pay child support, and other parents support their children from after tax income. In addition, some payers have complained that a payee on social security is financially better off than a low earning payer, considering the net value of disposable income available to them.

If after-tax income were used, the formula percentages would need to be higher to provide an appropriate amount of support for the children. This may disadvantage paying parents earning lower incomes, as they pay lower levels of tax, and would therefore pay a higher proportion of their after-tax income in child support. This may be solved through using different percentages at different income levels to deliver more equitable outcomes for most payers. However, the complexity of the Scheme would increase considerably. This would increase the cost of administration.

4. ATTACHMENTS

- A. Details of Family Relationships Services Program (FRSP)**
- B. Statistics on Shared Care**
- C. Existing Treatment of Equal Time in Child Support Formula, Family Tax Benefit and Parenting Payment**
- D. Interaction Between Child Support and Family Tax Benefit Part A**
- E. Child Support Scenarios**
- F. Australian and Overseas Child Support Programs – Comparative Statistics**
- G. Contact and Care in the Child Support Scheme**

A. Details of Family Relationships Services Program (FRSP)

Overview

Total funding for services in 2001-02, was approximately \$46 million (GST exclusive). In that financial year, approximately 130 000 clients were seen (approximately 46 per cent male, 54 per cent female) across almost 400 services throughout Australia.

FRSP Sub-Program Descriptions

Family Relationships Counselling (FRC)

Family Relationships Counselling assists with resolution of couples' disputes and with resolving relationship problems in the most appropriate and helpful way. It is available during the periods of pre-marriage, marriage, separation, divorce and re-marriage. FRC is administered under the *Family Law Act 1975* (sections 12, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H) and is jointly funded by AGD and FaCS.

Approximately 83 000 clients were seen through this program during 2001-02 (41 per cent male, 59 per cent female), across more than 230 services Australia-wide.

Family Relationships Mediation (FRM)

Family Relationships Mediation (FRM) provides problem resolution services on issues which could be matters for proceedings in the Family Court. The purpose is to assist separating/divorcing couples to reach agreement on matters including parenting, care and residence of children, finances and property. FRM is administered under the *Family Law Act 1975* (sections 12, 13, 13B, 13C, 13D, 13E, 13F, 13G, 13H), with funding provided by A-G's. FRM is provided at more than 70 services, and assisted approximately 7 000 clients during 2001-02 (48 per cent male, 52 per cent female).

Conciliation Services

Conciliation services deliver a voluntary (pre-filing) counselling service for Family Court clients in metropolitan areas in relation to disputes involving children. The goals of the conciliation services include early resolution of disputes, ensuring safety of parties where violence is disclosed, and that agreements are in the best interest of the child(ren). Approximately 2000 clients (48 per cent male, 52 per cent female) accessed conciliation during 2001-02 provided by more than 20 services.

Children's Contact Services (CCS)

Children's Contact Services help children of separated parents to re-establish and/or maintain a relationship with their non-resident parent in circumstances of high levels of conflict or concern for the safety of family members. The services offer a neutral location for changeover between residential and non-residential parents and for supervised contact. Funding for CCS is provided by Attorney-General's Department. Approximately 40 contact services are funded under this program, and serviced more than 6000 clients during 2001-02 (48 per cent male, 52 per cent female).

Family Relationships Education (FRE)

Family Relationships Education assists men and women to develop skills to foster positive, stable relationships with their partner or family. FRE is administered in accordance with the *Marriage Act 1961* (sections 9B, 9C, 9D, 9E). More than 160 services provide FRE, attended by over 22 000 clients during 2001-02 (48 per cent male, 52 per cent female).

Family Relationships Skills Training (FRST)

Family Relationships Skills Training promotes positive parenting and non-violent problem solving by providing families with parenting and family functioning skills. The target groups include low income families, lone parents, locationally disadvantaged families and families with children with disabilities. FaCS funds over 40 FRST services, which saw approximately 3000 clients during 2001-02 (45 per cent male, 55 per cent female).

Adolescent Mediation and Family Therapy (AMFT)

Adolescent Mediation and Family Therapy works with adolescents and their families or caregivers who are experiencing various levels of conflict and complex family difficulties that may lead to family breakdown and possibly youth homelessness. Approximately 5000 clients were seen through this program during 2001-02 (40 per cent male, 60 per cent female), across 15 services Australia-wide.

Specialised Family Violence Initiatives

Specialised Family Violence Services provide integrated, whole-of-family interventions for men, women and children affected by domestic violence. No FaCSLink data is available for this service prior to 2003-04.

Rural and Regional Primary Dispute Resolution (PDR)

PDR provides effective and inexpensive alternatives to litigious solutions to family law disputes. It describes processes, other than judicial determination, in which an impartial person (a PDR practitioner) assists those in a dispute to resolve the issues between them. It can also include approaches that enable parties to prevent or manage their own disputes without any outside assistance.

PDR can include a range of activities such as:

- individual and/or joint counselling, mediation, or conciliation interventions;
- group work;
- information seminars/resources; and
- community education.

PDR services are provided from more than 20 organisations throughout Australia.

Contact Orders Program

The Contact Orders Program (COP) assists separating parents in resolving and managing conflict over children's contact arrangements. During 2001-02 over 700 clients (48 per cent male, 52 per cent female) accessed the three services available under this program.

Men and Family Relationships (MFR)

The Men and Family Relationships program aims to:

- assist men to manage a range of relationship difficulties with partners and ex-partners, children and step-children — leading to reduced incidence of male suicide and family violence and contributing to increased child support compliance; and
- help organisations develop more sensitive and responsive approaches to working with male clients.

Services include counselling, relationship education and parenting skills programs — but they are designed to take men's particular help-seeking and problem solving strategies into account. More than 80 services provide MFR programs, and saw approximately 7000 clients during 2001-02 (81 per cent male, 19 per cent female).

B. Statistics on Shared Care

Family Tax Benefit (FTB) Shared Care Data

The following table shows the distribution of shared care Family Tax Benefit (FTB) fortnightly customers by care percentage. In June 2003 there were 68,111 shared care FTB fortnightly customers from a total FTB population of 1 813 235. It indicates that only a small proportion of the overall FTB customer population (4 per cent) have shared care arrangements in place, with a concentration of customers at the 50 per cent and 71 – 90 per cent levels.

Table 1: FTB fortnightly shared care customers

Percentage of care	Number of Customers*
10-19 %	6 175
20-29 %	9 469
30-39 %	4 299
40-49 %	3 382
50%	11 675
51-60 %	4 084
61-70 %	5 663
71-80 %	14 054
81-90 %	14 055
Total 10-90 %	68 111

Source: FaCS, Unpublished Data, June 2003.

* A customer may be counted in more than one category, e.g. a customer with two children with 20% care of one child and 80% care of the other child. However, the customer is only counted once in the total.

FTB shared care data counts those customers who are currently receiving a shared care rate of FTB. However, it does not include all customers who have shared care arrangements in place. Reasons for this include:

- private arrangements between parents that have not been disclosed to Centrelink so that only one party claims FTB;
- parents who formally waive their entitlement to FTB in favour of the resident parent; and
- in some instances only one parent has an entitlement to FTB (e.g. when one parent's income is too high).

This in part explains why, despite a considerable overlap between the overall FTB and child support populations, there is a substantial difference in numbers between the CSA and FTB shared care populations. FTB shared care data will include many instances where both parents are FTB recipients.

HILDA Data

The following data is sourced from Wave 1 of the Household, Income and Labour Dynamics in Australia (HILDA) survey. It shows the amount of contact the youngest child has with non-resident parents as reported by those respondents who identified themselves as resident and non-resident parents respectively. Table 2 indicates that approximately half of all resident parents report no overnight stays with the non-resident parent whereas approximately 20 per cent report that the child spends 10-29 per cent of the nights per year with the non-resident parent. Only 6 per cent spend more than 30 per cent of the nights per year.

Table 3 indicates a greater difference between the family types as well as the fact that more overnight stays are reported by non-resident parents with only 42 per cent saying that there are no overnight stays, and 32 per cent report that the child stays 10-29 per cent of the nights per year.

Overall, the data suggests that a significant percentage of non-resident parents do not have any ongoing contact with their children. It also suggests that a significant minority percentage exercise a level of care between 10 and 30 per cent, but the percentage that exercise care above this level is very small.

Table 2: **Overnight stays of youngest resident child with non-resident parent as reported by resident parent population**

Number of overnight contacts per year	Percentage of nights per year %	Reporting Parent Family Type		Total %
		Both resident & non-resident children %	Only resident children %	
No overnight contact		51.9	55.4	54.9
1-36	<10	20.2	19.7	19.8
37-109	10 – 29	18.3	19.5	19.4
110-145	30 – 39	3.9	1.8	2.1
146+	40+	5.8	3.6	3.9
Total *		100.0	100.0	100.0
		n=104	n=614	n=718

* Percentages may not add due to rounding.

Table 3: **Overnight stays of youngest non-resident child as reported by non-resident parent population**

		Reporting Parent Family Type		
Number of overnight contacts per year	Percentage of nights per year %	Both resident & non-resident children %	Only non-resident children %	Total %
No overnight contact		40.6	42.4	42.0
1-36	<10	22.6	18.7	19.4
37-109	10 – 29	25.5	33.9	32.2
110-145	30 – 39	2.8	0.5	0.9
146+	40+	8.5	4.6	5.4
Total *		100.0	100.0	100.0
		n=106	n=434	n=540

* Percentages may not add due to rounding.

HILDA data is derived from the Wave 1 dataset. While HILDA is designed to (and will over time) deliver data of a longitudinal nature, Wave 1 data can only provide a “point in time” perspective. It also only asks respondents about their youngest resident/non-resident child. Despite these caveats the data still provides indications of the level of care provided by non-resident parents below 30 per cent. It should also be noted that:

- The two sample populations (resident & non-resident parents) are individual populations and are not necessarily linked i.e. are not mirror images of each other and are therefore not directly comparable;
- Because HILDA data is limited to overnight contact with the youngest child – some of whom may be considered too young (for a variety of reasons) to stay overnight on a regular basis – the data is likely to underestimate levels of contact by non-resident parents who have both young and older children; and
- The higher reporting of contact by the non-resident population compared to the resident parent population is consistent with previous studies.

ABS Data

This data indicates that the number and percentage of parents exercising care between 30 to 70 per cent is small. It also indicates a significant percentage have little or no ongoing contact with the non-resident parent, but that a similar percentage do have regular ongoing contact with the non-resident parent. It should be noted that ABS data is the oldest of the data in this attachment, (based on the 1996 census data) and defines shared care as “each natural parent looked after the child for at least 30% of the time”. The ABS data provides an overview of the entire Australian population.

Table 4: **Parental care arrangements (a), frequency of visits**

Parental care arrangement and frequency of visits	AGE OF CHILD (YEARS)					Total
	0–2	3–4	5–11	12–14	15–17	
NUMBER OF CHILDREN ('000)						
Sole care						
Daily	9.3	5.6	17.8	*4.2	5.4	42.3
Once a week	40.7	24.5	84.8	33.0	29.0	212.0
Once a fortnight	15.3	18.7	68.7	27.7	18.2	148.6
Once a month	7.1	*4.1	26.0	17.3	18.0	72.6
Once every 3 months	*5.0	9.4	32.9	19.2	16.1	82.6
Once every 6 months	*1.3	*3.0	21.3	11.2	13.6	50.4
Once a year	**1.1	2.7	20.9	15.5	10.9	51.2
Less than once a year/never	29.1	24.7	124.0	57.5	55.8	291.1
<i>Total children in sole care arrangements (b)</i>	<i>109.4</i>	<i>92.8</i>	<i>397.5</i>	<i>186.2</i>	<i>167.2</i>	<i>953.0</i>
Shared care[#]	*2.3	*3.4	12.3	*3.7	*3.7	25.4
Total (b)	111.7	96.2	409.8	189.9	70.9	978.4
PROPORTION OF CHILDREN (per cent)						
Sole care						
Daily	8.3	5.8	4.3	*2.2	3.2	4.3
Once a week	36.4	25.5	20.7	17.4	17.0	21.7
Once a fortnight	13.7	19.4	16.8	14.6	10.7	15.2
Once a month	6.4	*4.3	6.3	9.1	10.5	7.4
Once every 3 months	*4.5	9.8	8.0	10.1	9.4	8.4
Once every 6 months	*1.2	*3.1	5.2	5.9	8.0	5.2
Once a year	**0.9	2.8	5.1	8.0	6.4	5.2
Less than once a year/never	26.1	25.7	30.3	30.3	32.7	29.8
<i>Total children in sole care arrangements (b)</i>	<i>97.9</i>	<i>96.5</i>	<i>97.0</i>	<i>98.1</i>	<i>97.8</i>	<i>97.4</i>
Shared care[#]	2.1	*3.5	3.0	*1.9	*2.2	2.6
Total(b)	100.0	100.0	100.0	100.0	100.0	100.0

(a) For children aged 0–17 who have a natural parent living elsewhere.

(b) Includes a small number of 'not stated' responses.

[#] Shared care is defined as each natural parent looked after the child for at least 30% of the time.

* The estimate has a relative standard error greater than 25%.

** The estimate has a relative standard error greater than 50%.

Source: ABS Family Characteristics Survey, 1997

Summary

Although the data is sourced from 3 separate sources (and therefore provides different perspectives), together they broadly suggest the following:

- The number and percentage of parents exercising care between 30 to 70 per cent is small (varying from 2.6 per cent for ABS data to 6.3 per cent for HILDA data);
- A significant minority of non-custodial parents do not exercise any contact with their children; and
- An equally significant minority of non-custodial parents exercise levels of care between 10 and 30 per cent.

C. Existing Treatment of Equal Time in Child Support Formula, Family Tax Benefit and Parenting Payment

1. Child Support Formula

The Child Support Scheme is based on the principle that parents of children are primarily responsible for their financial care, even after they separate. When care of a child is shared or divided between parents (which can occur where a child resides with both parents or where each parent has a child living with them), the Child Support Agency (CSA) calculates each parent's liability to pay child support. Depending on the parents' income this may result in both of them having a child support liability, however, these liabilities are offset. In practice, the parent with the higher income will usually have a higher liability, and will end up paying the net amount of child support to the other party.

2. Government Assistance for Families

The Government recognises that families today have a diversity of parenting arrangements and wishes to support these choices as far as possible. The current treatment of equal time in the child support formula, Family Tax Benefit, Child Care Benefit and Rent Assistance is intended not to discriminate against either parent, nor to unfairly advantage one parent over another.

One significant disparity in the treatment of equal time arrangements is in relation to eligibility for social security income support payments and in the different expectations placed on parents in relation to their participation in the labour market.

2.1. Family Tax Benefit

Family Tax Benefit (FTB) is designed to assist families with the costs of children. Where parents are separated, they are each paid a share of the standard rate of FTB Part A and Part B, according to the proportion of care (subject to a minimum of 10 per cent).

2.2. Rent Assistance

Parents who share the care of their children may also receive Rent Assistance when they pay private rent. Rent Assistance is paid in full to each eligible parent and is not apportioned in the way the standard rate of FTB is.

2.3. Child Care Benefit

Separated partners may both be eligible for Child Care Benefit (CCB) regardless of the proportion of time for which they are responsible for the child. In order to receive CCB, each parent has to meet eligibility criteria. This includes the requirement that the parent is liable to pay for the child care provided.

2.4. Parenting Payment

Parenting Payment is the primary income support payment to assist people with parenting responsibilities.

Parenting Payment can only be paid to one parent for the same child. Where separated parents share the care of a child, generally the parent with the greater proportion of care is eligible. Where the care of the child is approximately equal (within the range of 46 to 54 per cent), other factors are also considered to determine

which parent is eligible. These factors include the relative financial needs of the parents, whether only one parent has claimed Parenting Payment, or whether one parent has already been receiving the payment continuously for a reasonable period when the other parent makes a claim.

The current policy of preventing separated parents with broadly equal care from both qualifying for Parenting Payment reflects a desire to avoid introducing further inequities into income support arrangements by treating parents with 100 per cent care the same as parents with around 50 per cent care. A parent with full care and responsibility for a child clearly faces higher time and income constraints than each of the two parents that share the care of a child.

If the other parent requires income support, he or she would usually apply for Newstart Allowance. If that parent is single, a higher “with dependent child” rate is paid. Applicants for Newstart Allowance must be unemployed and are required to satisfy an activity test in order to establish eligibility for that payment. For shared care parents on Newstart Allowance, a modified activity test may be used, allowing Centrelink to take into account their caring responsibilities. In addition, a complete exemption from the activity test can be given temporarily to a person with unforeseen, short-term caring responsibilities that make it unreasonable for them to meet any requirements. However, these parents may still be required to look for work, or undertake some other approved activity, and must accept offers of suitable paid work, whether full-time, part-time, casual or permanent.

This results in considerable inequities between parents, with Parenting Payment single recipients receiving a higher rate of payment, a more generous income test and a more valuable concession card. Newstart Allowance recipients will also be immediately subject to an activity test, while Parenting Payment recipients will not be required to perform any activity until their youngest child turns 13 years of age. The tables^d 1, 2 and 3 (on the following page) show the financial differences between Parenting Payment single and Newstart Allowance and the impact of the existing treatment of equal time for income support, family assistance and concession cards. The scenarios assume that the separated parents are single, in receipt of income support and have equal care of one child aged between 5 and 12.

The Government announced a measure in the 1999-2000 Budget that aimed to increase participation and remove the inequity where one shared care parent receives Newstart Allowance and the other receives Parenting Payment single. The measure ‘New Income Support Arrangements for Separated Parents Sharing the Care of a Child’ would have placed new claimant parents who provide care for children within a 40 to 60 per cent band on Newstart Allowance with modified activity tests. This measure required legislative change and was subsequently defeated in the Senate.

^d Rates in tables are current from 1 July – 19 September 2003 (Centrelink 2003)

The following tables assume that the separated parents are single, in receipt of income support and have equal care of one child aged between 5 and 12.

Table 1: **Income support & ancillary payments**

	Parent 1 – Parenting Payment Single	Parent 2- Newstart Allowance
Maximum rate of payment	\$440.30 pf	\$411.10 pf
Income before payment is withdrawn	\$144.60 pf	\$62.00 pf
Income before payment is completely withdrawn	\$1259.85 pf	\$672.14 pf
Pensioner Education Supplement (PES) / Work for the Dole Supplement	\$62.40 pf	\$20.80 pf
Pharmaceutical Allowance	\$5.80 pf	\$0.00 pf
Telephone Allowance	\$18.60 per quarter	\$0.00 per quarter

Table 2: **Family Tax Benefit – FTB**

	Parent 1 – FTB	Parent 2 - FTB
FTB Part A - Maximum rate for one child under 13	\$65.24 pf	\$65.24 pf
FTB Part B - Maximum rate for one child 5-18 years	\$39.06 pf	\$39.06 pf

Table 3: **Concession Cards**

Example of some entitlements ^e as reductions in the cost of:	Parent 1 – Pensioner Concession Card	Parent 2 – Health Care Card
Pharmaceutical concessions	Yes	Yes
Fares on public transport	Yes	In some instances
Council rates including water and sewerage	Yes	In some instances
Other utilities(eg electricity)	Yes	In some instances
Motor vehicle registration	Yes	In some instances
Fares on rail travel	Yes	No
Mail re-direction	Yes	No

^e Other miscellaneous items are offered by state/territory governments or private concession providers.

D. Interaction between Child Support and Family Tax Benefit Part A

Family assistance payments provide support to families to assist with the costs of children. The structure of the payments recognises the needs and choices of both single and dual-income families and the caring roles of parents following separation.

Maintenance Action Test

Income or the value of a benefit that customers receive from a parent of the children or an ex-partner to support the children or the customer is called maintenance income. If customers wish to receive more than the base rate of FTB Part A they must satisfy the maintenance action test by applying for child support. In this way the Government ensures that support for children is targeted to those most in need.

In some instances it may not be appropriate for a parent to pursue maintenance due to issues such as domestic violence or child protection. In these cases an exemption may be granted following assessment by Centrelink social workers. In those cases, parents may also be provided with appropriate advice and assistance to help them deal with matters identified during the exemption process.

Maintenance Income Test

Maintenance income is assessed separately from other income for family assistance purposes via the maintenance income test. This only affects customers who are eligible for more than the base rate of FTB Part A.

Resident parents who receive child support may have their FTB Part A reduced if they receive more than \$1127.85 a year of child support. The maintenance income test for FTB ensures that in years where a resident parent receives a lower amount of child support they may be paid more FTB Part A and in years where they receive a higher amount of child support they have their FTB Part A adjusted to take this into account.

Under the maintenance income test, all payments of child support, including any arrears, are taken into account in the tax year they are received and are used in calculating a parent's entitlement to FTB Part A.

Currently, the maintenance income test allows parents to receive up to \$1127.85 a year of child support (plus \$375.95 for each child after the first) before reducing the maximum rate of FTB Part A by 50 cents for each dollar of maintenance income received. FTB Part A cannot be reduced below the base rate by the maintenance income test.

Shared Care

Definitions for shared care differ under family assistance and child support. For FTB purposes the minimum percentage of care a parent must have for a child is 10 per cent. However, for child support purposes a customer must have 30 per cent, or more, care of their child before care is recognised. A parent therefore needs to have a minimum of 30 per cent care for their child before there is a reduction in the amount of child support they pay to the other parent.

Administration

For FTB instalment customers, estimates of the annual amounts of child support are calculated by the Family Assistance Office (FAO) using information provided by the Child Support Agency (unlike estimates of "Adjusted Taxable Income" which are provided by the customer).

There are two methods used by the FAO to estimate a customer's child support income. These are the entitlement method and the disbursement method^f.

The entitlement method uses the amount of maintenance the customer should receive as the basis for estimating their maintenance income and hence their entitlement to FTB. Under the disbursement method, the annual maintenance income estimate is worked out by adding the amount of maintenance the customer has already received during the income year to an amount projected for the rest of the year. The projected amount is worked out by multiplying the latest CSA monthly payment received (less any arrears) by the number of months left in the income year.

Overpayments

Customers who receive FTB as a fortnightly payment from Centrelink, and receive an unexpected amount of maintenance income, may be at risk of incurring an overpayment of their FTB.

Any maintenance income received during the income year is assessed for that year, regardless of the period of time to which it relates. For example, a payer could be reassessed due to their increased income with the reassessment going back to a time in the previous financial year when the income first increased. The payee then receives increased maintenance payments including arrears from the previous financial year. Often, a parent is not expecting to receive any arrears and so they have not been included in the calculation for FTB, which results in an overpayment. This generally occurs when the Child Support Agency (CSA) recovers significant arrears through interception of a tax refund, termination payment, property settlement or a bank account.

While overpayments are a cause for concern to parents, the treatment of arrears payments is consistent with the treatment of unexpected income under the normal income testing arrangements. For example, where a parent has estimated their income but receives a large lump sum termination payment, dividend or bonus, and cases where the Australian Taxation Office revises upwards a parent's taxable income.

The More Choice for Families strategy provides customers with some additional choices as to how they receive their FTB payments which can help customers receiving irregular child support. However, when customers receive arrears late in the financial year, there is little scope to adjust ongoing FTB payments to avoid an overpayment.

^f Only those customers whose maintenance is collected by the CSA can use the disbursement method.

E. Child Support Scenarios

Attachment E contains:

- at part (a) - three tables illustrating the effect of separation and children of other relationships on household income;
- at part (b) - some explanatory material, four explanatory scenarios, and six tables illustrating child support formula outcomes at different levels of care;
- at part (c) – three scenarios illustrating the effect of increased earnings in separated families.

(a) Effect of Separation and Children of other Relationships on Household Income

Table 1: Single income earner, taxable income \$25 000, one child aged 5 to 12 years^g

Disposable Income	Pre-separation	Post-separation				
	Intact Family	Payee		Payer		
		Payer no relevant dependants ^h	Payer with one relevant dependant	Single and no relevant dependants	Partner and one relevant dependant	Partner and one step child
After Tax Earnings	\$21 427	n/a	n/a	\$21 052	\$21 427	\$21 427
Parenting Payment ⁱ	\$1 878	\$11 599	\$11 599	n/a	\$1 878	\$1 878
FTB Part A	\$3 402	\$2 825	\$3 402	n/a	\$3 402	\$3 402
FTB Part B	\$2 020	\$2 037	\$2 037	n/a	\$2 020	\$2 020
Child Support	n/a	\$2 283	\$397	(\$2 283)	(\$397)	(\$2 283)
Total household income	\$28 727	\$18 744	\$17 435	\$18 769	\$28 330	\$26 444
Total government payments	\$7 300	\$16 461	\$17 038	n/a	\$7 300	\$7 300

^g Rates effective 1 July 2003.

^h For the purpose of calculating child support a dependant is a natural or adopted child that a parent has a legal duty to support other than the child/ren for whom they are required to pay child support.

ⁱ The Parenting Payment for couples does not include Pharmaceutical Allowance.

Table 2: **Single income earner, taxable income \$35 000, one child aged 5 to 12 years^j**

Disposable Income	Pre-separation	Post-separation				
	Intact Family	Payee		Payer		
		Payer no relevant dependants ^k	Payer with one relevant dependant	Single and no relevant dependants	Partner and one relevant dependant	Partner and one step child
After Tax Earnings	\$27 803	n/a	n/a	\$27 803	\$27 803	\$27 803
Parenting Payment ^l	n/a	\$11 599	\$11 599	n/a	n/a	n/a
FTB Part A	\$2 429	\$1 925	\$2 868	n/a	\$3 088	\$3 402
FTB Part B	\$2 037	\$2 037	\$2 037	n/a	\$2 037	\$2 037
Child Support	n/a	\$4 083	\$2 197	(\$4 083)	(\$2 197)	(\$4 083)
Total household income	\$32 269	\$19 644	\$18 701	\$23 720	\$30 731	\$29 159
Total government payments	\$4 466	\$15 561	\$16 504	n/a	\$5 125	\$5 439

^j Rates effective 1 July 2003.

^k For the purpose of calculating child support a dependant is a natural or adopted child that a parent has a legal duty to support other than the child/ren for whom they are required to pay child support.

^l The Parenting Payment for couples does not include Pharmaceutical Allowance.

Table 3: Single income earner, taxable income \$75 000, one child aged 5 to 12 years^m

Disposable Income	Pre-separation	Post-separation				
	Intact Family	Payee		Payer		
		Payer no relevant dependants ⁿ	Payer with one relevant dependant	Single and no relevant dependants	Partner and one relevant dependant	Partner and one step child
After Tax Earnings	\$51 818	n/a	n/a	\$51 818	\$51 818	\$51 818
Parenting Payment ^o	n/a	\$11 599	\$11 599	n/a	n/a	n/a
FTB Part A	\$1 095	\$1 095	\$1 095	n/a	\$1 095	\$1 095
FTB Part B	\$2 037	\$2 037	\$2 037	n/a	\$2 037	\$2 037
Child Support	n/a	\$11 283	\$9397	(\$11 283)	(\$9 397)	(\$11 283)
Total household income	\$54 940	\$26 014	\$24 128	\$40 535	\$45 553	\$43 667
Total government payments	\$3 132	\$14 731	\$14 731		\$3 132	\$3 132

^m Rates effective 1 July 2003.

ⁿ For the purpose of calculating child support a dependant is a natural or adopted child that a parent has a legal duty to support other than the child/ren for whom they are required to pay child support.

^o The Parenting Payment for couples does not include Pharmaceutical Allowance.

(b) Formula Outcomes at Different Levels of Care

Tables 4 to 9 in the following pages show the approximate child support liability which would be assessed by the Child Support Agency in a variety of circumstances. All examples are based on a child support assessment starting in 2003.

Each table provides examples based on a particular income for the paying parent, ranging from an unemployed parent, to a parent earning more than the maximum income for child support purposes.

All tables show the changes in the child support liability depending on variations to the level of care that each parent has of the children.

While all care has been taken in preparing these tables, they should not be used for individual cases. Advice should be sought from the Child Support Agency on the child support payable in specific circumstances.

Explanation of Terms Used in All Tables

Sole care: The child/ren live mostly with parent A. Parent B has care of the child/ren for less than 30 per cent of the time.

Substantial contact: The child/ren live mostly with parent A, but spend between 30-40 per cent of the time with parent B.

Shared care: The care of the child/ren is shared approximately equally between the parents (the children spend between 40 per cent and 60 per cent of the time with each parent).

Sole care - carer parent earning \$40 000 per year: The child is in the sole care of parent A, who is in the workforce and earns \$40 000 per year.

With previously proposed contact measures: These examples are based on the primary carer parent being reliant on the social security system.

Using the Tables

The following four scenarios are intended to guide readers in using the tables. The scenarios relate to the two child example in Table 6.

Scenario One

Mary and Bob have separated. They have two children, Jack (age 10) and Jill (age 16). Jack and Jill will spend most of their time with Bob, however they will stay with Mary for three nights every fortnight. This adds up to 78 nights per year, which means the children stay with Mary for approximately 21 per cent of the nights in a year.

Bob is reliant on Centrelink benefits, which means his income will not be considered in the child support assessment. Mary is working, and earns \$35 000 per year.

Based on the current formula, the contact that Mary has with the two children is not taken in to consideration. As she has care for less than 30 per cent of the nights in a year, Bob is regarded as having sole care. The third column of Table 6 shows the current formula will result in child support payable by Mary of \$6125 per year, or \$117 per week.

The previously proposed changes to the formula would recognise the contact that Mary has with the children, and would adjust the amount payable by Mary accordingly. The eighth column of Table 6 shows that under the proposed formula, Mary would be assessed to pay \$5444 per year, or \$104 per week.

Scenario Two

Mary and Bob have separated. Their two children, Jack (age 10) and Jill (age 16) still spend most of their time with Bob, staying with Mary for 78 nights per year. Therefore, the two children are still regarded for child support purposes as being in Bob's sole care.

Mary is still earning \$35 000 per year. However, in this scenario, Bob is in the workforce, and is earning a taxable income of \$40 000 per year. The sixth column of Table 6 shows that the amount that Mary is assessed to pay Bob will be \$5614 per year, or \$108 per week.

Scenario Three

In this scenario, Bob is again reliant on Centrelink benefits, so his income will not effect the assessment. Mary has continued to earn a taxable income of \$35 000 per year.

Jack and Jill have now started staying with Mary for an additional two nights per fortnight. This adds up to 130 nights per year, which means the children will stay with Mary for approximately 36 per cent of the nights in a year (substantial contact). The fourth column of Table 6 shows that Mary will be assessed to pay Bob \$4991 per year, or \$96 per week.

Scenario Four

In this scenario, Bob is still reliant on Centrelink benefits, so his income will not effect the assessment. Mary has continued to earn a taxable income of \$35 000 per year.

Jack and Jill have started to stay with Mary for three nights each week. This adds up to 156 nights per year, or approximately 43 per cent of the nights in a year. This care arrangement is classified for child support purposes as shared care. The fifth column of Table 6 shows that Mary will be assessed to pay Bob \$2840 per year, or \$54 per week.

Formula Outcomes at Different Levels of Care - Tables

As noted above, the following six tables (Table 4 to Table 9) show changes in the child support liability depending on variations to the level of care that each parent has of the children.

Table 4: Unemployed parent

Number of children and ages	Rate of payment	Current System				With previously proposed contact measures	
		Sole care	Substantial contact	Shared care	Sole care – carer parent earning \$40 000 per year	10% - 19% contact	20% - 29% contact
1 (age 10)	Annual	\$260	\$0	\$0	\$260	\$260	\$260
	Weekly	\$5	\$0	\$0	\$5	\$5	\$5
2 (age 10 & 16)	Annual	\$260	\$0	\$0	\$260	\$260	\$260
	Weekly	\$5	\$0	\$0	\$5	\$5	\$5

In Table 4, parents A and B are separated. Both are reliant on the social security system (unless stated otherwise). Table 4 shows the child support that is payable in a range of circumstances for both one child and two children

Where child support is payable for one child and the payer's income is less than \$13 763 per year, the minimum amount of child support is payable (unless the payer has substantial contact or more). This is \$260 per year (\$5 per week). Under very limited circumstances this can be reduced to nil. In 38.4 per cent (249 943) of cases registered with CSA, payers have an income of less than \$13 763.

Table 5: Low income parent

Number of children and ages	Rate of payment	Current System			With previously proposed contact measures		
		Sole care	Substantial contact	Shared care	Sole care – carer parent earning \$40 000 per year	10% - 19% contact	20% - 29% contact
1 (age 10)	Annual	\$2 283	\$1 776	\$1 254	\$1 942	\$2 030	\$1 903
	Weekly	\$44	\$34	\$24	\$37	\$39	\$36
2 (age 10 & 16)	Annual	\$3 425	\$2 791	\$1 040	\$2 914	\$3 171	\$3 044
	Weekly	\$66	\$53	\$20	\$56	\$61	\$58

In Table 5, parents A and B are separated. Parent A is reliant on the social security system (unless stated otherwise). Parent B is in the workforce and earns \$25 000 per year. Table 5 shows the child support that is payable in a range of circumstances for both one child and two children.

In 23 per cent (149 944) of cases registered with CSA, payers have an income between \$13 763 and \$24 999. In 62 per cent of cases the income is less than \$25 000. The payee needs to earn over \$36 213 before the child support is reduced. Payees earn that amount or more in 6.7 per cent of cases registered with CSA.

Table 6: Low to middle income parent

Number of children and ages	Rate of payment	Current System			With previously proposed contact measures		
		Sole care	Substantial contact	Shared care	Sole care – carer parent earning \$40 000 per year	10% - 19% contact	20% - 9% contact
1 (age 10)	Annual	\$4 083	\$3 176	\$2 454	\$3 742	\$3 630	\$3 403
	Weekly	\$78	\$61	\$47	\$72	\$70	\$65
2 (age 10 & 16)	Annual	\$6 125	\$4 991	\$2 840	\$5 614	\$5 898	\$5 444
	Weekly	\$117	\$96	\$54	\$108	\$113	\$104

In Table 6, parents A and B are separated. Parent A is not in the workforce and is reliant on the social security system (unless stated otherwise). Parent B is in the workforce and earns \$35 000 per year. Table 6 shows the child support that is payable in a range of circumstances for both one child and two children.

In 14.3 per cent (93 059) of cases registered with CSA, payers have an income between \$25 000 and \$35 000. In 76 per cent of cases, the income is below this amount.

Table 7: **Middle income parent**

Number of children and ages	Current System					With previously proposed contact measures	
	Rate of payment	Sole care	Substantial contact	Shared care	Sole care – carer parent earning \$40 000 per year	10% - 19% contact	20% - 29% contact
1 (age 10)	Annual	\$6 385	\$4 966	\$3 989	\$6 044	\$5 676	\$5 321
	Weekly	\$122	\$95	\$76	\$116	\$109	\$102
2 (age 10 & 16)	Annual	\$9 578	\$7 804	\$5 142	\$9 066	\$8 868	\$8 514
	Weekly	\$184	\$150	\$99	\$174	\$170	\$163

In Table 7, parents A and B are separated. Parent A is not in the workforce and is reliant on the social security system (unless stated otherwise). Parent B is in the workforce and earns \$47 788 per year, which is equivalent to the full-time adult average weekly total earnings at August 2002. Table 7 shows the child support that is payable in a range of circumstances for both one child and two children.

In 12.5 per cent (81 284) of cases registered with CSA, payers have an income between \$35 000 and \$47 787. In 88 per cent of cases, the income is below this amount.

Table 8: Higher income parent

Number of children and ages	Rate of payment	Current System				With previously proposed contact measures	
		Sole care	Substantial contact	Shared care	Sole care – carer parent earning \$40 000 per year	10% - 19% contact	20% - 29% contact
1 (age 10)	Annual	\$11 283	\$8 776	\$7 254	\$10 942	\$10 030	\$9 403
	Weekly	\$216	\$168	\$139	\$210	\$192	\$180
2 (age 10 & 16)	Annual	\$16 925	\$13 791	\$10 040	\$16 414	\$15 671	\$15 044
	Weekly	\$324	\$264	\$192	\$315	\$300	\$288

In Table 8, parents A and B are separated. Parent A is reliant on the social security system (unless stated otherwise). Parent B is in the workforce and earns \$75 000 per year. Table 8 shows the child support payable for both one child and two children.

In 9.2 per cent (59 631) of cases registered with CSA, payers have an income between \$47 788 and \$74 999.

Table 9: Maximum income parent

Number of children and ages	Rate of payment	Current System				With previously proposed contact measures	
		Sole care	Substantial contact	Shared care	Sole care – carer parent earning \$40 000 per year	10% - 19% contact	20% - 29% contact
1 (age 10)	Annual	\$19 288	\$15 002	\$12 590	\$18 947	\$17 145	\$16 073
	Weekly	\$370	\$288	\$241	\$363	\$329	\$308
2 (age 10 & 16)	Annual	\$28 932	\$23 574	\$18 045	\$28 421	\$26 789	\$25 717
	Weekly	\$554	\$452	\$346	\$545	\$513	\$493

In Table 9, parents A and B are separated. Parent A is not in the workforce and is reliant on the social security system (unless stated otherwise). Parent B is in the workforce and earns more than \$119 470 per year. Income above that amount is not included in the formula, so Table 9 shows the maximum child support payable under the formula for both one child and two children.

In 2.5 per cent (16 371) of cases registered with CSA, payers have an income between \$75 000 and \$119 469. In 0.1 per cent of cases, payers have an income of \$119 470 or more.

(c) Effects of Increased Earnings in Separated Families

Max and Cindy

Max is 40 years old and works part-time as a mechanic. He is receiving Newstart Allowance, but at a reduced rate due to his earnings of \$400 per fortnight. He has 3 children aged 5, 7 and 11, all of whom live with his ex-wife, Cindy.

Cindy is 36 years old and cares for her children full-time. She supports herself and her children through income support (Parenting Payment single), Family Tax Benefit and child support that Max pays to her every fortnight. Cindy is also provided with a Pensioner Concession Card.

Max is offered an extra eight hours a fortnight at work, which he is keen to take as his current disposable income after tax and child support is \$485.19 per fortnight. Max accepts the extra work which provides him with an extra \$100 a fortnight in gross income. After tax, reductions in his Newstart Allowance and increases in child support, his disposable income increases by \$13.26 a fortnight to \$498.45.

Cindy and the children receive an additional \$9.60 a fortnight from Max's increased work effort. Before Max increased his earnings, Cindy received \$937.33 per fortnight and after, \$946.93 per fortnight.

Phil and Ruth

Phil and Ruth have been married for 15 years. They both worked part time, Phil as a manager of a fast food store and Ruth as a typist at home while their two children (now aged 5 and 11) were at school. They receive modest assistance from the government (\$84 per fortnight in Family Tax Benefit Part A) and have a net private income of \$1701.40 per fortnight. Neither is entitled to income support due to their earnings.

Phil and Ruth decide to separate. Their children live with Ruth most of the time except every second weekend, which they spend with Phil.

Both Phil and Ruth have reasonable earnings from part-time work. Ruth is entitled to income support (Parenting Payment single), Family Tax Benefit (Parts A and B) and child support. Ruth is also entitled to a Pensioner Concession Card, which provides her with a range of concessions, such as reductions in her utility bills and car registration.

Phil is not eligible for income support but as he is responsible for the children approximately 15 per cent of a full year, he receives a proportionally smaller entitlement to Family Tax Benefit (Parts A and B).

Ruth accepts work from another two clients which increases her earnings by \$100 a fortnight. As her income increases by \$100, she pays \$25.50 more in tax and her income support payment is reduced by \$40. Ruth retains \$34.50.

Phil accepts two extra night shifts at work, which provides him with an extra \$100 a fortnight. Phil pays an extra \$35.40 in tax and an extra \$27 in child support. He keeps \$37.60 of these earnings, while Ruth and the children receive an extra \$27 in child support.

John and Mary

Mary is a single parent with 2 children, aged 5 and 11. Her ex partner, John, cares for the children 20 per cent of the time. Mary is a temporary primary school teacher with a contract with the Education Department, earning \$1200 a fortnight. She also receives a modest amount of income support payment (Parenting Payment single). John works full-time as a public servant, earning \$1800 per fortnight.

Mary accepts a pay rise and additional hours, and earns \$100 per fortnight more. Following her pay increase, she loses the remaining income support payment (and Pensioner Concession Card) and pays more in tax. She retains \$27.80 of her \$100 increase in earnings.

F. Australian and Overseas Child Support Programs – Comparative Statistics

Comparative Statistics for Australian and Overseas Child Support Programs (1998-99)^{1,2}

Country		Total A\$m. Collected or Transferred	Program Costs A\$m.	A\$		Caseload	Agency Staff Numbers (FTEs)	Cost A\$ per Agency FTE	Arrears A\$
				Collected for each \$1 Spent	Cost of Collecting \$1				
Australia	1997-98	1,162.9	169.7	6.85	14.6 cents	494,534	2,587	65,597	450.3
	1998-99	1,299.2	180.1	7.21	13.9 cents	535,569	2,663	67,634	455.6
	1999-00	1,386.2	198.2	6.99	14.3 cents	569,710	2,714	75,055	542.6
Canada ³	1998-99	1,225.6	n/a	n/a	n/a	389,273	1,590	62,830	1,746.6
New Zealand	1997-98	153.2	33.7	4.55	22.0 cents	131,750	509	66,220	224.9
	1998-99	160.2	36.4	4.40	22.7 cents	132,500	475	76,571	259.1
United Kingdom	1998-99	1,686.7	589.3	2.86	35.0 cents	923,960	9,299	63,372	n/a
United States ⁴	1996-97	22,673.9	5,815.8	3.90	25.6 cents	19,057,164	52,483	110,987	75,703.8
	1997-98	24,342.9	6,082.4	4.00	25.0 cents	19,419,449	56,212	108,205	n/a

Notes

1. All currency amounts have been converted to Australian dollars (A\$) using exchange rates current at 6 July 2000, *Australian Financial Review*, 7 July 2000. For the rates used, please see Appendix 4 at the rear of this paper.
2. In Australia and New Zealand the financial year ends 30 June, in the UK it ends 31 March and in the US it ends 30 September.
3. Canadian Program Costs data was not comparable with the costs of other agencies included in the table and were deleted as a consequence.
4. The latest official US data is for 1997-98 and is drawn from *Child Support Enforcement: Twenty-Third Annual Report to Congress*.

Sources

1. Australian data - Child Support Agency, June 2000.
2. UK data - *Child Support Agency. Annual report and accounts 1998-99*, July 1999 and the UK CSA.
3. US data - *Child Support Enforcement: Twenty-Third Annual Report to Congress* and OCSE.
4. New Zealand data – New Zealand CSA.

G. Contact and Care in the Child Support Scheme

Pattern of Care among Families Currently Registered with CSA

The following table describes the pattern of care in separated families registered with CSA. It is clearly evident that very few families – only 7 per cent - share care more than 30 per cent of the time. ‘Shared cared’ (roughly equal time) is reported in 4 per cent of all cases. For parents transferring child support privately (Private Collect), the rate of shared care is slightly higher at 6 per cent.

Table 1: **Caseload by care code (May 2003)**

Time children spend with payee			CSA Collect		Private Collect		Total
Care code	% of Nights	Number	%	Number	%	Number	%
Substantial	30.0-39.9	953	0.3	2 105	0.6	3 058	0.5
Shared	40.0-59.9	6 349	2.0	20 500	6.1	26 849	4.1
Major	60.0-69.9	5 661	1.8	10 629	3.2	16 290	2.5
Sole	70.0 and over	308 263	96.0	301 465	90.1	609 728	93.0
Total		321 226	100.0	334 699	100.0	621 871	100.0

Source: Client Research Dataset CSA June 2003.

Note: Percentages may not add due to rounding. Stage 1 cases not included as they are not based on a formula assessment.

Recognition of Care between 10 and 29 per cent of the Year.

Proposals to recognise patterns of care between 10 and less than 30 per cent have not been passed by parliament. These measures would have generally reduced the child support percentages by two or three percentage points. For example, a parent having contact with one child between 20 and 29 per cent of the time would have their child support liability reduced from 18 per cent to 15 per cent.

Attachment E describes the impact of current contact provisions and the previously proposed changes to contact on the amount of child support payable for six income levels up to the maximum (\$119 470).

Suggestion that Payment of Child Support should be Contingent on Contact

The suggestion that parents pay child support only when they have contact with their children has been regularly aired. A central objective of the CSS is that ‘adequate support is available to all children not living with both parents’ and this would be undermined by such a change. Alternatively, additional support would be required through FTB, which would run counter to parents having primary responsibility for financially supporting their children.

There are many, often complex, and often valid, reasons why contact does not happen. A counter suggestion might be that where parents do not exercise contact, they are required to pay a premium on child support.

Examples of Formula Calculations

The exempt income and the percentages used in the child support formula change when parents have 30 per cent or more contact with their children.

An example of approximately equally shared care (40-60 per cent):

John and Mary share the care of Janet, aged 7. John earns \$50 000 per year and cares for Janet about 45 per cent of the time. Mary earns \$25 000 per year and cares for Janet 55 per cent of the time. The parents are considered to share care equally. John is assessed to pay \$3000 per year towards Janet's support. The calculation is:

Table 2: **Approximately equally shared care**

	John	Mary
Annual income	\$50 000	\$25 000
Less exempt income (\$12 315 + \$2235 for a child aged under 13)	\$14 550	\$14 550
Adjusted income formula percent	\$35 450 x 12.00	\$10 450 x 12.00
Annual child support offsetting Mary's support	\$4 254 \$1 254	\$1 254
Annual child support payable by John to Mary	\$3 000	

An example of major/substantial care:

Peter earns \$50 000 per year and cares for Sarah for about 35 per cent of the time (substantial care). Susan earns \$25 000 per year and cares for Sarah for about 65 per cent of the time (major care).

Table 3: **Major/substantial care:**

	Peter	Susan
Annual Income	\$50 000	\$25 000
Less Exempt Income	\$12 315	\$22 792 (\$20 557 + \$2235 for a child aged under 13)
Adjusted income formula percent	\$37 685 x 14%	\$2 208 x 8%
Annual child support offsetting Susan's support	\$5 275 \$177	\$177
Adjusted child support payable by Peter to Susan	\$5 098	

5. REFERENCES

ABS 1997, *Family Characteristics*, cat. 4442.0, ABS, Canberra

ABS 2001, *Births Australia*, cat 3301.1, ABS, Canberra

ABS 2002a, *Census of Population and Housing: selected social and housing characteristics Australia 2001*, ABS, Canberra, cat. 2015.0. Dependent children includes full time students who are 15-24 yrs.

ABS 2002b, *Marriage and Divorces Australia 2001*, cat 3310.0, ABS, Canberra

ABS 2003, *Australian Social Trends 2003*, cat 4102.0, ABS, Canberra

Amato, P 1993, "Contact with non-custodial fathers and children's wellbeing", *Family Matters*, 36, Australian Institute of Family Studies (AIFS), Melbourne

Amato, P & Gilbreth, J 1999, "Nonresident fathers and children's well-being: A meta-analysis" *Journal of Marriage and the Family* 61 (August 1999): 557-573

AMP NATSEM 2002, *All they need is love...and around \$450 000*, Income and Wealth Report, Issue 3 October 2002.

Australia Parliament 1986, *Child Support: A Discussion Paper on Child Maintenance, October 1986*, Parliamentary Paper No. 292/1986, pp.15-16, Canberra

Australia Parliament 1997, *Government Response to the Report by the Joint Select Committee on Certain Family Law Issues, Child Support Scheme - An examination of the operation and effectiveness of the Scheme*, November 1997, p.3, Canberra

Barrett, G 2002, "The dynamics of participation in the sole parent pension", *The Economic Record*, Vol 78, No 1, March 2002, 1-17

Bickerdike, A 2003, "The voice of the client: key findings from a national outcome evaluation of relationship counselling and mediation services", paper presented to the 8th annual AIFS Conference, 12-14 February, 2003, Melbourne

Brown, T 2003, "Project Magellan", paper presented at the Child Sexual Abuse: Justice Response or Alternative Resolution Conference convened by the Australian Institute of Criminology, Adelaide 1- 2 May 2003

Centrelink 2003, *A guide to Commonwealth Government payments on behalf of the Commonwealth Department of Family and Community Services and the Department of Education, Science and Training*, 1 July – 19 September 2003

Chalmers, J 1997, *Sole Parent Exit Study*, SPRC Commissioned Research by Commonwealth Department of Family and Community Services, Social Policy Research Centre

- Child Support Agency 2003, *Child Support Scheme Facts and Figures 2001-02*, Canberra
- Commonwealth of Australia 1988, *Child Support Formula for Australia*, Child Support Consultative Group Report, Canberra, May 1988
- Commonwealth of Australia 2003, *Government Response to the Family Law Pathways Advisory Group Report*, Attorney-General's Department, Canberra
- Commonwealth Department of Family and Community Services (FaCS) 2002, *Annual Report 2001-02* Volume 2, Page 60
- Commonwealth Department of Family and Community Services 2002, *Parenting Payment New Claims Survey*, unpublished data
- Family Court of Australia (FCA) 2002, *Annual report 2001-2002*, Family Court of Australia, Canberra
- Family Law Pathways Advisory Group (FLPAG) 2001, *Out of the maze: Pathways to the future for families experiencing separation*, Attorney-General's Department, Canberra
- Fisher, T & Pullen, J 2002, *The shadow of the law: A resource and guide to further reading for PDR professionals*, School of Law and Legal Studies, La Trobe University, Victoria, Australia
- Harding, A & Szukalska, A 2000, *Making a difference: The impact of government policy on child poverty in Australia, 1982 to 1997-1998*, National Centre for Social and Economic Modelling (NATSEM), University of Canberra, p.17.
- Healy, J, Malley, J & Stewart, A 1990, "Children and their fathers after parental separation", *American Journal of Orthopsychiatry*, 60
- Henman, P & Mitchell, K 2001, "Estimating the cost of contact for non-resident parents: A budget standards approach", *Journal of Social Policy*, Cambridge UK
- Henman, P 1999, *Updating Australian budget standards costs of children estimates*, Department of Family and Community Services and Macquarie University.
- Hetherington, E, Cox, M & Cox, R 1982, "Effects of divorce on parents and children", in Lamb, M (ed) *Non-traditional families: Parenting and child development*, Lawrence Erlbaum, Hillsdale, NJ, p 233.
- Maccoby, E & Mnookin, R 1992, *Dividing the child: Social and legal dilemmas of custody*, Harvard University Press, Cambridge, MA
- McClelland, A 2000, "Effects of unemployment on the family", *Economic and labour relations review* v. 11, no. 2, pp. 198-212, December 2000

McIntosh, J 2002, *Entrenched conflict in parental separation: Pathways of impact on child development – a synopsis of recent research*, La Trobe University, Victoria, Australia

Parker, W & Patterson, L 2003, “Rethinking family policy: gender, lone parenting and the Universal Child Benefit”, paper presented to the 8th annual AIFS Conference, 12-14 February, 2003, Melbourne

Parkinson, P & Smyth, B 2003, “When the difference is night & day: Some empirical insights into patterns of parent-child contact after separation”, paper presented to the 8th annual AIFS Conference, 12-14 February, 2003, Melbourne

Percival, H & McDonald 1999, *Estimates of the costs of children in Australian families, 1993-94*, Department of Family and Community Services, Policy Research Paper Number 3.

Rhoades, H, Graycar, R & Harrison, M 2000, *The Family Law Reform Act 1995: the first three years*, University of Sydney and Family Court of Australia, Sydney, Australia.

Smyth, B, Caruana, C & Ferro, A 2003, *Some whens, hows and whys of shared care: What separated parents who spend equal time with their children say about shared parenting*, presentation to SPRC Australian Social Policy Conference 2003, Sydney, 9-11 July 2003

Smyth, B, Sheehan, G & Fehlberg, B 2001, “Patterns of parenting after divorce: A pre-Reform Act benchmark study”, 15 *Australian Journal of Family Law*: 114

Saunders et al. 1998, *Development of indicative budget standards for Australia*, Research Paper No 74, Budget Standards Unit, Social Policy Research Centre, University of New South Wales, March 1998

Wolcott, I & Hughes, J 1999, *Towards understanding the reasons for divorce*, Working Paper no 20, June 1999, AIFS, Melbourne

Woods, M & Associates 1999, *The behaviour and expenditures of non-resident parents during contact visits*, Department of Family and Community Services Policy Research Paper Number 75 May 1999, Canberra, Australia