

# Submission to the Parliamentary Enquiry into the Child Support Program 2014

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## **Executive Summary**

A high proportion of women contacting CSMC identify unpaid, habitually late or under-paid child support as a significant factor in their families' experiences of financial hardship.

There is an overall misperception from men that child support is paid to fund women's lifestyles, when the truth is child support payments don't come close to being a fair or equal contribution to the direct and indirect costs of raising children.

Australia's unpaid child support bill is over \$1 billion, yet even this figure does not capture child support that goes unpaid in private collection arrangements and debts waived by Child Support. Calculating unpaid child support from private collect and waived debts would more than likely triple this figure.

Less than 50% of child support payments are made in full or on time, yet there are few real consequences for paying parents defaulting on their child support obligations.

Paying parents are not made accountable for contributing to the costs of raising their children, which often leaves single mother families in financial distress.

Engaging with Child Support is often experienced as an exercise in frustration, with attempts to recover unpaid child support described as difficult at best.

Many women attest Child Support either fails to pursue child support debt once a child turns eighteen or contacts them when their child turns eighteen to advise them to forgive the debt.

Family violence, which includes financial violence, plays a significant and ongoing role in many families following relationship breakdown and separation. Systems, such as child support, are used by some men to continue perpetrating violence either by withholding payment or making threats to women seeking child support.

The reduction in frequency of Child Support State Stakeholder Engagement Group meetings to only two a year affords less meaningful representation for the people affected by child support systems and processes.

Child Support business is now entirely conducted by telephone or online with no capacity for face to face appointments reduces access for those on low income.

There has never been a review of child support collections and enforcement – this was specifically excluded from the terms of reference of the Ministerial Taskforce on Child Support.

## Recommendations

1. Reduce the current grace period that allows the paying parent to delay payment before Child Support will begin enforcement strategies to one month (from the current three months)
2. Payers with a consistent history of late / sporadic payment should be identified early and strategies put in place to manage non-compliance
3. Continue to enforce the collection of outstanding child support debt after a child turns eighteen
4. Train Child Support staff to recognise and understand the nature and impact of financial violence and how systems like Child Support may be used to perpetrate and perpetuate this violence
5. Remove the primary carer's income from the equation when calculating the paying parent's child support liability
6. Calculate child support entitlements on the basis of the costs of raising children, rather than the capacity of the paying parent to contribute
7. Include loss of income, impacts on lifetime earning capacity and reductions to superannuation experienced by the primary carer into the calculation of the paying parent's child support obligation
8. Introduce a system to guarantee and administer the payment of child support through Centrelink or Child Support
9. Family Tax Benefit (FTB) debts inadvertently accrued by women when overdue child support is subsequently paid should be waived
10. Small debts should be pursued by Child Support. These small amounts can make a difference to families living on or below the poverty line.

## **Council of Single Mothers and their Children (CSMC)**

### *Background*

CSMC is a state wide community organisation with a membership base of more than 2500 single mother families. CSMC is funded by the Victorian Department of Education and Early Childhood Development (DEECD) to provide telephone support, referral, advice and emergency relief to single mothers and their children throughout Victoria and receives close to 3000 calls per year. We have been supporting single mother families and working for positive changes to systems, services and community attitudes since 1969. CSMC is a member of the Child Support Stakeholder Engagement Group.

The evidence provided in this report is informed by the calls CSMC receives each year from single mothers across the state of Victoria. The overwhelming majority of these calls reveal women struggling under the heavy burden of poverty and disadvantage. This is true even when women are employed, as is the case for many single mothers. Significantly, a high proportion women contacting CSMC identify child support and the child support system as being a substantial underlying factor in their experience of financial hardship.

CSMC acknowledges there are also single fathers struggling under some of the same burdens faced by single mothers; however women accept responsibility for raising children alone at disproportionately higher rates than men. The most recent ABS (2011) data demonstrates that 20.8% of Australian families with children under 15 years of age are single parent families, with only 2 % headed by fathers.

Furthermore, numerous studies by the Australian Institute of Family Studies have proven that women in Australia are generally financially disadvantaged in relation to men upon the breakdown of their relationships (Weston and Smyth 2000: 10-15, cited in Sheehan and Smyth 2000:113; Sheehan and Hughes 2001; Smyth et al 2004). When relationships break down, the poverty of mothers is revealed. Single mothers, who commonly have no paid work or manage on part-time wages, are frequently surviving on incomes under the poverty line (HSCFCA 2003:132).

For these reasons, and due to the cohort we represent, CSMC's submission to the inquiry will focus exclusively on single mothers' experiences of, and engagement with, the child support system.

## Case Study

Lisa is a single mother with two (now adult) children. Two years after Lisa and her husband separated Ian quit his high paying management role within the private sector to take up part time work and return to study. Lisa believes Ian did this specifically to reduce his child support - an assertion sustained by the fact Ian did not return to full time work until he was no longer liable to financially maintain his children.

From a very young age both Lisa's children had significant health issues, stemming from a hereditary heart condition passed onto them from their father's side of the family. Much of Lisa's time was taken up with juggling her children's numerous operations, requiring long hospital stays and multiple doctors' visits, with her part time work as a bookkeeper; all while trying to minimise the impact of her daughters' illnesses on their education.

Ian refused to contribute to his daughters' medical costs or to support Lisa in providing care for his children and despite being assessed with minimal liability he was chronically late with his payments, regularly paying only a portion of his assessed child support. When Ian's relationship with his eldest daughter eventually broke down and she refused to visit him, he stopped paying child support for her altogether, on the basis he shouldn't be liable to pay for a child he didn't see.

After years of trying to negotiate through CSA with her ex-husband Lisa got fed up and lodged an objection to Ian's income assessment. Lisa believed Ian was under-declaring his income and requested an assessment review on the basis that Ian was a highly qualified psychologist, capable of earning significantly more than he was currently declaring. Ian responded by returning study to undertake a second degree – a move that would lock him into a further four years of education and continue to minimise his income.

The investigation into Ian's child support liability was drawn out and much of the onus was on Lisa to provide evidence supporting her claim but eventually CSA did confirm Ian's deliberate attempts at income minimisation. They also reported he had been significantly under-declaring his income and further minimising his child support liability by delaying lodgment of his tax returns.

Rather than pursue Ian however, CSA advised Lisa they would not be pursuing Ian's debt as they felt his history showed he would reduce his income rather than pay the debt, which would impact Ian's taxable earnings over the long term. CSA prioritised future tax revenue over Ian's responsibility to his children and advised Lisa to forgive the debt, which was calculated to be worth tens of thousands of dollars, once her youngest child turned 18.

Lisa's case, while extreme, is by no means extraordinary and represents many of the common themes CSMC hears repeated through our contacts with single mothers in financial distress.

## Overview

The Child Support system was designed to work in the best interests of the children, in a way that works for both parents. In spite of this the essential conflict commonly expressed by the resident parent (mainly mothers) is that child support is not enough, and by the payers, in turn, is that it is too much. The House Standing Committee on Family and Community Affairs (HSCFCA) report of over a decade ago, *Every Picture Tells a Story: Report of the inquiry into child custody arrangements in the event of separation* determined that child support was of minimal assistance for many single parents, as 41% of single parents receive no child support (HSCFCA 2003:14). According to the Child Support Agency at that time, mothers constituted 91% of parents who were entitled to child support. Of these mothers, only 4% had incomes over \$50,000 per annum and 75% raised children on incomes below \$20,000. Related information on child support payers demonstrates that at the time of that inquiry:

- 40% paid \$5.00 or less a week
- 16.2% paid between \$5-40 a week
- 22.3% paid between \$40-\$100 a week
- 21.4% paid over \$100 a week child support

(HSCFCA 2003:14, 127,128).

A decade on in 2014, Australia's unpaid child support bill currently sits well over \$1 billion - an astonishing figure, made even more astounding for the fact it does not capture the child support that goes unpaid in private collection arrangements. Debts waived by Child Support are also not calculated in this figure, highlighting a catastrophic failure of the system to hold non-residential parents accountable for contributing to the costs of raising their children and leaving many single mother families in dire financial straits.

There is an unstated, but none-the-less overt, expectation for women to shoulder not only majority responsibility for the day to day care of children, but also the greater part of the financial responsibility. This is compounded by a collective failure to recognise the work involved in raising children as having an intrinsic opportunity cost for the resident parent, coupled with a general acceptance of unpaid child support as 'just one of those things' and ignoring the deeper personal and social costs this has for women and children.

Engaging with Child Support is often expressed by the single mothers who contact CSMC as an exercise in frustration, with attempts to recover unpaid child support described as difficult at best. It is our experience that Child Support routinely washes its hands of its responsibility for chasing child support debt once the child turns 18, leaving women with little option but to let the debt go. There are few real consequences for paying parents who default on their obligations, however the implications of unpaid or underpaid child support for women and their children is significant and further compounds the poverty experienced by single mother families, which we have detailed herein.

### **The failure of methods used by Child Support to collect payments in arrears and manage overpayments**

Despite more than half of all child support not being paid on time or in full, Child Support has little real power to enforce payments except in extreme cases and priority is generally given to chasing up larger debts. As a result the organisation is viewed as somewhat of a "toothless tiger" with little capacity to get satisfactory outcomes for the thousands of single mother families experiencing financial hardship as a result of habitually late, under, or non-payment of child support.

Current grace periods allow the paying parent to delay payment for close to three months before Child Support will begin looking at enforcement strategies. Should the paying parent make a part payment in this period Child Support considers this to be evidence of engagement and will “reset the clock,” delaying enforced payment and essentially allowing the paying parent to ‘play’ the system to avoid their responsibility for financially supporting their children.

Payment plans for child support in arrears are established based on the financial circumstances of the payer with little or no consideration of the financial impact this will have on the receiving parent and the children involved. Sanctions appear to be brought only when the failure to pay is chronic or when it involves tax fraud through undeclared income.

Smaller debts are regularly dismissed as insignificant and are often not followed up by Child Support. Ten dollars (or even \$100) might seem inconsequential in the face of much larger debts, but for payee families struggling on low incomes, where every cent counts, this can have a significant impact on their budget.

Women calling our service are consistently telling us Child Support contacts them when their child turns 18 and advises them to let the child support debt go. Often these debts represent years of unpaid or underpaid child support. Child Support advises women wishing to pursue the debt they must do so through the legal system and there is no provision for these women to recover the unpaid child support through Child Support.

### **Flexibility of the Child Support System to accommodate changing family circumstances**

The average standard of living for people living across two households is generally lower overall yet it is clear the additional resources provided via the tax-transfer system through Family Tax Benefit (FTB) rarely compensates for these additional costs.

CSMC acknowledges that men who go on to re-partner and have other children are undoubtedly put under further financial strain, however failing to hold these men responsible for *all* the children they father unfairly impacts on the older children. It also increases the likelihood of single mother families needing to seek support through the welfare system.

A common refrain we hear from a variety of prominent government figures and influential social commentators is women (many who have been forced to parent alone due to circumstances beyond their control) should not have children if they can't afford them. Yet these very same voices fail to apply this logic to the men who father multiple children with different partners and fail to hold these fathers properly accountable for the financial costs of raising these children.

This is further highlighted when efforts to minimise growth in government expenditure for family payments are focused on reducing support available to single mother families instead of turning the spotlight on men who fail to provide for their children. The child support system is complicit in this through its failure to adequately assess the non-residential parent's financial obligations and ineffectiveness in holding that parent liable when they don't meet their obligations.

Currently child support payments are assessed on income, not on the cost of raising children and CSMC holds the position that child support payments are generally far too low. Assessing child support payments on income provides the paying parent with incentive to minimize their earnings and reduce their child support obligations - a flaw in the system particularly effectively exploited by parents who are self employed or employed through a family business. Mothers who contact CSMC commonly report the paying parent as having reduced their obligations by deliberately leaving employment or reducing their engagement with the workforce.

CSMC also contends the current allowable earnings of the primary carer are set far too low; however we would take this further and argue, the primary carer's income should have no bearing on the payer's child support obligations. There is no real value placed on the unpaid childcare, love and nurture women invest in their children and consideration given to the significant disadvantage women commonly experience in the careers and long-term earning capacity as the primary (or sole) carers for their children. Neither is there adequate recognition of the higher cost the primary carer has in returning to work – i.e. childcare costs, transport, education costs etc. Reducing the payers' child support obligation based on the primary carer's income is essentially penalising women for working.

### **Alignment of Child Support and Family Assistance frameworks**

Family Tax Benefit is calculated and reduced in alignment with child support assessments meaning the failure to pay child support or intermittent and underpayment of child support leaving many single mother families without funds they cannot afford to lose.

Currently there is no way to directly assess Family Tax Benefit against child support payments received and no fail safe way to ensure compensation for women who don't receive payments on time or in full. While compensation through Family Tax Benefit is possible, Centrelink does not actively promote this and most payees are not aware reporting underpayment of child support may result in a higher rate of Family Tax Benefit.

Because Child Support and Centrelink systems don't communicate effectively, women who do advise of underpayment or non-payment of child support risk overpayment of Family Tax Benefit if child support in arrears is suddenly paid. These women may have been struggling financially for many years as a direct result of the unpaid child support and having a debt raised against them for actions of the payer, which are beyond their control, is unreasonable. CSMC holds the view this constitutes a form of financial abuse with significant, negative outcomes for single mother families and highlights how systems are used to perpetrate ongoing violence against women and their children.

### **Linkages between Family Court decisions and Child Support policies and processes**

Family violence is more often than not a significant factor in many of the child custody and child support cases CSMC has seen end up in front of the Family Court. Much of this violence is financial and women speak of fathers fighting for increased access to minimise the child support they are required to pay. This assertion appears to be supported by the fact many of these fathers pursue access less with each intervening year. Women's confusion and lack of clarity this arrangement provides around costs outside the immediate care of children, i.e. medical costs, school costs etc.

In 50/50 care arrangements women express concern about the lack of clarity from Child Support around how additional costs outside the immediate care, i.e. private school fees, medical costs etc., are shared. In situations of high conflict women generally won't pursue child support owed to them, let alone extra these extra costs, and lack of adequate advocacy or support from Child Support means they and their children are left vulnerable.

## **Assessing methodology for calculating payments and the adequacy of current compliance and enforcement powers for the management of child support payments**

CSMC's maintains the position that child support payments don't adequately reflect the costs of raising children and do not offset the loss of income, such as loss to lifetime earning capacity and reduced superannuation ) that women experience as being the primary carers for children (WHIN & WHGNE 2013). This loss of income and earning capacity has significant negative implications for a woman's long-term financial future and is, in CSMC's experience, a key contributor to the overall poverty experienced by single mother families.

The NATSEM 2012 *Cost of Kids* report calculated the cost of raising two children to age 18 for a typical middle income family at around \$812,000. For low income families the costs hover around \$473,000 and it is generally recognized that the lower a family's income, the greater the proportion spent on costs associated with raising a child.

The low cost standard used to calculate the low income household costs of raising children is considered frugal and anything below this is deemed to put children at a significantly increased risk of disadvantage. Many single mothers however, are forced to provide for their children at rates well below the costs calculated for low income households.

NATSEM calculations into the costs of raising children only take into consideration actual outgoings (shelter, food, transport, education, clothing etc.) and don't factor in lost opportunity costs, including loss of income, costs to career and impact on superannuation for the primary caregiver, which have lifelong negative financial consequences. Apart from direct salary losses, having one child is estimated to reduce a woman's lifetime earnings by 31%. Each additional child reduces this earning capacity even further.

Furthermore, child support entitlements may be significantly reduced due to calculations regarding the percentage of care by the non-resident parent. In 2000 a care test was introduced so that Family Tax Benefit was split between separated parents when non-resident parents do 10% care (36 nights a year). This redirection of a percentage of the child support that had previously been directed to single mothers undermined adequate support of these women and their children (Keebaugh 2003:164). As Denham stated: '...reducing a resident parent's contact from 100% to 80% does not result in a proportional reduction in their cost of caring. Indeed cost may remain constant or increase' (Denham cited in HSCFCA 2003:144).

With regard to changes of assessment, where women feel the other party is under declaring his income, or is intentionally reducing his obligations to provide child support the onus is on her to provide proof of fraudulent activity - a feat which can prove difficult when the paying parent is self-employed or has found loopholes which allow for income minimisation. More and more Child Support encourage private collection arrangements, creating a false economy that provides no motivation for compliance of paying parents. Private collection arrangements can put women and children at risk if there is a history of family violence and Child Support has no real way to track unpaid or underpaid child support.

Even in collection arrangements managed through Child Support compliance is rarely enforced and payment plans for child support in arrears are established based on the financial circumstances of the payer rather than considering the significant financial impact this so often has on the receiving parent.

It is also clear Child Support has a policy of waiving child support debt once the child turns 18. Single mothers regularly report being contacted by Child Support when their child turns 18 and advised to waive any debt. Women who don't consent to having the debt waived are advised to recover child support debt through other legal channels and are given no recourse to pursue the debt through Child Support.

## **Ensuring children in high conflict families are best provided for under the Child Support scheme**

Recognition of the widespread and endemic nature of family violence in our communities needs to be acknowledged to a far greater degree than it currently is. Statistically family violence is experienced by at least one in five women over their lifetime and conflict in relationships often begin during pregnancy and escalates from there. This is a factor known to the Child Maternal Health system and nurses are trained to lookout for signs women may be experiencing conflict in the home.

CSMC's contact with single mothers has revealed family violence to be the most significant factor in their decision to parent alone and one highly underrated, but none-the-less devastating aspect of this conflict involves financial violence. Men who use violence against women are often well aware of their economic power, especially when the relationship involves children (Branigan 2004; VLFC 2006).

Just as Child Maternal Health professionals are trained to spot the tell-tale signs of violence, Child Support needs to train staff in understanding the nature and impact of financial violence and how systems such as the child support system are utilised to perpetrate this violence.

To ensure children aren't missing out on vital resources due to parental conflict or fathers who refuse to accept their financial obligation to support their offspring, a radical rethink of how payments are administrated needs to be implemented.

A far better system than the current means-tested assessment for child support would be the application of a rate based on the actual cost of raising children, with payments guaranteed to the receiving parent by Centrelink or Child Support. Paying parent's liability would rest with Child Support rather than the receiving parent, with payment pursued through the tax system (or other appropriate measures) similar to measures taken for HELP (as an example). Any debt incurred through unpaid child support would be to the government and not to individual women and children, therefore minimizing the need for contact and conflict for these families

This approach has been adopted successfully in other countries and is a system that provides women with some measure of financial stability and safety from retribution or retaliation for pursuing child support.

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