

## Submission to the Australian National Audit Office (ANAO) in respect of Child Support collection arrangements

25<sup>th</sup> November 2016

Dear Auditors

The Council of Single Mothers and their Children Victoria (CSMC) has worked for 47 years to improve the lives of single mother families in this State and across Australia. We believe it is critically important to Australia's future economy to ensure that every child, regardless of birth circumstances, has a fair start in life. The conditions under which women are able to raise their children are, both in evidence and lived experience, critical to the life outcomes for every child and thus, to the social and economic outcomes for the country.

Women become single mothers for many reasons including domestic violence, marital breakdown, the death of a husband or partner, an unexpected or a planned pregnancy. Whatever their circumstances, almost every single mother is affected by child support and its attendant issues. The majority of our 2,500 members and the additional more than 2000 single mothers who contact our support services annually, have faced and many continue to face, long emotional struggles to have their former husband or partner share the costs of raising their children. Evidence shows that women who have experienced family violence are more likely to experience non-compliance in child support payments.

Figures from 2012 report \$1.2 billion in unpaid child support payments, largely owed by fathers. This does not include private arrangements, which represents \$2 billion of the total \$3.5 billion in child support. 100% compliance is assumed in the payment of privately arranged child support, but anecdotal and empirical evidence suggests this is far from the case. For some single mothers, these privately agreed arrangements are a continuing source of distress and dispute. CSMC has been informed by members that this results in some mothers receiving less of the Family Tax Benefit (FTB) Part A than they are entitled to, as well as going without the agreed amount of child support. When arrangements are unsuccessful and debts are accumulating, single mothers have little recourse beyond the prohibitively expensive option of litigation.

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We make the following comments in relation to the three main criteria for the audit:

**1. Arrangements should be in place between DHS and ATO to support accurate and timely child support payments.**

Too often we find these arrangements are not well synchronised and the goal of each agency (Child Support Agency, Centrelink and the ATO) do not seem to be well aligned to supporting the best interests of every child.

Examples from our members' experience include:

- Where a paying parent declares a lump sum child support payment, the payee parent who is on the disbursement method will find it deducted from her Family Tax Benefit A, even if the money has not been paid. The onus of proof appears to rest with the payee parent to prove it has not been received rather than on the paying parent to prove it has been paid.
- Payee parents who are receiving some form of Centrelink payment find a lump sum child support payment is classed as an 'overpayment' and their government benefits funds are subsequently deducted. With many single mothers in this position paying over 55% of their income on housing, these deductions can immediately put the family at risk of homelessness.
- The administrative structures of the departments seemingly operate in a hostile or biased fashion, including by imputing ill intent to the single mother or dismissing information from her; this can and we contend does contribute to significantly undermining the well-being of children who are the intended beneficiaries of child support payments.
- The experience of single mothers is that there is little or no real communication between departments, with systems automated and exceptions poorly regarded.

We see Family Tax Benefit debts occurring as a direct result of the combined failure of the CSA and ATO to address late or non-lodgment.

CSMC recommends that all debts that are a product of this DHS action resulting from late lodgment be waived as the default action, or the debt be recovered from the payer via the ATO.

**2. DHS and the ATO should fulfil their agreed responsibilities in support of accurate and timely child support payments.**

Issues of concern to us here include the processes for estimating income, failure to lodge tax returns, and minimising of income to avoid responsibilities for child support.

- CSMC is told by single mothers that when they have raised questions regarding the reported income of their child's father with the Child Support Agency (CSA), they have been told they should notify the Australian Tax Office. This is despite the women feeling this would be an unsafe act and is at odds with the responsibilities and avowed role of the CSA, and the user friendly way in which they market themselves on the DHS website.
- CSMC made a submission to the Inquiry into Child Support in 2014 in which we detailed a case of the paying parent severely minimising his income in order to avoid paying child support. In that instance, even though CSA conducted an inquiry and decided he was minimising his income, they advised the single mother 'they would not be pursuing his debt as they felt his history showed he would reduce his income rather than pay the debt, which would impact his taxable earnings over the long term.' We contended at the time that CSA had prioritised future tax revenue over this parents' responsibility to his children. Worse, they advised the single mother raising the children alone while living below the poverty line 'to forgive the debt'. This debt was calculated to reach tens of thousands of dollars once the youngest child turned 18.

Worryingly, we are still hearing similar stories from single mothers of income minimisation being easily dismissed by the Child Support Agency. Of great concern is that these stories suggest the findings of the Ombudsman's report that income minimisation fraud is not taken seriously by DHS have not been heeded after all this time.<sup>1</sup>

- CSMC suggests in all cases of change of assessment where income minimisation has been found that the ATO be given the updated income in order to prevent tax fraud. We further suggest, that when non-lodgment occurs, the paying parent be assessed at the maximum rate to avoid implicit condoning by the ATO of tax evasion and child support avoidance.
- A critical issue for CSMC is that despite the Federal Government now having a clear focus on family violence, there appears to be no appreciation by DHS and the ATO that financial abuse can be a continuing form of domestic violence. Some payers, in failing to lodge a tax return, are attempting to exert a form of control and may therefore be inflicting financial abuse on the payee. We do not suggest this is the case in every failure to lodge a tax return or minimise income, but we do know that many women who have experienced controlling patterns of domestic violence find this behaviour continues well beyond separation. By refusing to act and enforce lodgment, we contend that the ATO and CSA are enabling the financial abuse to continue.
- CSMC recommends that extensive training be provided to officers working in this sensitive area and that this training incorporate:

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<sup>1</sup> Commonwealth Ombudsman 2008: Child Support Agency, Department of Human Services. Responding to Allegations of Customer Fraud

- Understanding the best interests of the child and the impact of apparently minor payment adjustments on families living in marginal circumstances
- The continuing nature of family violence after separation in all its forms, with an emphasis on understanding the impact of this on the well-being of the parent caring for the child/children and on the well-being of the child/children.

**3. DHS and the ATO measure the performance of their cooperative child support collection activities and transparently report on outcomes.**

- The ATO, in our view, neglects to provide consistently clear, public advice about the nature and extent of tax evasion involving child support. Without this, there is a public perception of mothers 'grasping' for more and depending on the government where in reality, the bulk of non-payment is from fathers who do indeed rely on the government and tax payers to underpin their lack of support for their children. We believe if the ATO advice was clear and unequivocal, many paying parents would not attempt to evade their obligations.
- CSA regularly refuse to inform payees about any action they have taken. In rare cases, there may be good grounds for this. In most however it serves to heighten the anxiety for the payee parent. This in turn, impacts on the well-being of children.
- Breach of privacy is used to hide or not disclose action and we want a more direct and transparent process.
- Neither agency, in so far as we are aware, has an extensive and independently conducted participant review of their processes, their activities, their attitudes or their outcomes. CSMC believes such a review would be valuable.

While CSMC understands the ANAO audit does not comment on legislation, we ask that in seeking to audit the 'effectiveness of the child support collection arrangements', this effectiveness is measured in relation to the objects of the Child Support (Assessment) Act 1989 and in keeping with the principles of the best interests of children.

We trust you will consider our submission.

Yours faithfully,



**Jenny Davidson**

Chief Executive Officer