

Senate Community Affairs Legislation Committee

SUPPLEMENTARY BUDGET ESTIMATES – 23-24 OCTOBER 2014 ANSWER TO QUESTION ON NOTICE

Department of Human Services

Topic: Child Support

Question reference number: HS 48

Senator: Cameron

Type of question: Written

Date set by the committee for the return of answer: 12 December 2014

Number of pages: 2

Question:

What action is the Department taking to address the Ombudsman's concerns (Ombudsman's Annual Report 2013-14, page 35) about an emerging trend that payers were able to deliberately evade Child Support's efforts to collect through fairly simple measures?

Answer:

Most child support paying parents meet their obligation to provide financial support to their children. As at 30 June 2014, 75.7 per cent of active paying parents had no debt (this includes private collect). Since the child support scheme started in 1988, parents have transferred \$45.3 billion or 97.1 per cent of all their liabilities (includes private collect).

Although more parents now pay their child support on time, early intervention and enforcement measures are still needed for parents who fail to pay their child support. In the first instance, the department will attempt to negotiate payment of child support debt directly with the payer. If this is unsuccessful, the department will use its administrative powers to collect the debt. Administrative enforcement options include: making deductions from salary and wages; deducting from Income Support Payments; garnisheeing from bank accounts; enforcing lodgment of Income Tax Returns; intercepting taxation refunds; and preventing customers from leaving Australia by issuing Departure Prohibition Orders.

The department has broad information gathering power, including the ability to require third parties to provide information. When gathering information, a statutory notice is issued stating what information is required and a timeframe within which the information is required. Information is only sought for the purposes of administering the child support legislation; that is, for the purposes of making or varying child support assessments or for collecting child support.

When parents do not pay willingly or when administrative enforcement options are not available or are not successful, the department may initiate legal enforcement proceedings. In line with the department's model litigation obligations, cases are only considered for possible litigation action when all administrative options have been explored and the department reasonably believes that one of the following conditions exists:

- a realisable asset that could be used to repay the debt; or
- an income stream or interest in a company; or
- an asset held by a third party; or
- extravagant lifestyle indicators.

Cases where funds or assets are held jointly, or in partnership are considered for litigation action, provided they meet the above criteria. Where assets are jointly held, the court will make a determination as to the Child Support paying parent's share in any jointly held assets/funds.

The department acknowledges that it is more difficult to collect from paying parents who structure their businesses through partnerships, trusts or corporate entities. The department is only able to use its administrative garnishee power where the funds concerned are held on behalf of the paying parent. Funds held in joint bank accounts cannot be administratively garnisheed because it is not possible to identify what portion of the funds belong solely to the paying parent.

The department continues to work with the Department of Social Services on improving the effectiveness of the child support scheme. The Parliamentary Inquiry into the Child Support Program being conducted by the House of Representatives Standing Committee on Social Policy and Legal Affairs, is also looking at ways to improve the scheme.