



Non-Payment of Child Support as Economic Abuse of Women and Children: A Literature Review

Research Paper

May 2024

Disclaimer: This Research Paper is not a comprehensive review of all developments in the law, policy, and practice in relation to the topic. To the best of Women's Legal Services Australia's knowledge, most of this information is current at November 2023 and does not reflect subsequent developments. Nothing in this Research Paper constitutes legal advice. Women's Legal Services Australia recommends seeking legal advice before relying on any of the information in this Research Paper.

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Authors and contributors

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About Women's Legal Services Australia

Women's Legal Services Australia (**WLSA**) is the national peak body for 13 specialist Women's Legal Services in each state and territory across Australia, including two First Nations Women's Legal Services.

We provide a national voice for Women's Legal Services to influence policy and law reform, and advocate to increase access to gender-specialist, integrated legal services for women. Our vision is to achieve justice, safety, and equality for women, particularly victim-survivors of gendered violence.

About Women's Legal Services

Women's Legal Services provide high quality free legal services for women, including legal advice and representation, support services and financial counselling, community legal education, training for professionals, and engage in advocacy for policy and law reform. Some Women's Legal Services have operated for more than 40 years.

Women's Legal Services provide specialist legal assistance for women in the following areas of law: family law, family violence, child protection, and victims of crime compensation. Some Women's Legal Services also assist with migration law, employment, discrimination and sexual harassment law, criminal law in relation to sexual violence, and some areas of civil law.

WLSA members include:

- Women's Legal Service Victoria
- Women's Legal Service Tasmania
- Women's Legal Service NSW
- Women's Legal Service WA
- Women's Legal Service SA
- Women's Legal Service Queensland
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- First Nations Women's Legal Service Queensland
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- Katherine Women's Information and Legal Service

Contact us

For further information, please contact:

Lara Freidin
Executive Officer

Women's Legal Services Australia

lara@wlsa.org.au



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Definitions

Agency Collect means child support is calculated via a child support assessment, agreement or court order, and Services Australia collects and transfers child support payments on the parent's behalf.

Coercive control means the underlying dynamic of gendered violence, including domestic, family and sexual violence. It is a pattern of abusive behaviour against another person. Over time, this creates fear with the effect of establishing and maintaining power and dominance over the victim-survivor. Coercive control behaviours can include intimidation, harassment and stalking, threats and endangerment to children or pets, legal abuse, economic abuse and isolation which can continue for years after separation.

Dual Income Model means the incomes of both parents are used to assess the amount of child support payable. It is based on the concept that the child(ren) should receive the same proportion of parental income that they would have received if the parents lived together. Australia and many States in the United States of America have a dual income model. By contrast, in the United Kingdom the income of the resident parent is not relevant to the child support payable by the non-resident parent.

Economic abuse means behaviours that control a woman's ability to acquire, use and maintain economic resources, thus threatening her economic security and potential for self-sufficiency. In the context of family violence, economic abuse can be used to restrict or exploit a woman's economic resources such as money, food, transport, and housing. It is usually part of a broader pattern of coercive and controlling behaviour.

Family Violence in the Family Law Act 1975 (Cth) means violent, threatening or other behaviour by a person, that coerces a member of the person's family or causes the family member to be fearful.

Examples of behaviour that may constitute family violence include (but are not limited to):

- a) an assault, or
- b) a sexual assault or other sexually abusive behaviour, or
- c) stalking, or
- d) repeated derogatory taunts, or
- e) intentionally damaging or destroying property, or
- f) intentionally causing death or injury to an animal, or
- g) unreasonably denying the family member the financial autonomy that he or she would otherwise have had, or
- h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or his or her child, at a time when the family member is entirely or predominantly dependent on the person for financial support, or
- i) preventing the family member from making or keeping connections with his or her family, friends or culture, or
- j) unlawfully depriving the family member, or any member of the family member's family, of his or her liberty.

It can also include exposing a child (either through seeing or hearing) family violence. Examples of situations that may constitute a child being exposed to family violence are in section 4AB(4) of the Family Law Act 1975 (Cth).

Non-compliance means not meeting the terms of a child support agreement.

Non-resident parent means the parent who has the minority of the overnight care of children and is meant to pay child support.

Private Agreement means parents do not go through Services Australia to work out child support arrangements with the other parent. Parents come to a private agreement about how much child support is to be paid, when and what it will cover.

Private Collect means child support is calculated via a child support assessment, agreement or court order, however the payer directly transfers child support payments to the payee.

Resident parent means the parent who has the majority of the overnight care of children and is meant to receive child support.

Single mother means a separated or divorced woman who has a child support agreement and should receive child support payments from the child's father but does not.

Executive Summary

Our review of the available literature on non-payment of child support as economic abuse reveals that Australia has failed to recognise and respond to the link between non-payment of child support and economic abuse as a form of family violence.¹ This is despite approaching a national child support debt of \$2 billion.²

'Child support' refers to money to be paid by one parent to another for the purpose of supporting children following separation. The child support system does not enable the fair redistribution of finances to women who make up close to 85% of child support payees³ and are usually the primary carer for children. Instead, the current system reinforces traditional power dynamics, upholds men's financial interests, and facilitates economic abuse against women and children.

The research finds that Government agencies and financial institutions⁴ narrow the conversation to economic abuse that occurs in the context of intimate partner relationships, and do not adequately address economic abuse that occurs post-separation. There is an urgent need to raise public awareness and literacy on the issue of non-payment of child support as economic abuse. Non-payment of child support is often not recognised as abuse by the people experiencing it, by those who perpetrate it, and by those who respond to it.⁵

Non-payment of child support is a gendered issue. It can have a profound impact on the lives of women who are often already facing significant economic disadvantage due to patriarchal social structures, the gender pay gap, primary carer responsibilities, domestic unpaid labour, and a system that does not adequately ensure women have appropriate financial supports in place after they leave violent and abusive relationships.

This literature brings together the available research from academics, Government departments and agencies, frontline women's rights advocates, and other primary sources including media articles. We have also included direct quotes from women who are engaged with Women's Legal Services and have experienced non-payment of child support as economic abuse.

The research finds that the child support system requires urgent reform to recognise the devastating consequences for women and children of non-payment of child support as economic abuse, and appropriate responses are urgently needed to address this form of economic abuse to create safer and more equitable outcomes for women and children.

The child support system does not protect against economic abuse

This literature review considers a 2023 report prepared by Kay Cook, Adrienne Byrt and Rachael Burgin et. al. called 'Financial Abuse: The Weaponisation of Child Support in Australia'.⁶ The results of this report make a compelling case for urgent reform. Eighty-one percent of mothers who responded to a survey reported the deliberate withholding or non-payment of child support and 80% experienced the

¹ Anti-Poverty Week, 'Child support failure costs children and Budget' (Blog Post, 18 August 2022) <<https://antipovertyweek.org.au/2022/08/mr-child-support-failure-costs-children-and-budget/>>.

² 'Child support failure costs children and Budget', National Council for Single Mothers and their Children and Anti-Poverty Week (Media Statement, 18 August 2022) <[20220818-Child-Support-failure-costs-children-and-Budget.pdf](https://antipovertyweek.org.au/2022/08/mr-child-support-failure-costs-children-and-budget.pdf) (antipovertyweek.org.au)>.

³ Department of Social Services (2023), Child Support Program Data – September Quarter 2023, Australian Government <<https://data.gov.au/data/dataset/6379b974-e547-4303-a361-6edebbb52550/resource/2e81b671-a932-429f-81e6-9c7834cc601f/download/child-support-program-data-september-2023.pdf>>.

⁴ For example, 13 banks across Australia (including the Big Four Banks) now explicitly mention financial abuse in their terms and conditions. The customers of these banks are on notice that they cannot misuse products and services as a tactics of coercive control.

⁵ Rebecca Glenn and Jozica Kutin (2021), Economic Abuse in Australia: Perceptions and experience, Centre for Women's Economic Safety, p. 5 <<https://cwes.org.au/wp-content/uploads/2021/11/EA-in-Australia-2021.pdf>>.

⁶ Kay Cook, Adrienne Byrt, Rachael Burgin, Terese Edwards, Ashlea Coen and Georgina Dimopoulos (2023), Financial Abuse: The Weaponisation of Child Support, Swinburne University of Technology and the National Council of Single Mothers (now Single Mother Families Australia) <https://researchbank.swinburne.edu.au/file/16a415a8-a338-4fba-a538-c8eb52ea9386/1/2023_financial_abuse_child_support.pdf>.

deliberate minimisation of their ex-partner's child support liabilities.⁷ There was a correlation between experiences of economic abuse (in other forms) and the deliberate withholding of child support as a dominant tactic.⁸

The 2019 report 'Debts and Disappointment: Mothers' Experiences of the Child Support System' by Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards, identifies the tactics used by perpetrators to minimise their taxable incomes and underpay child support.⁹ The mothers in their study said their ex-partners reduced income through cash in hand work, working part-time, threatening to take an early retirement and putting assets and bank accounts in a third party's name.¹⁰ Other tactics identified in the literature include entering into salary sacrifice agreements, becoming self-employed and underreporting business earnings, delay reporting changes in income or employment, delay lodging tax returns and increasing superannuation contributions.¹¹ These tactics are longstanding and have been noted in Government inquiries for close to 20 years.¹²

The child support formula has also failed to reflect the lived reality of raising children in more challenging economic environments.¹³ Mothers who are the primary carer of children cover much of the immediate expenses of children and these expenses are often not reimbursed by fathers. It is not uncommon for fathers to fail to contribute to the daily costs of raising children, only to then gift children non-essentials. The Government refers to this as 'non-agency costs' or 'extraordinary payments' that may not be explicitly provided for in child support agreements. These costs lie outside the basics of costs covered.¹⁴ Fathers may try to reclaim these costs, but many mothers choose not to due to safety concerns, futility, and risk of retaliation or punishment.

Economic abuse undermines women's and children's fair financial experiences in society which creates a compounding stressor for single mothers.¹⁵ There is a direct link between material hardship from economic abuse and women's health, as mothers attempt to manage the chronic stresses of financial deprivation and the physical consequences of poverty.¹⁶ We consider that the physical and psychological impacts of non-payment of child support for women and children requires further research.¹⁷

The non-payment or underpayment of child support is enabled by a system that tends to take a hands off approach, giving fathers an undesirable amount of control.¹⁸ There is a sense amongst some frontline advocates that reforms to child support policy over the years have further entrenched 'masculine financial discretion' and "buttressed [and] legitimised men's financial claims ... at the expense of

⁷ *Ibid*, p. 27.

⁸ *Ibid*, p. 29.

⁹ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019), *Debts and Disappointment: Mothers' Experiences of the Child Support System*. Melbourne: Swinburne University of Technology <<https://apo.org.au/sites/default/files/resource-files/2019-12/apo-nid268591.pdf>>.

¹⁰ *Ibid*, p. 5.

¹¹ See for example: Child Support Australia, *How to Avoid Child Support Legally (Web Page)* <[How to Avoid Paying Child Support \(Legally\) | Child Support Australia](#)>.

¹² Department of Social Services (2005), *In the Best Interests of Children Report of the Ministerial Taskforce on Child Support – Reforming the Child Support Scheme*, Commonwealth of Australia, pp. 96-98 <[In the Best Interests of Children \(dss.gov.au\)](#)>.

¹³ Centre for Excellence in Child and Family Welfare, *Our National Child Support Disgrace (Blog Post, 16 April 2019)* <[Our National Child Support Disgrace - Centre for Excellence in Child and Family Welfare \(cfecfw.asn.au\)](#)>.

¹⁴ Examples may include (amongst others) supporting children and young people to realise their maturing lives including social costs, sports, hobbies and various extra curriculum. These are pressing and important costs. While we recognise that 'non-agency' and 'extraordinary' are the Government terms, the term 'daily living costs' (that are not reimbursed by the father) also reflects the lived experience of many mothers. This is why we occasionally use the terms 'non-agency', 'extraordinary' and 'non-periodic' interchangeably.

¹⁵ See: Teresa Santor, Sarah Lange, Heinrich Troster (2023), *Cumulative Stress of Single Mothers - An Exploration of Potential Risk Factors*, *The Family Journal*, Vol. 31(1), 88 <<https://journals.sagepub.com/doi/10.1177/10664807221104134#bibr23-10664807221104134>> and Kristin Natalier (2017), *Micro-aggressions, single mothers and interactions with Government workers: The case of Australia's child support bureaucracy*, *Journal of Sociology*, Vol. 53(3), 622.

¹⁶ Kristin Natalier (2018), *State Facilitated Economic Abuse: A Structural Analysis of Men Deliberately Withholding Child Support*, *Feminist Legal Studies*. Vol. 26(2), 121, p. 123.

¹⁷ Note: We could only locate one research from 2008 that explores how the discrepancy between expected and actual payments of child support relates to child health. Kay Cook, Elise Davis and Davies B (2008), *Discrepancy between expected and actual child support payments: Impact on the health and quality of life of children living in low income single parent families*, *Child: Care, Health and Development*, Vol.34(2), 267-275.

¹⁸ Kay Cook (2021), *Gender, Malice, Obligation and the State: Separated Mothers' Experiences of Administrative Burdens with Australia's Child Support Program*, *Australian Journal of Public Administration*, Vol. 80(4), 912, p. 925.

women's and children's interests and autonomy."¹⁹ The reforms made to the child support formula aimed at "fairness" to both mothers and fathers, unintentionally frames mothers' claims of underpayment as suspicious because of the assumed "technical precision of the system."²⁰

The entrenching of men's financial interests through policy development has encouraged a myth that child support, as described by Kristin Natalier and Belinda Hewitt, is "special money" – a categorisation limiting how money can be legitimately claimed, allocated and spent.²¹ Almost all the paying fathers in a 2014 study defined child support as "special money" which allowed them, in their minds, to question the legitimacy of their ex-partner's spending and mothering. These fathers wanted to dictate what money was spent on for reasons of control (one father described the mother as materialistic and another felt that the child support reflected the mother's 'desires' and not his child's 'needs').²² Fathers overwhelmingly felt that money should be spent only on the child-specific goods and services that are understood as important and nominated by fathers.²³ In the context of post-separation parenting, Natalier and Hewitt argue that men withholding child support or trying to dictate how child support is spent because they view it as "special money" reinforces child support payments being weaponised as a tool to "reproduce dominance and subordination" between fathers and mothers that impacts across all domains of parenting.²⁴

While all separated mothers are required to seek child support as a condition of their Family Tax Benefit Part A (FTBA) eligibility (known as the Maintenance Action Test), women who experience family violence can seek an 'exemption' from child support.²⁵ As at September 2023, approximately 14% of the total child support caseload had a child support exemption, but it is unknown what proportion was for family violence.²⁶ With the family violence exemption, mothers remain entitled to income support payments and the family tax benefit above the base rate, but they miss out on supplemental income from child support. The family violence exemption protects men's financial interests. The policy requires mothers to manage the economic consequences of leaving a violent relationship and not receiving child support. Academics and stakeholders consider that violent ex-partners can, in effect, be "rewarded" for their violence by this problematic policy.²⁷

This unfairness compounds for a mother who obtains an exemption from a high-income ex-partner, where her child has special needs, or where there are multiple children. In these circumstances, it is unlikely that the corresponding increase in FTBA will match the payments she would have received. Fathers who have perpetrated family violence and are therefore able to avoid paying any child support is economic abuse, weaponisation of the child support system, and part of a broader pattern of coercive and controlling behaviour.²⁸

There are inherent complexities and risks in challenging child support assessments. To receive child support or resolve child support disputes, single mothers are faced with onerous and complex

¹⁹ Kristin Natalier and Kay Cook (2013), *The Gendered Framing of Australia's Child Support Reforms*, *International Journal of Law, Policy and the Family*, Vol. 27(1), 28, p. 29.

²⁰ Kay Cook, *The international failure of child support*, *Transforming Society* (Blog Post, 3 May 2022) <[Transforming Society – The international failure of child support](#)>.

²¹ Kristin Natalier and Belinda Hewitt (2014), *Separated Parents Reproducing and Undoing Gender Through Defining Legitimate Uses of Child Support*, *Gender and Society*, Vol. 28(6), 904.

²² *Ibid.*, p. 915.

²³ *Ibid.*, p. 912.

²⁴ *Ibid.*, p. 908.

²⁵ Department of Social Services (2023), 3.1.2.70 Exemptions from the maintenance action test, *Guides to Social Policy Law Child Support Guide*, Australian Government <[3.1.5.70 Exemptions from the maintenance action test | Family Assistance Guide \(dss.gov.au\)](#)>.

²⁶ Department of Social Services (2023), *Services Australia child support extract data 2023, Child support program fact sheet – September quarter 2023* <[00206BBA79E2231207104101 \(data.gov.au\)](#)>.

²⁷ See for example: Rebecca Patrick, Kay Cook and Hayley McKenzie (2008), *Domestic Violence and the Exemption from Seeking Child Support: Providing Safety or Legitimizing Ongoing Poverty and Fear*, *Social Policy and Administration*, Vol.42(7), 749, pp. 752-753 and Kay Cook (2022), *The failure of child support: Gendered systems of inaccessibility, inaction and irresponsibility*. Policy Press cited in Kay Cook, Adrienne Byrt, Rachael Burgin, Terese Edwards, Ashlea Coen and Georgina Dimopoulos (2023) (as above n 6), p. 103.

²⁸ Heather Douglas and Rachna Nagesh (2021), *Domestic and family violence, child support and 'the exemption'*, *Journal of Family Studies*, Vol. 27(4), 540, p. 552.

administrative burdens, with proof mostly always being their responsibility.²⁹ Professor Kay Cook (2022) writes, “[Fathers] are often largely free to ignore mothers’ or state requests, evade systems, withhold information, impose conditions or not comply. If fathers do not freely share their resources with children, it is mothers who must re-exert themselves through administrative, legal or interpersonal systems to recommence this institutionalised system of begging.”³⁰

Engagement with the child support system to receive payment is dependent on the cooperation of another often unwilling or actively opposed person.³¹ Mothers who have been in controlling relationships face significant risks in challenging assessments. Mothers are put in the position of having to make an active move to seek finances from their ex-partner, who mostly always has access to their children. Contacting ex-partners for any reason with respect to child support can be fraught with re-traumatisation and risk to safety for both mothers and children. For mothers who have experienced violence, collecting evidence of non-compliance or their ex-partner’s financial position is often, at the very least, psychologically harmful and at times, simply untenable.

International approaches to guaranteed child support

Non-payment and underpayment of child support is a global issue.³² Yet, the research on child support schemes and compliance tends to centre around the Global North; less is understood about child support generally in low-medium-income countries.

Literature does confirm that most child support schemes encourage private agreements. We assume that this is so Governments can absolve themselves of the responsibility for non-compliance.³³ This is despite what we know about private agreements ignoring the gendered financial, social and relational power differences between mothers and fathers (pre and post-separation), which are arguably worse in countries with greater income inequality and weaker income support systems.³⁴

The literature identifies that European countries have more progressive child support schemes than Australia. In these countries, supporting children is understood as a collective responsibility, resulting in at least a portion of the child support being ensured by the Government if the paying parent does not pay or cannot pay.³⁵

Guaranteed child support schemes are aimed at poverty alleviation.³⁶ It is noted that a guarantee “follows from the perspective of child support being the right of the child. Having a known and stable amount of support would result in a more stable budgeting for the child’s family, which could result in different choices about housing quality or other investments in children. Moreover, it would shift the societal contract so that the custodial parent and children were not harmed by non-payment.”³⁷ Mia Hakovirta and Merita Jokela (2019) show that guaranteed child support reduced child poverty in low-

²⁹ See for example: Kay Cook, Kristin Natalier and Torna Pitman (2016), *Payee mothers’ interactions with the Department of Human Services-Child Support: A summary of recent qualitative findings*, *Family Matters: Newsletter of the Australian Institute of Family Studies*, Vol. 97, 30, Kay Cook (2021) (as above n 18) and Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6).

³⁰ Kay Cook (2022) (as above n 20).

³¹ Kay Cook (2021) (as above n 18), p. 923.

³² See for example: Organisation for Economic Co-operation and Development – Social Policy Division – Directorate of Employment, Labour and Social Affairs (2010), *PF1.5: Child Support*, *OCED Family Database* <[Child Support \(oecd.org\)](#)> and Dr. Laura Cuesta (2020), *Public Guarantee of Child Support: A Key Policy for Improving the Economic Well-being of Lone-Mother Families*, *UN Women Policy Brief No. 25*, p. 2 <[Policy-brief-Public-guarantee-of-child-support-en.pdf \(unwomen.org\)](#)>.

³³ Kay Cook (2022) (as above n 20).

³⁴ *Ibid.*

³⁵ Christine Skinner and Mia Hakovirta, ‘Separated Families and Child Support Policies in Times of Social Change: A Comparative Analysis’ in Palgrave Macmillan (eds), *The Palgrave Handbook of Family Policy* (2020), 267 <[Separated Families and Child Support Policies in Times of Social Change: A Comparative Analysis | SpringerLink](#)>.

³⁶ *Ibid.*

³⁷ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022), *Child Support Policy across High-Income Countries: Similar Problems, Different Approaches*, *The ANNALS of the American Academy of Political and Social Science*, Vol. 702(1), 97, p. 106 <[Child Support Policy across High-Income Countries: Similar Problems, Different Approaches - Mia Hakovirta, Laura Cuesta, Mari Haapanen, Daniel R. Meyer, 2022 \(sagepub.com\)](#)>.

income families in Finland by more than 30% based off 2013 data.³⁸ Though recent data on the relationship between guaranteed child support and poverty alleviation is scarce.

Guaranteed schemes only work to 'poverty alleviation' if the guarantee is higher than the amount of the child support order.³⁹ This approach has the additional benefit of not requiring fathers to also reimburse the amount of the top-up, only the amount that they are required to pay under their agreement that is appropriate to their circumstances. It is further recommended that guaranteed child support should be compatible with other income support programs, so that mothers do not have to choose between receiving child support and receiving other Government benefits.⁴⁰ For example, guaranteed child support is regarded as income when assessing income support (or social assistance) in Finland. Resident mothers must apply for guaranteed child support, the amount of which is then deducted from their monthly income support. So, the extent to which it actually improves the living standards of low-income mothers in Finland has been questioned.⁴¹

In Australia, stakeholders have long campaigned for guaranteed child support payments for women who experience family violence and post-separation abuse.⁴² The House of Representatives Standing Committee on Social Policy and Legal Affairs (2015) recommended that the Government conduct a trial of guaranteed child support for either vulnerable families or for a random sample of child support clients.⁴³ It was noted that a guarantee would serve as a buffer between parents at a time of potential conflict. Money would ultimately be recouped by Services Australia. The Government did not accept this recommendation and has not considered trialling guaranteed child support in Australia.

An urgent call for reforms to address the non-payment of child support

The literature reveals that a national conversation on the systems that enable non-payment of child support is well overdue. Non-payment, underpayment, and delayed payment of child support must be nationally recognised as a form of economic abuse that has long-lasting impacts on women and children.

We need to create a child support system that recognises that women are often the primary carers of children, are often experiencing financial disadvantage, and the non-payment of child support entrenches women's financial disadvantage and is weaponised against women as a form of economic abuse. We need to recognise that current Government policy enables this, and a major shift is required to create safer and fairer outcomes for women and children. The non-payment of child support is inconsistent with the National Plan to End Violence Against Women and Children 2022-2032. There are only two references to 'child support' in the National Plan, and they are in relation to systems abuse and social security processes. Further, we need a system that does not put the burden on women to pursue child support debts, particularly where women are financially disadvantaged or there are safety risks.

Central to this conversation must be the fact that child support is a payment for the child. That is, non-payment of child support, is taking opportunities away from children.⁴⁴ Despite Australia being a signatory to the UN Convention on the Rights of the Child, and recent reforms to the family law system to refocus on the child's best interests, there remains a lack of focus in Australia's policy landscape on a child's right to receive child support. Children's voices have not been heard. As such, in this contested

³⁸ Mia Hakovirta and Merita Jokela (2019), *Contribution of child maintenance to lone mothers' income in five countries*, *Journal of European Social Policy*, Vol.29(2), 257, p. 260.

³⁹ See: Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) and Mia Hakovirta, Christine Skinner, Merita Jokela and Heikki Hiilamo (2020).

⁴⁰ Dr. Laura Cuesta (2020) (as above n 32), p. 5.

⁴¹ Mia Hakovirta and Heikki Hiilamo (2012), *Children's rights and parents' responsibilities: Child maintenance policies in Finland*, *European journal of social security*, Vol. 14 (4), 286, p. 292.

⁴² See for example: Centre for Excellence in Child and Family Welfare, *Our National Child Support Disgrace* (Blog Post, 16 April 2019) <[Our National Child Support Disgrace - Centre for Excellence in Child and Family Welfare \(cfecfw.asn.au\)](https://www.cfecfw.asn.au/)>.

⁴³ House of Representatives Standing Committee on Social Policy and Legal Affairs (2015), *From conflict to cooperation: Inquiry into the Child Support Program*, The Parliament of the Commonwealth of Australia, p. 129 <<https://www.aph.gov.au/childsupport>>.

⁴⁴ 'Dad – Your Choice Hurts Me' has been critical in raising the perspective of children who experience non-payment or underpayment <[Dad - your choice - Insight Exchange](#)>.

space, paying fathers often view it as a payment to the mother instead of the child and defend their right to refuse payment on this basis.

Advocates and experts have called for a range of reforms to the child support system, including:

- Accountability and enforcement measures to ensure payers are providing accurate information about their finances, including lodging annual tax returns by prescribed dates.
- A trial of Government guaranteed child support, as recommended by the 2015 Parliamentary Inquiry into the Child Support Program.
- Reforms to the *Family Law Act 1975* (Cth) to recognise persistent underpayment or non-payment of child support as a relevant factor in determining the existence of family violence or abuse.
- Removing the Maintenance Income Test from calculating Family Tax Benefit Part A for child support payees.
- Regular assessment of the compliance rates of Private Collect arrangements and publishing the resulting information.
- Increased resourcing for Services Australia to allow it to enhance its Child Support Scheme services, including debt enforcement.

Government-funded legal assistance should also be available to women who are seeking to pursue child support debts themselves and to support their engagement with child support processes. For example, Legal Aid Commissions are also seeking additional funding under the National Legal Assistance Partnership to provide increased legal assistance for people participating in administrative processes through Services Australia's Child Support department to change assessments, object to decisions, draft agreements and enforce or discharge arrears, and representation at review hearings.⁴⁵

As part of the 2023-24 Budget, the Federal Government committed \$5.1 million over five years to implement key recommendations made by the Joint Select Committee on Australia's Family Law System to establish a Child Support Stakeholder Consultation Group, a Child Support Expert Panel, review compliance in the child support scheme, review the interaction between the child support scheme and Family Tax Benefit, and undertake an evaluation of private collection arrangements.⁴⁶ The Expert Panel is set to report to the Department of Social Services by December 2024. It has been indicated that the Expert Panel will support the Department to commission cost of children and related research, consider technical details of the operation of the child support scheme, and develop a methodology to review the child support formula more regularly when routine expenditure data is published (such as the Australian Bureau of Statistics' Living Costs in Australia Survey).⁴⁷ It is clear from this literature review that this work is overdue

The child support system has failed to adequately respond to the known financial and relationship complexities of child support. The effects on mothers and their children are material, disempowering and results in further trauma for victim-survivors of family violence.

⁴⁵ National Legal Aid, 'Submission to the Independent Review of the National Legal Assistance Partnership', October 2023 <<https://www.nationallegalaid.org/resources/nla-submissions/>>

⁴⁶ 'Strengthening Australia's child support scheme', Department of Social Services, (Media Statement, 7 July 2023 <<https://ministers.dss.gov.au/media-releases/11701>>

⁴⁷ Department of Social Services, Child Support Expert Panel, Australian Government (Web Page) <[Child Support Expert Panel | Department of Social Services, Australian Government \(dss.gov.au\)](#)>.

1. Introduction

Quote from Kerry, victim-survivor of economic abuse

“The saddest thing for me was that he stole my house (long story) but because we were married at the time, I had no recourse. And because later I worked so many part time jobs as a single mum, I was ineligible for a home loan ... so here I am 14 years later still renting. We have never had enough bedrooms and the houses are always in very poor condition. My kids deserve better, and they get it from him in his big mansion in the western suburbs and many trips to Europe every year. Yet somehow, he has never been pulled up for any of it and actually seemed to get a lot of pleasure out of my terror throughout the many court appearances I have been subjected to. But then I guess that’s coercive control right? Underpinned by financial abuse, vengeance, and the ability to lie.”

1.1 Foreword

This Paper sets out a review of available literature on the child support system in Australia with a focus on the non-payment and underpayment of child support by fathers. It examines the aspects of the system that facilitate economic abuse and contribute to the financial hardship of single mothers and their children. Despite there being a moral and legal obligation to pay child support, the literature confirms that not receiving payment is a common experience for many single mothers and their children.

This Paper refers to circumstances where a child support agreement exists, and the paying parent has the means to pay child support but chooses not to. It does not focus on the cohort of fathers that experience intersecting social and economic disadvantage and do not have the means to pay child support.

First Nations women and culturally and linguistically diverse women have unique experiences of gendered violence, including economic abuse. These unique experiences require a standalone, dedicated literature review.

1.2 Topic of this paper

This Paper is focused on the topic of child support. ‘Child support’ is a regular contribution from a non-resident parent towards the financial cost of raising a child, usually paid to the parent with whom the child lives most of the time or who earns substantially less income. Child support arrangements continue the financial relationship between separated parents. Regular payments can reduce the likelihood of single mother poverty by 20%, which indicates the scheme can work well.⁴⁸

In contested separations or where the mother has experienced family violence, child support is often used as a tool for financial control and abuse. Critics of the Australian child support system note how paying fathers can, with ease, weaponise the child support system to withhold money. Non-payment of child support impacts both women and children.

⁴⁸ Christine Skinner, Kay Cook and Sarah Sinclair (2017), *The Potential of Child Support to Reduce Lone Mother Poverty: Comparing Population Survey Data in Australia and the UK*, *Journal of Poverty and Social Justice* Vol. 25(1), 79-94.

It is estimated that there is at least \$2 billion in child support debt in Australia.⁴⁹ The non-payment of child support and lack of Government action has been referred to as the “preventable poverty” of single mothers and their children.⁵⁰ The Australian Council of Social Service has said that children in single parent families are already three times more likely to live in poverty than children living with both parents.⁵¹ The most recent child support figures confirm that around a quarter of the total child support caseload have an annual liability of between \$0–\$500 per year. More than 118,000 cases were assessed at the minimum annual rate, which equates to single mothers receiving less than \$10 per week.⁵²

Women already face economic disadvantage for a range of reasons, including as a result of domestic and family violence, patriarchal social structures, the gender pay gap, often being the primary carers of children, and as a result of undertaking the majority of domestic unpaid labour. These experiences are exacerbated by systems that reinforce structural inequalities.

Quote from Jennifer, victim-survivor of economic abuse

“For around two months my ex-husband paid the required child support. We have always had a 50/50 custody arrangement, despite my income being significantly lower. At the time, I also had reduced workdays as I took the children to their activities even on my off weeks. After two months, when my ex-husband realised that we were not going to get back together, he stopped all child support payments.”

In this Research Paper, we refer to the withholding or non-payment of child support as ‘economic abuse’ (rather than ‘financial abuse’) of women and their children. ‘Economic abuse’ is used to refer to the impact of withholding child support on women’s entire economic security – from housing and employment to healthcare and education. It directly threatens women’s self-sufficiency. A key element of economic abuse is that it does not require physical proximity to occur. It will continue, escalate, or even begin post-separation.

The violence of non-payment of child support and experiences of poverty are also self-reinforcing. Poverty compounds violence and violence creates and extends poverty. Women with children leaving abusive and violent relationships face a myriad of personal, social and economic barriers.

This literature review will outline why the child support system is outdated and requires urgent reform.

1.3 Terminology

This literature review acknowledges that child support is gendered. This is reflected in our use of gendered language. While we acknowledge that both women and men can receive child support, we are conscious that women in Australia make up close to 85% of child support payees. We have applied a gendered lens to demonstrate how the literature shows that the child support system is constructed

⁴⁹ National Council for Single Mothers and their Children and Anti-Poverty Week (2022) (as above n 2).

⁵⁰ ‘Dad – Your Choice Hurts Me’, Insight Exchange (2023) <[Dad-Your-choice-hurts-me-AUS.pdf \(insightexchange.net\)](#)> and Anti-Poverty Week, ‘Dads choice to withhold child support is preventable poverty’ (Blog Post, 26 October 2023) <https://antipovertyweek.org.au/2023/10/dads-choice-to-withhold-child-support-is-preventable-poverty/#_edn2>.

⁵¹ Australian Council of Social Service and UNSW Sydney, Poverty in Australia (Web Page) <[https://povertyandinequality.acoss.org.au/poverty/#:~:text=Children%20in%20sole%20parent%20families,a%20poverty%20rate%20of%2013%20and%20Peter%20Davidson,Bruce%20Bradbury%20and%20Melissa%20Wong%20\(2023\),Poverty%20in%20Australia%202023:Who%20is%20affected?%20Australian%20Council%20of%20Social%20Service%20\(ACOSS\)%20and%20UNSW%20Sydney,p.30](https://povertyandinequality.acoss.org.au/poverty/#:~:text=Children%20in%20sole%20parent%20families,a%20poverty%20rate%20of%2013%20and%20Peter%20Davidson,Bruce%20Bradbury%20and%20Melissa%20Wong%20(2023),Poverty%20in%20Australia%202023:Who%20is%20affected?%20Australian%20Council%20of%20Social%20Service%20(ACOSS)%20and%20UNSW%20Sydney,p.30)> <https://povertyandinequality.acoss.org.au/wp-content/uploads/2023/03/Poverty-in-Australia-2023_Who-is-affected.pdf>.

⁵² Department of Social Services (2023) (as above n 3).

to facilitate the economic abuse of single mothers and their children. Women are also statistically more likely to be victim-survivors of family violence and economic abuse.⁵³

We note that while there is a preference in policy to use gender-neutral language such as “payer”, “payee”, “resident parent” and “non-resident parent”, gender-neutral language obfuscates the operation of gendered power, control and abuse that is rife in the child support system. Power and control are the known experiences of many resident mothers who are meant to receive child support and we will not minimise their experiences.

“Resident parent”, “payee” and “primary carer” are used interchangeably in this literature review and in both instances are generally references to the mother.

1.4 Methodology

This Research Paper is a synthesis of existing academic research, past Government inquiries, reports and data from Government agencies and Government websites on the child support system, media sources, and policy papers and reports of frontline women’s services and women’s rights advocates. We relied on Government websites for research on the Nordic models of child support as there was limited literature available. In the absence of literature, we have used media sources, particularly where frontline advocates have given quotes to media on Government inquiries and changes to the child support system or family law. Research limitations are noted throughout this Paper.

Search terms used include “child support”, “child support reforms”, “child support and gender”, “non-payment of child support”, “mothers’ experiences of non-payment of child support”, “how fathers withhold child support”, “child support as economic abuse”, “child support and family violence”, “impacts of child non-payment of child support on single mothers”, “international child support systems” and “guaranteed child support” on a library database. This allowed us to access academic research from various journals.

We have also included de-identified quotes and case illustrations from mothers who have experienced or are experiencing, economic abuse. These quotes were provided with consent for the purpose of this Research Paper and were recorded verbatim.

1.5 Recent child support policy changes

In recent years, social literacy on intimate partner violence and economic abuse has increased. There have been several inquiries into family violence, coercive control, and justice system responses. However, the non-payment of child support has largely been absent from national conversations. Indeed, economic abuse is mostly always conceptualised as occurring during the relationship, while what happens post-relationship remains unexplored. There is a lack of commensurate validation of the experiences of single mothers, their children and the common experience of post-separation economic abuse.

We note that the Federal Government has recently engaged with the issue of non-payment of child support. The Women’s Budget Statement 2022–23 highlighted the financial insecurity that women experience post-separation and that when child support payments are not paid, the financial shortfall can further diminish a single mother’s financial security.⁵⁴ The Budget announced \$12.5 billion over 5 years for women’s economic security across strengthening income support payments, such as expanding the eligibility for the Parenting Payment (Single) to single principal carers whose youngest child is under 14 years, energy bill relief and increasing the maximum rates of Commonwealth Rent

⁵³ *Ibid* and Australian Institute of Health and Welfare (2023), *Family, Domestic and Sexual Violence*, Canberra: Australian Institute of Health and Welfare <[Family, domestic and sexual violence - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/our-research/family-domestic-and-sexual-violence)>.

⁵⁴ Commonwealth of Australia (2022), *Budget October 2022-23: Women’s budget statement October 2022-2023* <https://budget.gov.au/2022-23-october/content/womens-statement/download/womens_budget_statement_2022-23.pdf>.

Assistance.⁵⁵ The Budget also included an investment of \$589.3 million (in addition to the \$1.7 billion in the October Budget) to meet the priority of ending men's violence against women and children in one generation with \$194 million being promised to deliver priorities emerging from the Aboriginal and Torres Strait Islander Action Plan.⁵⁶

The Women's Economic Equality Taskforce (**Women's Economic Taskforce**) established in September 2022 has also put women's economic security on the agenda. Chaired by Sam Mostyn AO – the recently appointed Governor-General and former Chair of Australia's National Research Organisation for Women's Safety (**ANROWS**) and Australians Investing in Women – the Women's Economic Taskforce have recommended additional subsidies for single mothers including, abolishing the ParentsNext Program (this will no longer exist from July 2024 and will be replaced with a voluntary program) and the Childcare Subsidy Activity Test, giving superannuation payments to primary carers while they are on paid parental leave and increasing Commonwealth rental assistance to improve women's immediate housing security stemming from the lack of affordable, appropriate and safe housing options.⁵⁷

The passing of the *Social Services Legislation Amendment (Child Support Measures) Act 2023* (Cth) (**Social Services Amendment Act**) and *Family Law Amendment Act 2023* (Cth) (**Family Law Amendment Act**) are also notable.

The objectives of the Social Services Amendment Act, which passed both houses of Parliament in June 2023, are to improve debt recovery and prevent future debts for low-income parents.⁵⁸ The Social Services Amendment Act introduces three primary amendments. Since July, Services Australia can deduct child support debts directly from a parent's wages in non-active child support cases; for example, where the child has turned 18 years old but the debt still stands. Previously, Services Australia could only initiate employer withholding in cases where there was an ongoing child support obligation. Over two years, this change alone is expected to recover up to \$164 million in unpaid child support from around 18,000 parents, with an average debt of nearly \$11,000 owing to the receiving parent. Secondly, the Social Services Amendment Act tightens departure orders and Services Australia will be able to refuse to grant a departure certificate (even where security is offered) if the Registrar is not satisfied that the person will make arrangements to discharge their child support liability within a reasonable time period. The Minister for Families and Social Services of Australia, Amanda Rishworth said in her Second Reading Speech, that while this measure will only impact around 110 parents, these paying parents are responsible for a large debt pool, at an average of \$43,500 each. Thirdly, if a parent files a 'return not necessary' with the Australian Taxation Office (**ATO**) and does not provide income information to Services Australia, Services Australia will calculate a provisional income equal to the self-support amount and not the previous default amount (currently \$27,508 in 2023). This change ensures that Services Australia considers the parent's actual (low) income when determining child support payments. Under the previous system, for paying parents who failed to provide any income details, Services Australia would use a provisional income equal to two-thirds of the annual Male Total Average Weekly Earnings (**MTAWE**) which is \$55,016 in 2023 – double the self-support amount in 2023. The default provisional income significantly overestimated a parent's income and placed financial strain on both paying and payee parents. The paying parent would be paying more than they could afford and the payee parent receiving less child support than they are entitled to. According to the Second Reading

⁵⁵ *Ibid*, pp. 5-6.

⁵⁶ *Ibid*, pp.6-7.

⁵⁷ Brianna Boecker, *The six recommendations from the Women's Economic Equality Taskforce ahead of federal budget*, *Women's Agenda* (Online, 19 April 2023) <[The six recommendations from the Women's Economic Equality Taskforce ahead of federal budget \(womensagenda.com.au\)](https://www.womensagenda.com.au)>.

⁵⁸ *Social Services Legislation Amendment (Child Support Measures) Act 2023* (Cth).

Speech, this adjustment is expected to benefit approximately 150,000 parents annually, with payee parents comprising about 70% of this group.⁵⁹

It is too early to consider the impacts of the Social Services Amendment Act. We also note that we could not locate any stakeholder responses to these changes.

The Third Interim Report of the Joint Select Committee on Australia's Family Law System (**Joint Select Committee**), presented in November 2021, marked a notable juncture in child support policy. This report included a section dedicated to financial abuse and family violence, with notable submissions from Women's Legal Service Queensland, Women's Safety NSW, Domestic Violence Victoria and the Australian Institute of Family Studies (**AIFS**).⁶⁰ The Joint Select Committee made several recommendations to strengthen the child support system with the acknowledgment that child support is being weaponised to perpetuate financial abuse after separation.⁶¹ The Government responded to the Joint Select Committee's report in January this year. Notably, the Government 'agreed in principle' to Recommendation 8 – that the Productivity Commission undertakes an inquiry into the child support system to review compliance with assessments of child support made by the Child Support Registrar.⁶² It said that the Department of Social Services (**DSS**) and Services Australia would be best placed to undertake any review of the child support system. To recommendation 11 – that section 4 of the Family Law Act 1975 (Cth) (**FLA**) be amended to recognise persistent underpayment and/or non-payment of child support as relevant factors in determining the existence of abuse – the Government 'noted' that the current definition of 'abuse' in the FLA was already broad enough to capture a range of behaviours including persistent underpayment and/or non-payment of child support.⁶³ The Government is working with State and Territory Governments to progress a national definition of 'family and domestic violence', and has said that "Consideration of this recommendation [11] may form part of this work, including to scope whether a change to either the definition of 'abuse' or 'family violence' in the Family Law Act is necessary."⁶⁴

The Exposure Draft: Family Law Amendment Bill (No. 2) 2023 released by the Federal Government in mid-September did not address the issues with the child support system that have been identified in this literature review.⁶⁵ Neither does the Family Law Amendment Act explicitly deal with child support. However, there are notable developments with respect to the rights of the child (discussed below).

Finally, we note the results of the Victorian Law Foundation's Public Understanding of Law Survey (**PULS**) Volume 1 released in August 2023.⁶⁶ PULS explores how everyday legal problems are experienced, what people do about their legal issues and if they are able to resolve them.⁶⁷ On average, 'family problems' are rated as the most severe legal problems, followed by those relating to injury, debt or money and employment.⁶⁸ Family problems encompass parenting arrangements, child support, family violence (including violence restraining orders), family law property and divorce, de facto separations and marriage annulment. While family problems, along with debt and employment, were

⁵⁹ Commonwealth of Australia, *Parliamentary Debates, House of Representatives, 29 March 2023, Amanda Rishworth <ParlInfo - BILLS : Social Services Legislation Amendment (Child Support Measures) Bill 2023 : Second Reading (aph.gov.au)>*.

⁶⁰ Joint Select Committee on Australia's Family Law System (2021), *Australia's Child Support Scheme (Interim Report No 3), Parliament of Australia*, pp. 30-31 <[Australia's Child Support Scheme – Parliament of Australia \(aph.gov.au\)](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Family_Law_System/FamilyLaw/Government_Response)>.

⁶¹ *Ibid*, pp. 55-56.

⁶² Parliament of Australia (2023), *Australian Government response to the inquiry of the Joint Select Committee on Australia's Family Law System*, p. 13 <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Family_Law_System/FamilyLaw/Government_Response>.

⁶³ *Ibid*, p. 14 and Joint Select Committee on Australia's Family Law System (2021) (as above n 60), p. 55.

⁶⁴ *Ibid*.

⁶⁵ Family Law Amendment Act 2023 <[Federal Register of Legislation - Family Law Amendment Act 2023](https://www.federalregister.gov/?date=2023-09-14&title=family-law-amendment-act-2023)>, Attorney-General's Department, *Exposure Draft: Family Law Amendment Bill (No. 2) 2023, Australian Government (Web Page) <Exposure Draft: Family Law Amendment Bill (No. 2) 2023 - Attorney-General's Department - Citizen Space (ag.gov.au)>* and Jacky Campbell, *The Family Law Amendment Bill 2023 and other family law related bills*, *Wolters Kluwer (Blog Post, 24 April 2023) <The Family Law Amendment Bill 2023 and other family law related bills | Wolters Kluwer>*.

⁶⁶ Nigel Balmer, Pascoe Pleasence, Hugh McDonald and Rebecca Sandefur (2023), *The Public Understanding of Law Survey Volume 1: Everyday Problems and Legal Need*, Victorian Law Foundation <[64f542eb58fe75c66682d24a The Public Understanding of Law Survey Report 2023 Volume 1.pdf \(webflow.com\)](https://www.viclawfoundation.org.au/public-understanding-of-law-survey-report-2023-volume-1.pdf)>.

⁶⁷ PULS Volume 1 shows gaps in how people understand and engage with the law, *Law Foundation of Victoria (Media Statement, 30 August 2023) <PULS Volume 1 shows gaps in how people understand and engage with the law (victorialawfoundation.org.au)>*.

⁶⁸ Nigel Balmer, Pascoe Pleasence, Hugh M. McDonald and Rebecca L. Sandefur (2023) (as above n 66), p. 15.

most likely to involve a legal need, respondents with family problems were ranked third in not having their legal needs met.⁶⁹ It is important to note that obtaining legal help also does not always mean legal needs are met. Unsurprisingly, respondents who had experienced family related problems were among the most likely to report concerns around housing, income support payments and debt or money.⁷⁰ PULS also confirms that being a single parent is a strong predictor of experiencing a family problem with high levels of distress.⁷¹ Over 18% of respondents who indicated they had a family problem reported experiencing severe distress, with over a quarter unable to eat, heat or cool their homes as a result of their legal issue.⁷²

2. Overview of the child support system

2.1 Development of the child support system

Summary

The literature demonstrates there is a sense amongst some experts that reforms to child support policy have further entrenched 'masculine financial discretion' giving fathers an undesirable amount of control within the system. The administrative burdens of the child support system are highly gendered and further embed financial hardship and opportunity costs for women and their children. The limited response by Government to the non-payment or underpayment of child support and the financial hardship experienced by single mother households is concerning.

The child support system in Australia was birthed from concerns about poverty rates in single mother households post-separation and divorce.⁷³ A 1986 study by AIFS on the financial consequences of divorce, found that women with children who did not re-partner suffered the greatest losses from marriage breakdown.⁷⁴ This seminal research confirmed that single mothers did not receive adequate compensation for their loss of income-earning potential during marriage and adequate support payments for children in their care.⁷⁵

This paper reinforced concerns about the 'feminisation of poverty' which led to a renewed national conversation on child support. A discussion paper by the Cabinet Sub-Committee on Maintenance in the same year found that only 30% of non-resident parents were making regular payments to the resident parent.⁷⁶

There were also concerns raised about increasing Government expenditure required to maintain children where non-resident parents (generally fathers) failed to make appropriate financial

⁶⁹ *Ibid*, p. 155.

⁷⁰ *Ibid*, p. 84.

⁷¹ *Ibid*, pp. 14 and 60-61.

⁷² *Ibid*, pp. 60-61.

⁷³ Department of Social Services (2005), Chapter 2 – *The Evolution of the Child Support Scheme, In the Best Interests of Children Report of the Ministerial Taskforce on Child Support – Reforming the Child Support Scheme*, p. 43 <[In the Best Interests of Children \(dss.gov.au\)](#)> and Bruce Smyth (2004), *Child support policy in Australia – Back to basics?*, Australian Institute of Family Studies, *Family Matters* No.67, p. 1 <[Child support policy in Australia: back to basics? Family Matters no.67 2004 \(aifs.gov.au\)](#)>.

⁷⁴ Peter McDonald, *Settling Up: Property and Income Distribution on Divorce in Australia* (Prentice-Hall, Sydney, Ed. 1, 1986), pp. 60 and 87 <[settling up property and income distribution on divorce in australia 0.pdf \(aifs.gov.au\)](#)>.

⁷⁵ *Ibid*, p. 323.

⁷⁶ Cabinet Sub-Committee on Maintenance (1986), *Child Support: A discussion paper on child maintenance*, Australian Government Publishing Service: Canberra, pp. 7-9.

contributions.⁷⁷ This was because most single parent households were on some form of income support, and courts typically granted child support payments below a certain threshold to avoid reducing this welfare assistance. As a result, the responsibility for financial support was said to effectively shift to the Government / the taxpayer.⁷⁸

In May 1987, the Child Support Consultative Group was established to advise the Government on a legislative formula for the assessment of child support. And on 1 June 1988 under the Hawke Government, the first stage of the child support system commenced.

In stage one of the child support system, the Government passed the Child Support (Registration and Collection) Act 1988 (Cth) (**Child Support Registration Act**) and established the Child Support Agency (**CSA**) (child support is now overseen by the Department of Social Services (**DSS**) and delivered by Services Australia). The CSA would assist parents “so they [would] not be faced with the costs, delays and emotional stress of court proceedings.”⁷⁹ It was also expected to depersonalise the transfer of child support and neutralise the “emotional tenor” of the relationship between former partners.⁸⁰ The Child Support Registration Act empowered the ATO to collect and enforce child support payments as automatic deductions from salaries and wages. But child support would still be assessed by the court. At the same time, the Family Law Amendment Act 1987 (Cth) (which amended the Family Law Act 1975) reinforced the principles that, “Parents should bear the prime responsibility for the maintenance and wellbeing of their children. Manipulation of the social security system should be stopped. The cost of maintenance of children or of custodial parents should be borne by the taxpayer only in cases where hardship and justice so require.”⁸¹

In stage two, the Child Support (Assessment) Act 1989 (Cth) (**Child Support Assessment Act**) and assessment formula were introduced. The formula was intended to shift the calculation of child support to an administrative, rather than judicial, procedure. According to the 2005 Report of the Ministerial Taskforce on Child Support, “The administrative formula sought to produce much greater certainty and equity for children through equal access to fair, secure and regular child support at a level that represented an appropriate share of their parents’ income. The aim ... was to design a system that was predictable, accessible, simple, inexpensive, and readily understood. The formula was also intended to be flexible enough to apply fairly to a variety of circumstances.”⁸²

According to Bruce Smythe (2004) writing for AIFS, the child support system was based on the following tenets:

- a) parents bear the responsibility of providing financial assistance to their children,
- b) children in single parent households should have a similar standard of living as they would if their parents had remained together,
- c) the obligation of child support necessitates fairness to both sides to ensure compliance from parents,
- d) payment should occur regardless of whether parent–child contact is possible, and
- e) when parents form new partnerships and assume new familial duties, children of their past relationship should be given special policy consideration.⁸³

⁷⁷ Department of Social Services (2005) (as above n 73), p. 44.

⁷⁸ Ibid, p. 43.

⁷⁹ Cabinet Sub-Committee on Maintenance (1986), *Child Support: A discussion paper on child maintenance*, Australian Government Publishing Service: Canberra, p. 17.

⁸⁰ Carberry, F. (1992), *The Child Support Scheme: An evaluation of its personal impact*, *Social Security Journal*, Autumn, pp. 43-48.

⁸¹ Parliament of Australia, *Parliamentary Debates, House of Representatives*, 26 May 1987 (Mr Spender) <[ParInfo - FAMILY LAW AMENDMENT BILL 1987 : Second Reading \(aph.gov.au\)](#)>.

⁸² Department of Social Services (2005) (as above n 73), p. 45.

⁸³ Bruce Smyth (2004) (as above n 73), p.2.

Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) say that from its inception, the child support system has required low-income women to “pay for the system that is designed to help them [...] [Between] 1988–89 and 1989–90, respectively, the Government estimated that the Scheme would recoup \$120 million and \$193 million in reduced family payments [for the Government].”⁸⁴

Despite various Government changes to the child support system over the years, its objectives remain essentially unaltered.⁸⁵ The literature overwhelmingly provides criticism that changes have prioritised ‘masculine financial discretion’.⁸⁶ ‘Masculine financial discretion’ reinforces the notion that a man is in the position to financially support a relationship both before and post-breakdown.⁸⁷ Helen Rhoades and Susan Boyd in their 2004 article ‘Reforming Custody Laws’ identified two common themes across family law reform during this time: firstly, fathers’ rights groups had called for reform; and secondly, reforms had been related to the normative expectations of shared parenting but with little regard to the realities of family life and who the primary carer was.⁸⁸

In particular, the 2003 Inquiry which led to the Ministerial Taskforce on Child Support in 2005 (**2005 Taskforce**) led to a “major overhaul” of the child support system in the form of the Child Support Legislation Amendment (Reform of the Child Support Scheme – New Formula and Other Measures) Act 2006 (Cth) (**Child Support Amendment Act**) that was enacted in stages between 2006 and 2008. Initial calls for the 2005 Taskforce and the terms of reference emphasised the need for a ‘fairer’ child support system.⁸⁹ A fairer child support system was understood as one that addressed single mother poverty (that existed before the child support system) while also acknowledging the perceived ‘unfairness’ in the present system for fathers.⁹⁰

Belinda Fehlberg and Mavis Maclean (2009) argue that fathers’ financial interests were central to the 2005 Taskforce’s terms of reference, recommendations, and subsequent reforms.⁹¹ Under the original child support system model, child support was about transferring the costs of care to the parent who had primary care. Now both parents would be treated as carers and earners. This marked a departure from the gendered male breadwinner model, in which mothers were primarily viewed as full-time caregivers and fathers as sole breadwinners. While this shift was a positive development for women’s participation in the workforce, it also meant that they would be bearing the costs for their employment outside the home, as well as continuing to perform unpaid labour and caregiving responsibilities within the household.⁹² Fehlberg and Maclean surmise that the 2005 Taskforce’s recommendations were consistent with two ideals which “reflected the influence of fathers’ groups” at the time: firstly, an increasing emphasis on shared post-separation parenting (both responsibility and time), “which [was] essentially a push towards fathers having a greater involvement in their children’s lives”; and secondly, private agreements and non-adversarial dispute resolution processes as the preferred option for resolving post-separation family disputes.⁹³ Fathers would also get to ‘ earmark’ how child support is

⁸⁴ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 74.

⁸⁵ See: *The 1993-94 Joint Select Committee Inquiry made 163 recommendations for change to the child support system. This Inquiry introduced a \$260 a year minimum in child support. In 2003, the House of Representatives Standing Committee on Family and Community Affairs undertook an inquiry on child custody arrangements in the event of family breakdown. In 2005, the Ministerial Taskforce on Child Support reviewed the child support formula and other aspects of the scheme. Changes were implemented in three stages from 2006 to 2008. In 2014-15, the House of Representatives Standing Committee on Social Policy and Legal Affairs made 25 recommendations relating to child support policy and legislation, the administration of the child support system by the Department of Human Services and enforcement of non-payment by the ATO. The Government accepted 18 of the 25 recommendations of this Inquiry. From this Inquiry, the Family Assistance and Child Support Legislation Amendment (Protecting Children) Act 2018 was passed in May 2018.*

⁸⁶ Kay Cook and Kristin Natalier (2014), *Selective hearing: the gendered construction and reception of inquiry evidence*, *Critical Social Policy*, Vol. 34(4), 515 and Kristin Natalier (2018) (as above n 16), p. 126.

⁸⁷ *Ibid.*, p. 126.

⁸⁸ Helen Rhoades and Susan B. Boyd (2004), *Reforming Custody Laws: A Comparative Study*, *International Journal of Law, Policy and the Family*, Vol. 18(2), 119, pp. 119–120 <https://commons.allard.ubc.ca/cgi/viewcontent.cgi?article=1003&context=emeritus_pubs>.

⁸⁹ House Standing Committee Family and Community Affairs (2003), *Every picture tells a story: Inquiry into child custody arrangements in the event of family separation*, Parliament of Australia <https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_representatives_Committees?url=fca/childcustody/report.htm>.

⁹⁰ Kay Cook and Kristin Natalier (2014) (as above n 86), p. 521.

⁹¹ Belinda Fehlberg and Mavis Maclean (2009), *Child Support Policy in Australia and the United Kingdom: Changing Priorities but a Similar Tough Deal for Children*, *International Journal of Law, Policy and the Family*, Vol. 23, 1–24.

⁹² *Ibid.*, p. 13.

⁹³ *Ibid.*, p. 14.

spent. These changes would suit fathers, as at the time 62% of non-resident fathers believed that the child support system was “not working well.”⁹⁴ Fathers claimed that they were being “victimised” and “disadvantaged” within a “sexist” Family Court and child support system, with consequences of poverty, despair, and parental alienation from their children.⁹⁵

Kay Cook (2019) is critical of the shift to private agreements. Cook argues, “Private payments provide the perfect foil. They locate responsibility with individual parents, and thus outside of state surveillance and control, but also make it difficult to determine the extent of, and thus intervene in, noncompliance. As a result, privately collected child support can go unpaid and without consequence. Rather, penalties are borne by low-income mothers who face reduced [Family Tax Benefits] and a lack of data regarding the extent of their personal or collective child support debts.”⁹⁶

Bruce Smyth and Paul Henman (2010) and Kristin Natalier and Kay Cook (2013) similarly argue that the reforms from the 2005 Taskforce resulted in beneficial policy and financial outcomes for fathers. Smyth and Henman, who modelled child support liabilities a day before and a day after the reforms, find that only one-third of payees were better off.⁹⁷ High income payers (mostly men) and payers who had regular overnight care of their children largely benefited.⁹⁸ This is because the child support payable by non-resident parents (generally fathers) who spent more than 14% of nights or equivalent with their children was reduced (the previous threshold being 30%).⁹⁹ Those who lost the most were those least able to afford it: low-income families and resident parents (largely women) employed part-time or casually.¹⁰⁰

Natalier and Cook are even more critical of the changes to the child support system between 2006 and 2008 that “buttressed” the “legitimacy of men’s financial claims ... at the expense of women’s and children’s interests and autonomy.”¹⁰¹ They argue that it was during the mid-2000s when fathers’ groups began marking themselves as “victims of inequitable Government institutions” in their bid for reform.¹⁰²

Natalier and Cook identified that recommendations that sought to provide the CSA with greater enforcement powers to prevent withholding or underpayment of child support were “abandoned or actively rejected by the 2005 Taskforce.”¹⁰³ Natalier and Cook are also critical of the 2005 Taskforce’s response to calls to increase the minimum child support liability from \$260 to \$520 per year – which was rejected.¹⁰⁴ For reference, the minimum liability in 2023 was \$493.¹⁰⁵ On or after 1 January 2024, the minimum rate for child support periods is \$519 per year.¹⁰⁶ In 2003, it was recommended that the minimum payment of \$5 per week be raised to \$10 per week, as it was concluded that “the amount of \$260 per year [per child] is too low to provide a meaningful contribution to the cost of raising a child.”¹⁰⁷ It was estimated that if the minimum payment were increased to \$10 per week, the children of 217,000

⁹⁴ Department of Social Services (2005) (as above n 73), p. 80.

⁹⁵ Kay Cook and Kristin Natalier (2014) (as above n 86), p. 520.

⁹⁶ Kay Cook (2019), *The Devaluing and Disciplining of Single Mothers in Australian Child Support Policy*, Australian Mothering / Pascoe Leahy C., Bueskens P. (eds.), 381–402, p. 402.

⁹⁷ Bruce Smyth and Paul Henman (2010), *The distribution and financial impacts of the new Australian Child Support Scheme: A 'before and day-after reform' comparison of assessed liability*, *Journal of Family Studies*, Vol. 16(1), p. 25.

⁹⁸ *Ibid.*, p. 17.

⁹⁹ Belinda Fehlberg and Mavis Maclean (2009) (as above n 91), p. 14.

¹⁰⁰ Bruce Smyth and Paul Henman (2010) (as above n 97), p. 17.

¹⁰¹ Kristin Natalier and Kay Cook (2013) (as above n 19), p. 29.

¹⁰² *Ibid.*, p. 30.

¹⁰³ *Ibid.*, p. 36.

¹⁰⁴ *Ibid.*, p. 39.

¹⁰⁵ See: Services Australia, *Fixed and minimum assessments*, Australian Government (Web Page) <[Fixed and minimum child support assessments - Child support assessment - Services Australia](#)>.

¹⁰⁶ **Note:** In addition to the minimum annual rate, there is a ‘Fixed Annual Rate’ which is the amount payable by parents with a low annual taxable income or estimated income who did not receive income support payments in the last financial year (Child Support Assessment Act, s 65A). According to Cath Devine, *A Practical Guide to Child Support: A handbook for child support and maintenance law in Australia* (Smeaton Devine Pty Ltd, 1st ed, 2023), p. 68: “It is used where parents minimise their taxable income so that their real income or income earning capacity is not properly assessed, usually to reduce their child support obligations” (p. 68). In 2023, the fixed annual rate was \$1,632 per child per year. In 2024, the fixed annual rate is \$1,720.

¹⁰⁷ It is noteworthy that in 2003, the minimum annual child support payable based on income for one child was NZ\$677 in New Zealand, GB£260 in the UK and US\$300 in the States of New York and Washington. House Standing Committee Family and Community Affairs (2003), *Every picture tells a story: Inquiry into child custody arrangements in the event of family separation*, Parliament of Australia, p. 140 <https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_representatives/Committees?url=fca/childcustody/report.htm>.

resident parents would benefit from more child support. But the child's best interests would have to be considered alongside father's financial interests. In 2003, it was said that, "In considering higher amounts, the Committee would not wish to create hardship for any low-income or unemployed person who was unemployed through no fault of their own."¹⁰⁸ Later, all references to a 'meaningful benefit to children' were omitted from the 2005 Taskforce's discussion and the 2005 recommendations focused exclusively on the affordability of minimum payments for low-income payers. Ultimately, at the start of 2008, minimum payments were indexed to the Consumer Price Index (CPI), which raised minimum payments from \$5 a week to approximately \$6.15 to protect men's financial interests. As payments increased in line with CPI, men were never out of pocket in real terms which meant that the financial needs of mothers and children were ultimately removed from the policy consideration.¹⁰⁹

Like Fehlberg and Maclean, they criticised the terms of reference set by the 2003 Inquiry for the 2005 Taskforce, noting that the terms provided no scope to examine the CSA's enforcement capabilities with respect to collection from superannuation, access to joint accounts, accessing information from credit agencies, transfer of assets, and accessing lump sum payments. They suggest that these concerns were written out of the 2003 Inquiry report despite being known issues for mothers.¹¹⁰

The outcomes of the 2005 Taskforce are telling. That is, non-compliance increased and child support debts were ultimately calculated at over \$1.25 billion in 2013.¹¹¹

A number of empirical studies have also demonstrated how anecdotes shared by fathers were more convincing in portraying male victimisation and disadvantage compared to data on mothers' experiences at this time.¹¹² For Reg Graycar (2012), "In the context of family law reform, men have the ears of the politicians, the women and children simply do not. Moreover, the stories that the men tell are those that politicians find easier to hear [...] And there are all sorts of pragmatic reasons for why the fathers' stories resonate so clearly: Since it is overwhelmingly women who are raising children after separation and divorce ... they are not as free as men are to spend time lobbying politicians and otherwise generally engage in public activities."¹¹³ Women are often disbelieved in legal and political settings and may be cautious about giving evidence that challenges the dominating and well-resourced patriarchal system.

Natalier and Cook's 2016 analysis of the 2003 Inquiry and 2005 Taskforce reinforced this.¹¹⁴ They report that Government agencies, like the CSA, failed to furnish quantitative data suitable for the terms of reference.¹¹⁵ Even then, data generated through economic modelling on, for example, the average costs of children were qualified with statements such as: "Despite this research there are many child support payers who believe they pay far more than the costs of raising their children. They believe that any excess to these costs is in effect spousal maintenance. For example, a father said I am a father who has joint residence of my eight-year-old daughter [The child support formula] is a ridiculous method ..." and from Mrs Kay Hull, the Chair of the 2003 Inquiry: "I am a bit anti-research person myself ... I figure it is time we get out of the research and get into delivering exactly what our families need."¹¹⁶ As such, the Inquiry legitimised (and elevated) fathers' personal stories to fill the void of quantitative data.¹¹⁷

Natalier and Cook's analysis further revealed that policy recommendations were significantly more likely to be supported where citations of testimony were provided by 'interested parties' (i.e., fathers' and

¹⁰⁸ House Standing Committee Family and Community Affairs (2003), *Every picture tells a story: Inquiry into child custody arrangements in the event of family separation*, Parliament of Australia, p. 140
<https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_representatives_Committees?url=fca/childcustody/report.htm>.

¹⁰⁹ Kristin Natalier and Kay Cook (2013) (as above n 19), p. 40.

¹¹⁰ *Ibid.*

¹¹¹ Kristin Natalier (2018) (as above n 16), p. 126.

¹¹² See: Helen Rhoades and Susan B. Boyd (2004) (as above n 88), Reg Graycar (2012) *Family law reform in Australia, or frozen chooks revisited again? Theoretical Inquiries in Law*, Vol. 13, 241 and Kay Cook and Kristin Natalier (2016), *Gender and Evidence in Family Law Reform: A Case Study of Quantification and Anecdote in Framing and Legitimising the 'Problems' with Child Support in Australia*, *Feminist Legal Studies*, Vol. 24, 147.

¹¹³ Reg Graycar (2012) (as above n 112), p. 266.

¹¹⁴ Kay Cook and Kristin Natalier (2016) (as above n 112), p. 157.

¹¹⁵ *Ibid.*, p. 162.

¹¹⁶ *Ibid.*, pp. 149 and 158.

¹¹⁷ *Ibid.*, p. 158.

mothers' rights groups) as opposed to citations of Government, the CSA or academic research.¹¹⁸ In only 9.6 % of cases were Government, the CSA or academic sources cited to support a policy recommendation compared to 41.8 % of anecdotal evidence provided by individuals and interest groups; evidencing again that anecdotal evidence played a far greater role in legitimating policy problems than scientific, quantitative forms of evidence.¹¹⁹ But women were notably underrepresented as anecdotal sources of evidence. Where women did provide evidence, Natalier and Cook find that their testimonies were balanced and represented the interests of both resident and non-resident parents, whereas men were overwhelmingly interested in their sole positions as non-resident payers.¹²⁰ They say that the "lack of representation of mothers' interests and voices in the child support chapter of the [2003] Inquiry report marginalised women in a key public interpretation of the issue. It presented the 'problems' of child support as impacting most directly and unfairly on fathers and presented fathers as the authority on the technical aspects and impact of child support. This reinforced socio-cultural expectations about the place of women in – and out of – politics and institutions."¹²¹

Since the 2005 Taskforce there have been other inquiries and reforms to child support policy, but none have garnered the same amount of criticism. It remains that the child support system is constructed to favour fathers and facilitate the continued financial hardship of single mothers.¹²² Notably in 2013, the Government changed the method for estimating payer income where no tax return was lodged by the payee father. This resulted in mothers' Family Tax Benefit Part A (**FTBA**) being reduced by \$78.7m over four years.¹²³

Following the election of the Liberal Government in late 2013, George Christensen – an active supporter of fathers' rights groups and causes and now member of the One Nation party, chaired that year's inquiry into the child support system.¹²⁴ In a Facebook post from May 2017, Christensen labelled the child support system as "anti-male".¹²⁵ He further commented in his post, "Logic dictates that if women can legally chose to end a pregnancy without the father's consent, then legally forcing a man to pay \$12,000 for a child he has not seen nor has access to is wrong" and "I would add that the system also encourages and allows men who should have to pay child support but who want to get away with it from not paying. Again, another reason for a needed overhaul."¹²⁶

In 2015, the House of Representatives Standing Committee on Social Policy and Legal Affairs (**2015 Standing Committee**) recommended that the Government conduct a trial of guaranteed child support for either vulnerable families or for a random sample of child support clients.¹²⁷ A guarantee would not reduce compliance, as payer debts would accumulate and Services Australia would recoup these in the future. It was noted that a guarantee would serve as a buffer between parents at a time of potential conflict, particularly for mothers who had experienced family violence.¹²⁸ This recommendation was supported by numerous stakeholders, including the Council of Single Mothers and their Children (**CSMC**). Jenny Davidson, CEO of CSMC, said in 2019, "guaranteed child support with [victim-survivors of family violence] is an opportunity to assess its broader feasibility. Additionally, it recognises that

¹¹⁸ *Ibid*, p. 160.

¹¹⁹ *Ibid*.

¹²⁰ *Ibid*.

¹²¹ *Ibid*, p. 163.

¹²² Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 77.

¹²³ Cited in: Kay Cook (2013), *Child support compliance and tax return non-filing: A feminist analysis*, *Australian Review of Public Affairs*, Vol. 11(2), 43-64, p. 45.

¹²⁴ Kay Cook and Christine Skinner (2019), *Gender Equality in Child Support Policy: Fathers' Rhetoric of "Fairness" in a Parliamentary Inquiry*, *Social Politics: International Studies in Gender, State and Society*, Vol. 26(1), 164, p. 168.

¹²⁵ George Christensen Facebook post, 4 May 2017 <<https://www.facebook.com/qchristensenmp/posts/1282115545176704>>.

¹²⁶ *Ibid*.

¹²⁷ Department of Social Services (2016), *Australian Government response to the House of Representatives Standing Committee on Social Policy and Legal Affairs report: From conflict to cooperation – Inquiry into the Child Support Program*, Australian Government, p. 14 <https://www.dss.gov.au/sites/default/files/documents/08_2016/d16_7771679_approved_Government_response_to_the_parliamentary_inquiry_in_to_the_child_support_program_1.pdf>.

¹²⁸ House of Representatives Standing Committee on Social Policy and Legal Affairs (2015), *From conflict to cooperation: Inquiry into the Child Support Program*, *The Parliament of the Commonwealth of Australia*, p. 129 <<https://www.aph.gov.au/childsupport>>.

perpetrators of family violence are being allowed to avoid their responsibilities to financially support their children through the inadequate response of the child support system.”¹²⁹

Writing for *The Conversation*, Natalier and Cook have said of the 2015 inquiry, “Tweaking the formula or strengthening enforcement may alter flows of money between parents, but this won’t necessarily defuse the sense of unfairness or frustration that reflects the link between child support and what it means and how it feels to be a parent after separation. Any reforms must move beyond a focus on administrative processes to acknowledge the lived experiences of child support, which can be disguised by formal policy, and, most fundamentally, the social and economic wellbeing of children and their caregivers.”¹³⁰

In 2017, the Government “rigorously” pursued overpayments of the FTBA after payer incomes were retrospectively calculated from late tax returns.¹³¹ The Government said that “payees with overpaid child support will be treated more consistently with payers with debts.”¹³² But this meant that single mothers were again punished – FTBA recipients had to pay back an estimated \$23 million to the Government for fathers’ non-compliance.¹³³

Over the years, reform to child support policy has done two things. Firstly, it has worked to reinforce women’s financial “dependence” on men. Secondly, it has allowed men to wield authority and control over women’s economic choices and freedoms. To use Alison Diduck’s (1995) – a Professor of Family Law and Gender Studies – theory, Natalier and Cook assert that “men indicate their choice to assume financial responsibility for their families when they choose their partners and choose to procreate with their partners ... [But] at separation or divorce a father may decide to continue ... or they may decide to withdraw their financial contribution, they may decide to continue it or they may decide to continue paying with caveats on how the money is to be spent; in each of these scenarios, a fathers’ intent remains the core of the issue.”¹³⁴

In this way, there is a conflict between efforts to enforce child support obligations and efforts to protect men’s financial autonomy and the fathers’ choice to withdraw financial contributions.¹³⁵ Within this framing, the literature suggests that policy and legislative decision-makers have held the view that enforcement measures must not undermine men’s financial autonomy.¹³⁶

2.2 The rights of the child

The realisation of child rights is deeply connected and dependent on the exercise of parental responsibilities, such as the payment of child support. The obligations of parents, including the duty to support their child financially after separation, regardless of who the child lives with, are enshrined in the United Nations Convention on the Rights of the Child (1989) (**CRC**) which Australia ratified in 1990.¹³⁷ Article 3(2) of the CRC vests primary responsibility for the child in the parents to ensure the child such protection and care as is necessary for their wellbeing, while article 27(2) states that parents have primary responsibility to secure, within their abilities and financial capacities, the living conditions

¹²⁹ Centre for Excellence in Child and Family Welfare, *Our National Child Support Disgrace* (Blog Post, 16 April 2019) <[Our National Child Support Disgrace - Centre for Excellence in Child and Family Welfare \(cecfw.asn.au\)](https://www.cecfw.asn.au/our-national-child-support-disgrace)>.

¹³⁰ Kristin Natalier and Kay Cook, *What would another review of child support achieve? We know the problems, and how to fix them*, *The Conversation* (Online, 7 October 2016) <<https://theconversation.com/what-would-another-review-of-child-support-achieve-we-know-the-problems-and-how-to-fix-them-66128>>.

¹³¹ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 77.

¹³² Department of Social Services, *History of the Child Support Scheme*, Australian Government (Web Page) <<https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/history-of-the-child-support-scheme>>.

¹³³ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 77.

¹³⁴ Kristin Natalier and Kay Cook (2013) (as above n 19), p. 31.

¹³⁵ Kristin Natalier and Kay Cook (2013) (as above n 19), p. 31.

¹³⁶ *Ibid.*

¹³⁷ *Family Law Act 1975 (Cth)*, s 66.

necessary for the child's development.¹³⁸ The best interests of the child can only be supported through protecting family wellbeing, and this includes shielding children from the negative effects of financial insecurity.

It is known that despite child support policy's resonance with the CRC, the lived realities are very different. Questions about the allocation and spending of child support are political and often determined by the patriarchy. In this contested space, paying fathers view child support as a payment to the mother instead of the child. This is evidenced in the literature on non-payment or withholding of child support generally. On the rights of the child to child support we could only locate one piece of research from 1994 by AIFS which stated, "[P]arenting after divorce is abetted by the language of the law with its echoes of crime and commerce. 'Custody' has overtones of detention as well as care; 'granting access' implies owner's rights ceded to another. This is no way to speak about children, their ongoing relationships with parents and their needs for security, care and love [...] to begin with the money without validating the fabric of care is more than a tactical error; it devalues parenting, making it instrumental and not intrinsically worthwhile for all concerned."¹³⁹

Quote from Jennifer, victim-survivor of economic abuse

"Despite not paying child support nor fairly contributing to shared parenting costs, my very well-off ex-husband who has three businesses, always responds to my requests for payment or reimbursement by saying that instead of paying his share he will gift my teenage daughter – who lives with me full-time and for whom he doesn't pay any child support or living expenses – a gold necklace. That's his way of "paying me back."

There is general concern that child support has moved away from being about the child's best interests and wellbeing to a mere social and economic transfer. As an example, paying fathers in Kristin Natalier and Belinda Hewitt's study (2014) described child support as "special money" which, in their minds, allowed them to question the legitimacy of their ex-partner's spending and mothering.¹⁴⁰ In the context of post-separation parenting, this characterisation by paying fathers created another "flashpoint of conflict" which impacted all domains of parenting.¹⁴¹ Single Mother Families Australia (previously, National Council of Single Mothers and their Children) has linked parent's non-compliance with child support obligations as equivalent to "stealing from children".¹⁴² Withholding payment to punish the mother also punishes the child.

The 1994 AIFS research advocated for the right of the child to be heard in relation to financial arrangements, but this has not been achieved.¹⁴³ While Independent Children's Lawyers (ICLs) are responsible for advocating for the best interests of a child this does not include financial matters.¹⁴⁴ The

¹³⁸ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, Article 3(2) and Article 27(2). **Note:** With respect to registration, assessment and collection of international child support, Australia is also a signatory to the Hague Convention on the Recognition and Enforcement of decisions Relating to Maintenance Obligations (2 October 1973). Australia has not ratified nor legislated the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (23 November 2007). We have not looked at international child support and obligations of payers residing overseas in detail.

¹³⁹ Family Matters (1994), A step towards changing parenting after separation, Australian Institute of Family Studies <<https://aifs.gov.au/research/family-matters/no-37/child-support>>.

¹⁴⁰ Kristin Natalier and Belinda Hewitt (2014), *Separated Parents Reproducing and Undoing Gender Through Defining Legitimate Uses of Child Support*, Gender and Society, Vol. 28(6), 904.

¹⁴¹ *Ibid*, p. 908.

¹⁴² National Council for Single Mothers and their Children and Anti-Poverty Week (2022) (as above n 2).

¹⁴³ Family Matters (1994), A step towards changing parenting after separation, Australian Institute of Family Studies <<https://aifs.gov.au/research/family-matters/no-37/child-support>>.

¹⁴⁴ Family Law Act 1975 (Cth), s 60CC(2)(b) and ss 68LA(5A)-(5D).

ICL also does not, in practice, seek information about child support in parenting matters. The responsibility to address this issue in both parenting and financial matters is left to the parents.

Prior to the passing of the Family Law Amendment Act 2023, section 60CC(3)(ca) of the FLA enshrined the child's best financial interests. It required that in assessing parenting orders, the Court take into account the extent to which each of the child's parents has fulfilled, or failed to fulfil, the parent's obligations to maintain the child.¹⁴⁵ This section will be removed once the Family Law Amendment Act 2023 comes into effect. Sections 79(4)(g) and 90SM(4)(g) of the FLA will remain. These sections require a court to consider the payment of child support (current or future) as a relevant consideration in property settlement.¹⁴⁶ However, it is the experience of Women's Legal Services and other family law practitioners that, in practice, these provisions have been overrun by the primary consideration of ensuring a child maintains a relationship with both parents. The matters addressed in section 60CC were also 'additional' or 'secondary' considerations to the primary considerations which include the above and the need to protect the child from physical and psychological harm from being subjected to, or exposed to, family violence.¹⁴⁷

The recent amendments to the FLA refocus Australia's family law system on the best interests of the child.¹⁴⁸ This is because all decisions regarding parental responsibility will be made based on the best interest factors in the FLA.¹⁴⁹ Repealing the presumption of equal shared parental responsibility is acknowledgment that the safety of children and adult victim-survivors of family violence must be considered in parenting decisions. The amendments can help Australia better meet its obligations under the CRC and evidences a growing commitment to understanding children's experiences and putting children first. A similar lens should be taken in relation to child support.

These recent reforms to the FLA have focused on the links between family law, family violence and the long-term impacts of this violence on children. It is important that going forward, child support is also spotlighted in public discourse on family violence and child safety.

2.3 Child Support Assessment Formula and Collection

The child support formula whilst appearing straightforward is complex.¹⁵⁰ In 2012, the Child Support Reform Study found that 70% of surveyed parents did not understand child support rules and the 20% who claimed to know the rules (including how child support was calculated) were wrong. This study was based on interviews with 7,000 divorced or separated parents who paid or received child support, conducted over a six-year period. Less than one in 10 parents understood the rules correctly.¹⁵¹ Following this realisation, the Sydney Morning Herald published the headline 'Child support formula baffles 90% of parents – study'.¹⁵² It has always been a concern that, particularly for single mothers,

¹⁴⁵ Family Law Act 1975 (Cth), s 60CC(3)(ca).

¹⁴⁶ See: s 79(4)(g): In considering what order (if any) should be made under this section in property settlement proceedings, the court shall take into account any child support under the Child Support (Assessment) Act 1989 that a party to the marriage has provided, is to provide, or might be liable to provide in the future, for a child of the marriage and s 90SM(4)(g): In considering what order (if any) should be made under this section in property settlement proceedings, the court must take into account any child support under the Child Support (Assessment) Act 1989 that a party to the de facto relationship has provided, is to provide, or might be liable to provide in the future, for a child of the de facto relationship.

¹⁴⁷ Family Law Act 1975 (Cth), s 60CC(2).

¹⁴⁸ The Family Law Amendment Act 2023 (Cth) removes the current provision which provides that the need to protect a child from harm must be given greater weight than any other best interest factor.

¹⁴⁹ As above, Family Law Act 1975 (Cth), s 60CC.

¹⁵⁰ **Note:** This literature review generally refers to Formula 1. There are actually six types of child support formula. The different formulas allow for different types of care arrangements for children. For example, Formula 3: if either or both of the parents have multiple child support cases, Formula 5: for a case with a non-parent carer, where one parent is not assessed because they are not an Australian resident (or there is special circumstances) or Formula 6: for a case with a non-parent carer where one parent has passed away.

¹⁵¹ See: Bruce Smyth and Bryan Rodgers (Australian Demographic and Social Research Institute, Australian National University), Submission No. 13 to the House of Representatives Standing Committee on Social and Legal Affairs' Parliamentary Inquiry into the Child Support Program, 12 June 2014.

¹⁵² Adele Horin, Child support formula baffles 90% of parents – study, The Sydney Morning Herald (Online, 23 July 2012) <<https://www.smh.com.au/national/child-support-formula-baffles-90-percent-of-parents-study-20120722-22iba.html>>.

any negotiation of child support payments is likely to be occurring in the context of “misinformation or a knowledge vacuum.”¹⁵³

The amount of child support paid or received is based on the assessment formula set out in the Child Support Assessment Act, or as agreed by the parents.¹⁵⁴ It is calculated using a step-by-step formula that takes into account the taxable income of each parent and the parents’ combined income (income is used to determine each parent’s income percentage) and the level of care each parent provides which is used to establish the ‘cost’ of the child (calculated using the Costs of the Children Table).¹⁵⁵ The formula thus positions caring and work time as interchangeable. Other factors including the number of children requiring support and their respective ages, parents’ self-support allowances¹⁵⁶ and whether either parent has a legal duty to support any other children (i.e., stepchildren).¹⁵⁷ However, childcare is explicitly excluded from the calculation of child support unless these costs exceed 5% of the payee parent’s income.¹⁵⁸ Anecdotal evidence illustrates this unfairness. Payer fathers insist on children attending childcare, even during the time they are responsible for their care, while the costs are borne by the resident mother. Private education is also generally excluded from the calculation of child support.

Even though pet arrangements are outside the scope of the child support legislation, the expense of pet care continues after separation and often remains with mothers. In the absence of any contractual arrangement, many women make their own “trust arrangements.” This creates a further financial burden.

Quote from Jennifer, victim-survivor of economic abuse

“On settlement family law lawyers confirmed that pets were not provided for under separation arrangements, and that my ex-husband and I would need to come to our own arrangement. We created a personal written agreement that provided the animals would remain with me and he would contribute 50% of their costs.

Two months into that arrangement my ex-husband stopped complying. This has had a significant financial burden on me. Beyond usual vet, medicine and food costs, I had to pay for pet sitters every time I travelled for work. The impact of this was so high that at times I declined work travel. As the pets got older the vet costs increased. I have spent well over \$50,000 on raising the pets post-separation. And I have had to manage these costs while not being paid child support.

While I have always understood these costs were outside the scope of any separation arrangement, it has been a significant financial burden, and I am sure that this is the experience of many women.”

¹⁵³ Bruce Smyth, Bryan Rodgers, Vu Son and Maria Vnuk (2015), *The Australian child support reforms: a critical evaluation*, *Australian Journal of Social Issues*, Vol. 50(3), p. 222.

¹⁵⁴ Services Australia, *Basic Formula*, Australian Government (Web Page) <[Basic child support formula - Child support assessment - Services Australia](#)>.

¹⁵⁵ *Ibid.* Note: Cath Devine (2023) also notes how the parents can agree to adjust the ‘costs of children’ used in the formula. This can be used to recognise significant medical or educational costs, or extracurricular activity costs, of the children. “By adjusting the costs of the child, the formula will automatically distribute those additional costs between the parties in accordance with their income percentages. This can be utilised as a way of equitably distributing the costs between the parents, however there is often still an argument as to which parent should pay the actual fee – it would generally be the payee if the costs of children are varied” (pp. 221-222).

¹⁵⁶ The self-support amount is the amount that is deducted from the parents’ after tax income for their own support. The self-support amount is 1/3 of the annualised Male Total Average Weekly Earnings figure for the relevant year.

¹⁵⁷ Eva Bailey, *How is child support calculated in Australia?* Mellor Olsson (Blog Post, 1 May 2023) <[How is child support calculated in Australia? • Mellor Olsson Lawyers \(molawyers.com.au\)](#)>.

¹⁵⁸ Department of Social Services (2023), 2.6.12. Reason 6 – high costs of childcare. *Guide to social policy law: Child support guide* <[2.6.12 Reason 6 - high costs of child care | Child Support Guide \(dss.gov.au\)](#)>.

Level of care is a significant determinant in the amount of child support a parent has to pay or can receive. The higher the level of care provided by a parent, the less that parent will generally be required to pay in child support. This is because when a child is in a parent's care, the parent contributes to their overall costs by paying for a range of items such as food, accommodation, clothing, medical and wellbeing expenses and extra-curriculars. The level of care provided by each parent is generally determined by the number of nights a child spends in their care. In the September 2023 quarter, when women were estimated to be over 85% of resident carers (i.e., payees), Services Australia reported that the majority (around two-thirds) of payees had care of their child for more than 313 nights a year, whereas the majority (around two-thirds) of payers had care for less than 52 nights a year.¹⁵⁹ Over 313 nights is recognised as 'more than primary' care and entitles the resident carer to 100% receipt of child support – meaning they do not pay.¹⁶⁰ Less than 52 nights is recognised as 'below regular care' and that parent is assessed as not contributing to the costs of the child, and, therefore, the level of care will not affect the child support assessment.¹⁶¹

Quote from Jennifer, victim-survivor of economic abuse

"My ex-husband demanded 50/50 custody which I didn't dispute. I knew he would make our lives worse if I didn't agree. Despite equal nights, I had the children extra throughout the days. I worked part-time to accommodate school pick-ups and sport activities. Even during his weeks (my off weeks) I had the children during the day for three days. He never contributed to the cost of this. It also meant I could not work full-time hours on those days. This arrangement continued until the children were teenagers."

The maximum child support income is known as the "cap". It is the maximum income that will be assessed. The cap is applied to the combined income of both parents up to 2.5 times the annual equivalent of all Male Total Average Weekly Earnings and calculated using the Costs of Children Table.¹⁶² This means that formula takes into consideration the income of the paying parent up to a certain threshold, beyond which the percentage of income used for the child support calculation is reduced to nil. The cap amount for 2023 was \$206,310. In January 2024, the cap has increased slightly to \$213,473.¹⁶³ If the combined income of the parties exceeds \$206,310, the maximum child support amount to be divided between them for children aged 12 years and below is \$25,169 for one child, \$39,198 for two children and \$49,515 for three children.¹⁶⁴ Notably, households with more than three children will receive the same amount as households with three children. The assessment formula does not take into account the lived realities of raising more than three children. It also sends a societal message that child number four (and above) matter less.¹⁶⁵

¹⁵⁹ Department of Social Services (2023) (as above n 3).

¹⁶⁰ Services Australia, *Your percentage of care may affect your payment*, Australian Government (Web Page) <[How your percentage of care affects your child support payments - Child support assessment - Services Australia](#)>.

¹⁶¹ Ibid.

¹⁶² Department of Social Services (2023), 2.4.2 Formula tables & values, *Guides to Social Policy Law Child Support Guide*, Australian Government <[2.4.2 Formula tables & values | Child Support Guide \(dss.gov.au\)](#)>.

¹⁶³ Department of Social Services (2024), 2.4.2 Formula tables & values, *Guides to Social Policy Law Child Support Guide*, Australian Government <[2.4.2 Formula tables & values | Child Support Guide \(dss.gov.au\)](#)>.

¹⁶⁴ Services Australia (as above n 154).

¹⁶⁵ **Note:** AIFS' Practice Guide on 'Reproductive coercion and abuse', published in May 2023, reconfirms that reproductive coercion and abuse can also include tactics of financial and economic abuse designed to either promote or prevent pregnancy. Perpetrators can withdraw financial support until the victim-survivor agrees to become pregnant or continue a pregnancy. Or conversely, until the victim-survivor agrees to terminate a pregnancy. It is also known that violence experienced by a partner before pregnancy is the strongest risk factor for predicting violence during pregnancy. Reproductive coercion creates financial dependence and limits ability to return to work, particularly for women who are forced into successive pregnancies. Coupled with reproductive coercion, financial abuse and a child support formula that does not reflect the realities of raising multiple children, women with multiple children may be forced to remain in violent relationships for economic security (Jasmine B. MacDonald, Pragya Gartoulla, Mandy Truong, Laura Tarzia and Melissa Willoughby (2023), *Reproductive Coercion and Abuse*, Australian Institute of Family Studies, Australian Government <[CFCA Practice Guide: Reproductive coercion and abuse \(aifs.gov.au\)](#)>).

The specificity of the assessment formula is said to ensure fairness to both mothers and fathers; however, it is known that women bear much of the administration and compliance costs to receive an accurate child support assessment. Where fathers do initiate modifications to child support assessments this is generally to input new income or care time data.¹⁶⁶ Notifying Services Australia to changes in income requires much less documentation than is required for a tax return, as income estimates “may be provided orally, by telephone or in person” which leaves the estimate open to manipulation.¹⁶⁷ In the 2019–20 financial year, more than 9,400 requests for an increase in child support were granted, while almost an equal number of requests (8,693) for a reduction in child support were also approved.¹⁶⁸

Quote from Jennifer, victim-survivor of economic abuse

“My ex-husband earned close to five times my income. I was working part-time as I was the primary carer of our three young children. The child support assessment capped his income significantly. He earned at least \$150,000 more than the cap. My children had a lot of spending and expenses that I then had to meet on a 50/50 basis, despite my income being five times less and with the assessment formula capping his income simultaneously. It seemed unfair but it didn’t make a material difference for long, as he stopped child support altogether.”

This is further evidence that non-resident fathers can exert less effort when it comes to applying for and varying child support and corresponding with Services Australia. The literature demonstrates men are afforded more freedom with the child support system compared to women who are more regulated.

The assessment formula is highly contentious. Many women consider that the formula does not account for all of the costs associated with raising children.¹⁶⁹ Deb Tsorbaris, the CEO of the Centre for Excellence in Child and Family Welfare said, “While the costs of living are increasing, child support payments remain stagnant and significant numbers of parents are allowed to default on their payments.”¹⁷⁰ There isn’t enough targeted and quantitative literature to support this with most of the evidence being anecdotal. However, the incidence of single mother poverty is a clear indicator that the assessment may be failing mothers and their children.

The Joint Select Committee (2021) heard from various stakeholders who submitted that the assessment formula fails to capture the actual level of care provided (i.e., the number of hours a parent cares for a child outside of overnight stays). Stakeholders also said that the assessment formula promotes underemployment, does not account for a parents’ earning capacity, promotes unhealthy custody arrangements, motivates against compliance with court orders and relies on financial assumptions which do not reflect the financial realities of caring for children in Australia.¹⁷¹

Notably, stakeholders raised concerns that the child support system incentivises parents to maximise their care for a child to decrease the amount of child support to be paid to the other parent. Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) note that this an outcome of the Government’s ‘fairer’ formula implemented in 2008 as part of the 2005 Taskforce. They write, “Each dollar of parental income

¹⁶⁶ Kay Cook (2021), *Gender, Malice, Obligation and the State: Separated Mothers’ Experiences of Administrative Burdens with Australia’s Child Support Program*, *Australian Journal of Public Administration*, Vol. 80(4), 912, p. 916.

¹⁶⁷ *Ibid.*

¹⁶⁸ Joint Select Committee on Australia’s Family Law System (2021) (as above n 60), p. 17.

¹⁶⁹ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 68.

¹⁷⁰ Centre for Excellence in Child and Family Welfare, *Our National Child Support Disgrace* (Blog Post, 16 April 2019) <[Our National Child Support Disgrace - Centre for Excellence in Child and Family Welfare \(cfecfw.asn.au\)](https://www.cfecfw.asn.au/our-national-child-support-disgrace)>.

¹⁷¹ Joint Select Committee on Australia’s Family Law System (2021) (as above n 60), p. 31.

and night of overnight care became battlegrounds for manipulating child support.”¹⁷² This concern was shared by Dr Andrew Lancaster (a former policy analyst for the Government), Centacare Family & Relationship Services and Springvale Monash Legal Service in Victoria and Professor Augusto Zimmermann (a professor of law from Perth) whose submissions were quoted in the Joint Select Committee’s report. Springvale said that parents can be pressured to make children available to the other parent for additional time that may not be in the children’s best interests because of ‘care percentages’ prescribed by the formula. They also reported that parents had been known to mislead Services Australia about the number of nights spent in each parent’s care to reduce their liabilities.¹⁷³

Women’s Legal Services are also concerned that the ‘level of care’ factor simplifies the reality of care that is actually often provided, particularly by the mother. For example, it fails to take into account circumstances where resident mothers care for children (even on their non-allocated days) while children sleep at the non-resident father’s house. Non-resident, paying fathers can be claiming higher levels of care so they can pay less child support.

2.4 Family Tax Benefit Part A

Women are required to apply for child support as a condition of receiving the Family Tax Benefit Part A (FTBA), the Government payment for children that is income-tested.¹⁷⁴ The Family Tax Benefit (FTB) is a financial support provided to low and middle-income families in Australia and is made up of two parts – Part A and Part B. Payment of FTBA is based on the combined income of a family, and is paid in respect of each eligible FTB child. FTB Part B provides extra help for single parent families and couple families with one main income earner. If the parents’ income exceeds the eligibility threshold for FTB, they can choose to opt out of the child support system.¹⁷⁵ For all other parents seeking to receive FTBA above the base rate (currently \$63.46 for each child per fortnight), they are required to undergo a child support assessment known as the Maintenance Action Test (MAT).¹⁷⁶ But there are exceptions to undertake the MAT, including the risk of family violence (discussed below under section 4.5).

FTBA is not an infallible system. Every dollar of child support received over the threshold of \$1,883.40 (known as the Maintenance Income Free Area) reduces FTBA payments by 50 cents.¹⁷⁷ This is done until the single parents reach the base rate of FTBA.¹⁷⁸ An estimated 11.8% of the child support population are receiving the base rate.¹⁷⁹ This reduction is automatic and applied even when child support is not paid.

Basing a system on anticipated amounts of child support versus actual amounts received “leaves child support open to misuse and manipulation by abusive ex-partners.”¹⁸⁰ Many advocates are particularly critical of FTBA for single mothers who Private Collect. In FY2022–23, 51.3% of child support cases were Private Collect.¹⁸¹ As at 2020, 53% of eligible FTB recipients who received child support payments did so via a private agreement.¹⁸² CSMC (2016) have likened this interaction to a double weaponisation – “[Private agreements] result 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 [...] We see Family

¹⁷² Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 77.

¹⁷³ Joint Select Committee on Australia’s Family Law System (2021) (as above n 60), p. 36.

¹⁷⁴ See: Services Australia, Family Tax Benefit, Australian Government (Web Page) <<https://www.servicesaustralia.gov.au/family-tax-benefit>> and Department of Social Services, Family Assistance Guide: 1.2.1 Family tax benefit (FTB) – description, Guides to Social Policy, 3 July 2023, Australian Government <[1.2.1 Family tax benefit \(FTB\) - description | Family Assistance Guide \(dss.gov.au\)](https://www.dss.gov.au/1.2.1-Family-tax-benefit-(FTB)-description-Family-Assistance-Guide)>.

¹⁷⁵ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 59.

¹⁷⁶ Ibid.

¹⁷⁷ Services Australia, Income test for FTB Part A, Australian Government (Web Page) <[Income test for Family Tax Benefit Part A - Family Tax Benefit - Services Australia](https://www.servicesaustralia.gov.au/income-test-for-ftb-part-a)>.

¹⁷⁸ Ibid.

¹⁷⁹ Cited in Terese Edwards, Child Support: Opaque and Sidelined, Economic Justice Australia (Blog Post, 3 August 2022) <[Child Support: Opaque & Sidelined | Economic Justice Australia \(ejaustralia.org.au\)](https://www.ejaustralia.org.au/child-support-opaque-and-sidelined)>.

¹⁸⁰ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 18.

¹⁸¹ Services Australia (2023), Annual Report 2022–23, Australian Government, p. 78 <<https://www.servicesaustralia.gov.au/sites/default/files/2023-10/annual-report-2022-23.pdf>>.

¹⁸² Kay Cook (2021) (as above n 18), pp. 917–918.

Tax Benefit debts occurring as a direct result of the combined failure of Services Australia and the ATO to address late or non-lodgment.”¹⁸³ And Anne Summers (2022) has said that, “There are numerous complaints that women’s Family Tax Benefits are often reduced whether or not she actually receives the maintenance from her former partner. There are also issues around the woman needing to deal with her abusive former partner and the anxiety and fear this can potentially trigger.”¹⁸⁴

Cath Devine (2023), in her book ‘A Practical Guide to Child Support’, also cautions that “If [child support debt is] discharged, the payee [usually the resident mother] may have received an overpayment of Centrelink benefits which may create a debt. The payee should discuss this issue with Centrelink (or an appropriate specialist) prior to signing an agreement.”¹⁸⁵

Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019), find that in a survey of 465 female child support recipients, those who had Private Collect shortfalls and FTBA payments received \$257 less child support than they expected. This reduced their household budget not only by the child support that they did not receive, but also by a proportion of their FTBA above the Maintenance Income Free Area, as their FTBs were scaled on this basis.¹⁸⁶ Terese Edwards, Chief Executive Officer of Single Mother Families Australia writing for Economic Justice Australia, has called the child support system “opaque” and resulting in single mothers being “side-lined” by the very system that is meant to provide economic security.¹⁸⁷

The literature has identified late or complete failure to lodge tax returns as a common method used by ex-partners to undermine single mothers’ FTBA payments.¹⁸⁸ Specifically, when their ex-partner’s taxable income is retrospectively increased, women are owed more child support during that period and thus find that they have been overpaid FTBA. Services Australia will offset the overpayment by reducing a single mother’s FTB in the next financial year or start collecting payments from the mother straight away.¹⁸⁹ This is despite the Government itself acknowledging that it is erroneous to assume that all expected payments are received.¹⁹⁰

But single mothers may also lack understanding of the ways in which FTB can support them. For example, 66% of respondents to Cook, Goodall, McLaren and Edwards’ survey did not know that they could have their FTB payments increased due to a child support underpayment and 54% of respondents reported that they had not asked for an increase due to child support underpayments, because they did not know that they could.¹⁹¹

2.5 Administrative burdens of the child support system

The Child Support Assessment Act empowers Services Australia with various methods to recover child support without proceeding to court. These include contacting the liable parent to discuss payment strategies, garnishing the liable parent’s wages, garnishing tax refunds, deducting payments directly from the liable parent’s bank account, deducting payments from Government income support and issuing a section 72A Notice to collect the outstanding debt.¹⁹² Initiating court proceedings and departure

¹⁸³ Council of Single Mothers and Their Children, *Submission to the Australian NAO in Respect of Child Support Collection Arrangements*, 25 November 2016 <[CSMC-SubmissionANAO-ChildSupportCollection2016-V3.pdf](#)>.

¹⁸⁴ Anne Summers AO PhD (2022), *Domestic violence and its consequences in Australia today*, The University of Technology Sydney, p. 86 <[The Choice: violence or poverty \(website-files.com\)](#)>.

¹⁸⁵ Cath Devine, *A Practical Guide to Child Support: A handbook for child support and maintenance law in Australia* (Smeaton Devine Pty Ltd, 1st ed, 2023), p. 250.

¹⁸⁶ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9), p. 16.

¹⁸⁷ Terese Edwards (as above n 179).

¹⁸⁸ Kay Cook (2021) (as above n 18), p. 918.

¹⁸⁹ Services Australia, *What happens if we update your child support assessment*, Australian Government (Web Page) <[What happens if we update your child support assessment while you get FTB Part A - Child support assessment - Services Australia](#)>.

¹⁹⁰ Kay Cook (2021) (as above n 18), p. 916.

¹⁹¹ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9), p. 17.

¹⁹² *Child Support (Registration and Collection) Act 1988 (Cth)*, s 72A. **Note:** A section 72A Notice is similar to a garnishee order obtained from a court by a creditor who has obtained judgment against a debtor. A Notice will require a third party to pay to the CSA Registrar. The Registrar can

prohibition orders (which are bans on overseas travel to prevent the liable parent from leaving the country issued by Services Australia) are last resort methods of enforcements.¹⁹³ Services Australia's reports that their preferred method of collecting child support debt is through employer withholding and deductions from income support payments.¹⁹⁴ It is important to note, however, that the payer can opt-out of being subject to wage garnishing if the CSA Registrar is satisfied that they will pay in full and on time.¹⁹⁵ It is an offence for an employer to fail to comply with a garnishee notice.¹⁹⁶ In FY2022–23, close to 89,000 paying parents had employer withholding from wages or salaries set-up (a 8% increase from FY2020–21) and \$73.6 million was deducted from income support payments (including Department of Veterans), though the amount collected via this method has declined in recent years.¹⁹⁷

Services Australia also has the authority to conduct investigations and collaborate with organisations to match data from other sources to identify where declared income does not match the payer's lifestyle, though the extent to which these powers are used are not known.¹⁹⁸

Services Australia generally registers three months' outstanding liability for collection. If a single mother has child support debt extending months and/or years prior to registering for Agency Collect, Services Australia will not collect these debts.¹⁹⁹ Pointing, yet again, to the dangers and inherent flaws of Private Collect. In addition to debts that accrued prior to registration, Services Australia will not enforce debts for non-periodic payments (e.g. private school fees and medical expenses) that are not in the child support agreement and lump sums.²⁰⁰

issue a section 72A notice to recover: an overdue child support debt, arrears of child support, carer's debts, a relevant debtor's penalty for underestimating taxable income and any court-ordered costs (Department of Social Services (2024), 5.2.9 Collection from third parties, Guide to social policy law: Child support guide <5.2.9 Collection from third parties | Child Support Guide (dss.gov.au)>.

¹⁹³ *Child Support (Assessment) Act 1989 (Cth), s 79 and Services Australia, Recovering child and spousal support payments, Australian Government (Web Page) <Recovering child and spousal support payments - Child support assessment - Services Australia>.*

¹⁹⁴ *Services Australia (2023) (as above n 181), p. 79.*

¹⁹⁵ *Child Support (Registration and Collection) Act 1988 (Cth), ss 44(1)-(2).*

¹⁹⁶ *Child Support (Registration and Collection) Act 1988 (Cth), s 46(4A). Note: It is a strict liability offence and the penalty is 10 penalty units.*

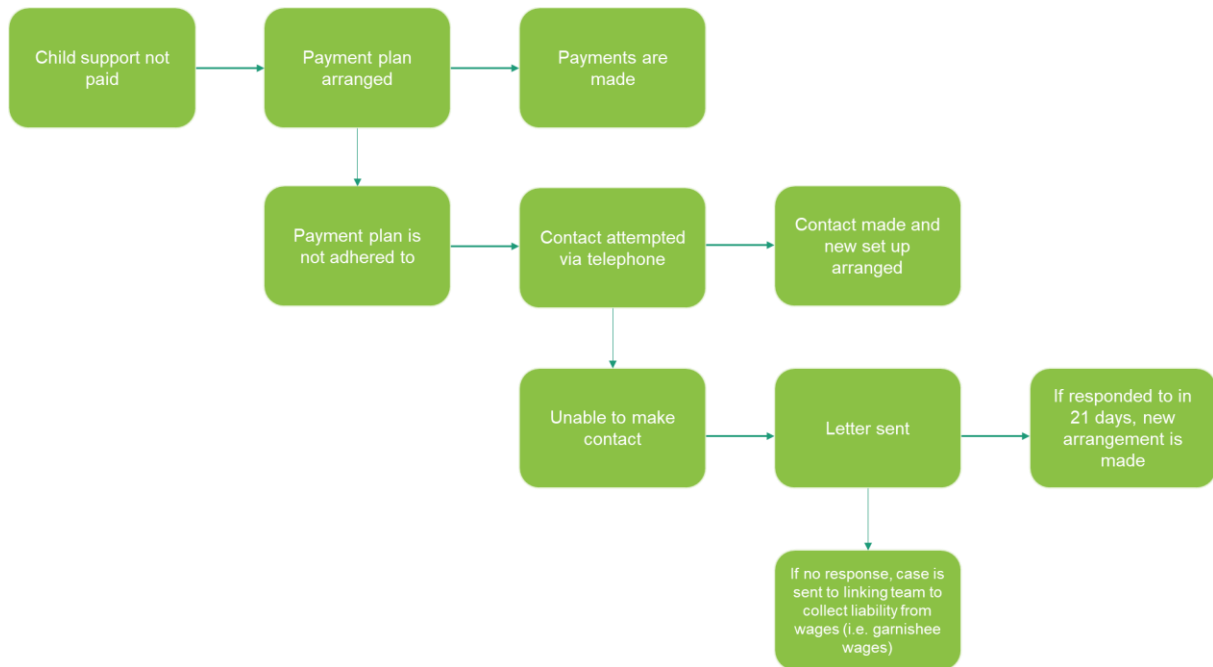
¹⁹⁷ *Services Australia (2023) (as above n 181), p. 79.*

¹⁹⁸ *Services Australia, Recovering child and spousal support payments, Australian Government (Web Page) <Recovering child and spousal support payments - Child support assessment - Services Australia>.*

¹⁹⁹ *Cath Devine (2023) (as above n 185), p. 303.*

²⁰⁰ *Ibid.*

The flow chart below details the process for collecting child support arrears. Note that this flow chart was created using the DSS Child Support Guide and from a telephone conversation with a Services Australia service team member:²⁰¹



Services Australia reported that in FY2022–23, 50.9% of active paying parents with a child support debt had a payment arrangement in place.²⁰²

They further reported that in FY2022–23, they finalised 14,384 change of assessment applications but less than half (44.2%) resulted in a change to the rate of child support.²⁰³ It is unclear what percentage of these change of assessments were initiated by the single mother or related to non-payment of underpayment of child support, but it is telling that 71.2% of finalised change of assessment applications related to a parent's income, property, financial resources or earning capacity.²⁰⁴

It is widely acknowledged that to receive child support or resolve child support disputes, single mothers are subjected to onerous and complex administrative burdens.²⁰⁵ Seeking child support enforcement can put mothers at risk of retaliation and is an emotional and financial strain. There are considerable opportunity costs for single mothers who are forced to reckon with the system, as the process of resolving child support disputes can be time-consuming as it is administratively heavy.²⁰⁶ It requires perseverance and an unrelenting commitment from mothers who are already emotionally taxed. The literature identifies that the significant effort required by single mothers to apply for child support makes it more likely that they will be resigned to not follow the process at some point.²⁰⁷

²⁰¹ Department of Social Services (2022), 5. Collecting Child Support, *Guide to social policy law: Child support guide* <[5 Collecting child support | Child Support Guide \(dss.gov.au\)](#)>.

²⁰² Services Australia (2023) (as above n 181), p. 79.

²⁰³ *Ibid.*

²⁰⁴ *Ibid.*

²⁰⁵ See for example: Kay Cook, Kristin Natalier and Torna Pitman (2016), *Payee mothers' interactions with the Department of Human Services-Child Support: A summary of recent qualitative findings*, *Family Matters: Newsletter of the Australian Institute of Family Studies*, Vol. 97, 30, Kay Cook (2021), *Gender, Malice, Obligation and the State: Separated Mothers' Experiences of Administrative Burdens with Australia's Child Support Program*, *Australian Journal of Public Administration*, Vol. 80(4), 912, Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023), *Financial Abuse: The Weaponisation of Child Support*, Swinburne University of Technology and the National Council of Single Mothers (now Single Mother Families Australia) <[Financial Abuse: The Weaponisation of Child Support in Australia \(swinburne.edu.au\)](#)>.

²⁰⁶ Kay Cook, Kristin Natalier and Torna Pitman (2016), pp. 35–37 and Kay Cook (2021) (as above n 18), pp. 917–919.

²⁰⁷ Hayley McKenzie and Kay Cook (2015), "It should be a big responsibility": Low-income payee mothers' evaluations of their child support arrangements, *Australian Journal of Family Law*, Vol. 29, 135 and Kristin Natalier (2017), *Micro-aggressions, single mothers and interactions with Government workers: The case of Australia's child support bureaucracy*, *Journal of Sociology*, Vol. 53(3), 622.

Cook in her 2021 article 'Gender, Malice, Obligation and the State: Separated Mothers' Experiences of Administrative Burdens with Australia's Child Support Program' criticises the administrative burdens of the child support system.²⁰⁸ Cook argues that the complexity of the child support system advantages single fathers and reinforces single mothers' experiences of disadvantage. The Government "acquiesces to the imposition of the harms by":²⁰⁹ promoting private collection to keep administrative costs low,²¹⁰ placing the onus on single mothers to provide information on their ex-partners including, their location, evidence of their income and care time in order to calculate child support payments or challenge custody orders (not to mention re-engagement for annual tax returns, changes to their ex-partner's care time, income or earning capacity),²¹¹ and placing the onus on single mothers to respond to demands from Services Australia, the family court, lawyers and the ATO. All of which feed into the calculation of child support and FTBA benefits.²¹² Paying fathers can be privy to the dispute applications, evidence and even income of their ex-partner's but we rarely see single mothers afforded the same system transparency.

At the same time, "the administrative processes are dependent on the cooperation of another (often unwilling) person. [And] when there is disagreement between the parties, the burden of proof is typically on mothers."²¹³ Cath Devine (2023) similarly notes that for mothers on Private Collect, "[t]he only way to reduce ... outstanding [child support] debt is by agreement with the payee, which is rarely forthcoming."²¹⁴

Cook's article evidences that single mothers feel that the Government takes a "hands off" approach to fathers' administrative inaction. For single mothers it can feel like the Government ignores the harm being caused by the manipulation of the system.²¹⁵ Services Australia's limited investigatory powers and perceived inaction on debt collection has also been identified in previous studies as a particular grievance for single mothers.²¹⁶

Quote from Jennifer, victim-survivor of economic abuse

"When I asked about the process to question his refusal to pay child support, I was told that I had to gather the evidence as Services Australia had limited powers and resources to investigate. Services Australia told me that they could not guarantee a favourable outcome, let alone how far the investigation would go. As soon as Services Australia notified my ex-husband of an investigation, I would be punished by him. The risks were too high."

Prior to Cook's 2021 article, Natalier, Cook and Torna Pitman (2016) interviewed 37 resident mothers about their experiences with Services Australia to understand whether Services Australia facilitated or undermined the receipt of child support.²¹⁷ The mothers were asked about their interactions with Services Australia staff and experiences of Services Australia processes, what elements of Services Australia and the child support system worked for them and what elements did not, and the financial, relational and emotional outcomes of these interactions. The responses to their survey identified issues with compliance and communication. Over three quarters of mothers reported that assessed or agreed

²⁰⁸ Kay Cook (2021) (as above n 18).

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*, p. 918.

²¹¹ *Ibid.*, p. 921.

²¹² *Ibid.*, p. 922.

²¹³ *Ibid.*, p. 923.

²¹⁴ Cath Devine (2023) (as above n 185), p. 302.

²¹⁵ Kay Cook (2021) (as above n 18), p. 925.

²¹⁶ Rebecca Patrick, Kay Cook and Ann Taket (2007), *Multiple barriers to obtaining child support: Experiences of women leaving violent partners, Just Policy: A Journal of Australian Social Policy*, Vol. 45, 21.

²¹⁷ Kay Cook, Kristin Natalier and Torna Pitman (2016) (as above n 29).

child support payments were unpaid, paid only in part, or were irregular or late. In these circumstances Services Australia compliance processes were largely ineffective.²¹⁸ Many mothers felt that they had little option other than to accept substantially reduced child support or pursue payments from aggressive, abusive or simply non-cooperative ex-partners on their own.²¹⁹ These mothers reported that contacting their ex-partner for child support was both stressful and fraught with re-traumatisation.²²⁰

In Natalier, Cook and Pitman's study, non-compliance directly impacted single mothers and their children's living standards. Mothers who already received the maximum FTBA and rent assistance were not compensated for their ex-partner's non-payment of child support. Many respondent mothers did not know that they could report or be compensated for underpayment, in part, within the Services Australia (previously Centrelink) system, as this was not well known nor advertised.²²¹

The challenges of non-compliance were exacerbated by interactions with Services Australia staff who were described by mothers in Natalier, Cook and Pitman's study as "unavailable" and "unsupportive", though there were also some mothers who had received moral support and useful advice about the child support system and processes.²²² Whilst it was acknowledged that Services Australia is a stressful place to work, and that the agency is resource constrained, many of the mothers did not feel that that justified the often indifferent and unsympathetic responses they received, particularly mothers who had to also navigate financial insecurity and high-conflict relationships. A key concern for mothers was the difficulty in contacting the specific caseworkers assigned to their case.²²³ Only one of the eight participants with assigned caseworkers was consistently able to contact their worker. One mother told the researchers, "[You're] scrabbling to find time to sit down and wait for the phone to be answered by a human being, and each time you call you get a different consultant and you have to go through the whole story all over again. There's no continuity [...] I have asked a couple of times, could I speak to [my] case manager but I've been put off, 'Oh she's busy, she's not available', whatever, so you give up. You give up."²²⁴

Most mothers found that information on child support processes, assessments and terminology on the Services Australia website complex.²²⁵ According to Natalier, Cook and Pitman, this meant that the mothers information needs were not met, causing their ability to judge the appropriateness of the processes and decisions applied to their individual situation to be limited. A number of mothers interpreted the lack of access to caseworkers, the lack of compassion from caseworkers or consultants and the complexity of child support information on the Services Australia website as an indication of the low priority Services Australia placed on acknowledging their claims and needs, resulting in mothers' sense of being unsupported by Services Australia reinforced.²²⁶

Resident mothers considered the deficiencies in Services Australia's response as contributing to their financial hardship. When the system failed to appropriately manage the complexities of child support, the resident mothers felt a sense of disempowerment and vulnerability.²²⁷ As expressed by Natalier (2019), "Dominant discursive constructions of 'the good mother' demand that women meet their children's needs and express their care through child-centred consumption that enriches their children's lives. Most mothers heavily invest their identities as mothers in protecting and promoting their children's wellbeing. Economic abuse can undermine 'a central and self-defining project for many women'."²²⁸ Further evidence of this is set out in Natalier's 2017 research 'Mirco-aggressions, single mothers and

²¹⁸ *Ibid.*, p. 37.

²¹⁹ *Ibid.*, p. 36.

²²⁰ *Ibid.*, p. 37.

²²¹ *Ibid.*, p. 38.

²²² *Ibid.*

²²³ Also see: Kristin Natalier (2018) (as above n 16), p. 135.

¹⁶⁹ Kay Cook, Kristin Natalier and Torna Pitman (2016) (as above n 29), p. 38.

²²⁵ *Ibid.*, p. 39.

²²⁶ *Ibid.*, p. 40.

²²⁷ *Ibid.*

²²⁸ Kristin Natalier (2018) (as above n 16), p. 131.

interactions with Government workers'.²²⁹ In her study, Natalier reported that mothers considered some Services Australia workers as perpetuating "micro-invalidations" when women challenged standardised costs, which the mothers perceived as unsympathetic to their actual financial experience of raising children.²³⁰ In one instance, a resident mother was discouraged from seeking a change in cost assessment so her child could access the school library, play an instrument and attend a school camp because these activities weren't compulsory at a public school. It is deeply troubling that Services Australia workers, at times, do not take into account the lived financial realities of raising children. It can be very stigmatising for mothers and children if they cannot engage in school activities as other families do.²³¹

Related to the above is the psychological burden of engaging (and re-engaging) with the child support system. Much of the literatures notes the significant psychological strain that resident mothers take-on when pursuing payments. Natalier (2019) draws a link between material hardship, which can compromise womens' health as they attempt to manage the chronic stresses of financial deprivation and the physical consequences of poverty.²³² It is known that single mothers living in poverty are at a greater risk of poor health compared to those from a higher socio-economic background.²³³ We know that single mothers are at a higher risk for psychological stress because of a range of compounding stressors including reduced confidence, limited financial resources and perceived low social support.²³⁴ The psychological costs of child support on single mothers and their children remains relatively underexplored and would benefit from research.

Assessing the administration of child support provides insight into whether the scheme is achieving its primary objective – to ensure that children receive an appropriate level of financial support from parents who are separated and to reduce the incidence of poverty across single mother households. The child support system can facilitate economic abuse, evidenced in how many resident mothers report underpayment through tax avoidance, fathers manipulating their taxable incomes, adjusting their care time responsibilities and/or by directly threatening the mother (discussed below). Coupled with inadequate enforcement from Services Australia, the onus falls on the mother to contact Services Australia to initiate an investigation or court proceedings.²³⁵ The time, financial and emotional burden and resource required by single mothers renders this challenge untenable leaving fathers to continue to misuse the system.²³⁶ Particularly for mothers who have experienced violence, collecting evidence of non-compliance or their ex-partner's financial position is psychologically harmful and at times, untenable. In effect, any changes to the child support system that were created to benefit mothers in effect created a loophole for fathers' lack of engagement. Policy changes to reduce the cost of the system for the Government and taxpayer often involve additional compliance burdens for mothers who are required to provide additional evidence and documentation on their ex-partner's behalf.

²²⁹ Kristin Natalier (2017) (as above n 15).

²³⁰ *Ibid.*, p. 128.

²³¹ *Ibid.*

²³² Kristin Natalier (2018) (as above n 16).

²³³ See: Council for Single Mothers and their Children, 'Unlock poverty for single mothers' (Blog Post, 21 October 2021)

<<https://www.csmc.org.au/2021/10/unlock-poverty-for-single-mothers/#:~:text=Single%20mothers%20living%20in%20poverty,can%20adversely%20their%20whole%20lives.>>.

²³⁴ See: Teresa Sartor, Sarah Lange, Heinrich Troster (2023), Cumulative Stress of Single Mothers - An Exploration of Potential Risk Factors, *The Family Journal*, Vol. 31(1), 88 <<https://journals.sagepub.com/doi/10.1177/10664807221104134#bibr23-10664807221104134>>.

²³⁵ Rae Kaspiw, Rachel Carson and Lixia Qu et. al. (2022), Compliance with and Enforcement of Family Law Parenting Orders: Views of Professionals and Judicial Officers, Research Report, ANROWS: Sydney, pp. 44–46 <[Kaspiw-Compliance-with-and-enforcement-of-FL-Word-version.docx \(live.com\)](#)>.

²³⁶ Joint Select Committee on Australia's Family Law System (2021) (as above n 60), p. 38.

Sophie's story, victim-survivor of economic abuse

Sophie fled her relationship after a history of physical, sexual, emotional, verbal and financial abuse. Sophie's ex-partner had substance dependence and gambling addictions. After their separation, Sophie's ex-partner moved interstate. Sophie had (and continues to have) 100% care of their child. In the period between separation and having a formal child support agreement, Sophie's ex-partner withheld child support payments as a means of exerting control, particularly if Sophie did not comply with his demands.

Between 2018–2021, and even with a formal child support agreement in place, Sophie's ex-partner continued to be in arrears and would never fully clear a debt until Services Australia would contact him for a payment arrangement. This cycle would continue. Sophie's ex-partner changed jobs regularly and would underreport income after a period of not working.

Sophie self-advocated on multiple occasions to receive the correct child support payment. This involved 6–12 months of persistent contact with Services Australia (from late 2021– early 2022) for a change of assessment under special circumstances. The aim was for Services Australia to correct her ex-partner's income. It was then agreed that they would contact his employer and garnishee his wages. Her ex-partner again underreported his income for FY2022–23. He lodged a tax return that does not reflect his true income. Services Australia informed Sophie that his actual assessed income is \$163,807, not the \$75,000 that he claims. However, when Sophie submitted an application in August requesting back-payment for the dates that she has been grossly underpaid in 2023, she was informed over the phone that her application was rejected.

In October, Sophie's ex-partner successfully campaigned for Services Australia to stop garnishing his wages allowing him to avoid his child support obligations. He did this by electing to pay child support, which Sophie knows he won't do on a voluntary basis (she notes that, in contrast to her experience as a payee mother, the process for him to become re-approved as a payer was very easy). Sophie claimed this instance coincided with a visit her ex-partner had with his daughter that did not go well, and as a result, Sophie was on the receiving end of an attack of verbal abuse. The decision appeared to be retaliative to Sophie.

When Sophie asked whether his wages would continue to be garnished, and if not, what the process was for Services Australia to garnishee wages, Services Australia assured Sophie that if he missed a payment, they would contact his employer to request automatic deductions. Knowing that her ex-partner was unlikely to pay child support unless forced, Sophie submitted an objection to Services Australia's decision to grant him an 'elect-to-pay'.

When Sophie's ex-partner did not pay child support in December 2023, Sophie requested Services Australia contact his employer to force payment. Services Australia told Sophie that they would first give him a chance to make payment. Services Australia made contact with her ex-partner and the child support was paid.

When Sophie's ex-partner did not pay child support in early January, Sophie again requested Services Australia contact his employer to force payment. She also followed-up on her objection from November. She was told that no one had been assigned to her objection, as officers were still looking at her June 2023 objections. Although disheartened, Sophie felt that the Services Australia officer she spoke to this time was extremely helpful. They assured her that they would contact her ex-partner and read him a statement about his obligations, and that they would reconnect with his employer if he did not make his next payment in full on the due date. Sophie was told that she would be notified when this was done. At the same time however, Sophie was advised to retract her objection (from November) for various reasons, including because her ex-partner knew she made references to the domestic abuse perpetrated against her. Sophie finds it 'comical' that her ex-partner receives copies of her applications and objections, but she does not receive his.

Two days later, still in early January, when Sophie returned a missed call from Services Australia, she was told that she could not be reconnected with the same officer and would have to recount the history of non-payment.

Since January, Sophie has been in contact with Services Australia several times. Each time she is connected with a new officer to whom she has to repeat her abuse. Services Australia seem determined to give her ex-partner ample opportunity to pay; for example, by telling her that they are required to give him "at least over the weekend in case the payment is still clearing the bank." At the same time, they are reluctant to contact his employer and garnishee wages. This is the last resort.

It is Sophie's experience that Services Australia policy and response enable the power and financial control to continue post-separation. The onus is consistently on Sophie to self-advocate. Payment arrangements are easily ignored. Sophie notes that if a paying parent breaks the payment arrangement, as long as they make a new payment arrangement at some point, Services Australia are not concerned and so the cycle continues. Indeed, Sophie has been told by a Services Australia officer that the system is "not perfect."

3. Economic abuse

Summary

The literature demonstrates the policy and legislative landscape in Australia does not effectively recognise or respond to economic abuse. Neither does society fully acknowledge that child support continues the financial relationship between separated parents and can be used as a means of exerting control and abuse. The child support system plays a pivotal role in safeguarding women's economic and financial wellbeing, but is currently not managing or adequately responding to this abuse.

Economic abuse is a sub-set of family violence and is defined in family violence legislation in every State and Territory.²³⁷ 'Family Violence' is defined under the FLA to mean violent, threatening or other behaviour by a person that coerces or controls a member of the person's family, or causes the family member to be fearful.²³⁸ Examples of behaviour that may constitute family violence include (but are not limited to): unreasonably denying the family member the financial autonomy that he or she would otherwise have had or, unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, his or her child, at a time when the family member is entirely or predominantly dependent on the person for financial support.²³⁹

Tasmania was the first State to criminalise coercive control in the context of family violence. The Family Violence Act 2004 (Tas) establishes economic abuse as a family violence offence. The offence of economic abuse is limited to spouses and partners only and requires that the course of behaviour is pursued with intent to unreasonably control or intimidate one's partner or cause mental harm, apprehension or fear (although there is no requirement to cause detriment).²⁴⁰ The coercive control offence in New South Wales criminalises coercive and controlling behaviour, including economic abuse, towards current and former intimate partners.²⁴¹ However, this offence will not commence until after July 2024.

The existence of economic abuse in family violence legislation does not on its own mean that economic abuse is fairly recognised or prosecuted. In Western Australia, for example, financial abuse can form the basis on which a family violence restraining order can be made against a person, as the definition of 'family violence' in the Restraining Orders Act 1997 (WA) includes coercive control / financial abuse.²⁴² However, financial abuse is often hard to evidence and therefore it is difficult to obtain a restraining order on these grounds.²⁴³ Similarly, Kerryne Barwick, Paul McGorrey and Marilyn McMahon (2020) note that since the enactment of the offence in Tasmania, there has only been one prosecution for economic abuse and that charge was ultimately dropped by the prosecution.²⁴⁴ They find that while five cases of economic abuse had been prosecuted in the lower courts, the perpetrators in all five cases

²³⁷ Family Violence Act 2016 (ACT), s 8, Crimes (Domestic and Personal Violence) Act 2007 (NSW), s 6A, Domestic and Family Violence Act 2017 (NT), ss 5 and 8, Domestic and Family Violence Protection Act 2012 (Qld), s 12, Intervention Orders (Prevention of Abuse) Act 2009 (SA), s 8, Family Violence Act 2004 (Tas), ss 7 and 8, Family Violence Protection Act 2008 (Vic), s 6, Restraining Orders Act 1997 (WA), s 5A.

²³⁸ Family Law Act 1975 (Cth), s 4AB(1).

²³⁹ Ibid, s 4AB(2).

²⁴⁰ Family Violence Act 2004 (Tas), s 8.

²⁴¹ Crimes Legislation Amendment (Coercive Control) Act 2022 (NSW) inserting a new s 54F into the Crimes Act 1900 (NSW).

²⁴² Restraining Orders Act 1997 (WA), s 5A.

²⁴³ Consumer Credit Legal Service WA (2023), Briefing Paper: Financial Abuse in Western Australia – Helping Women Achieve Financial Safety Through Better Product Design, Service Delivery and Policy, p. 2.

²⁴⁴ Kerryne Barwick, Paul McGorrey and Marilyn McMahon, 'Ahead of their time? The offences of economic and emotional abuse in Tasmania, Australia' (ed), in *Criminalising Coercive Control: Family Violence and the Criminal Law* (Springer Nature Singapore: Singapore, Ed. 1, 2020).

had also been charged with emotional abuse. It was difficult for prosecutors to prove the offence of economic abuse in circumstances where the abuse was “sporadic or cyclical.”²⁴⁵ Moreover, an analysis of 35 successful prosecutions for the offence of coercive or controlling behaviour in England reported that while two-thirds of cases involved economic abuse, in none of these cases was the abuse named.²⁴⁶ As noted by Rebecca Glenn and Jozica Kutin in 2021, “There has been increasing attention on economic and financial abuse over the past few years in Australia but it’s still not always named as abuse by people experiencing it, nor recognised by people responding to the consequences of it [...] [Economic abuse] has been largely absent from Government strategies designed to address domestic and family violence.”²⁴⁷

While the terms ‘economic abuse’ and ‘financial abuse’ are used interchangeably, Nicola Sharp-Jeffs (2015) suggests that the two are distinct, and that financial abuse is a feature of economic abuse, which covers broader economic resources such as food, technology and transport.²⁴⁸ Sharp-Jeffs refers to the Scale of Economic Abuse (SEA), developed in 2008 by Adrienne Adams and Cris Sullivan et. al. from Michigan State University.²⁴⁹ The SEA is a 28-item measure of a victim-survivor’s experience of economic abuse, separated into economic control (i.e., preventing resource acquisition and preventing resource use) and economic exploitation (i.e., spending the victim-survivor’s money, stealing money or property and building-up debt in the victim-survivor’s name). The SEA asks questions such as: does he steal the car keys or take the car so you can’t go look for a job or go to a job interview, does he do things to keep you from going to your job, does he steal your property, does he do things to keep you from having money of your own, does he spend the money you need for rent or other bills and does he refuse to get a job so you have to support your family alone.²⁵⁰

In their article, Adams and Sullivan et. al. define economic abuse as “behaviours that control a woman’s ability to acquire, use, and maintain economic resources, thus threatening her economic security and potential for self-sufficiency.”²⁵¹ Preventing a woman from acquiring or interfering with receipt of any income support (e.g., child support) was recognised by the academics as economic abuse.²⁵² In 2019, Adams and Sullivan et. al. revised the SEA to include economic restriction (i.e., deciding how the victim-survivor should spend their money and withholding financial information).²⁵³ Significantly, the academics assert that control is not just a “subset of economically abusive behaviours [but] in fact it underlies all economically abusive behaviour.”²⁵⁴

There is limited research and data on the prevalence of economic abuse or financial abuse in Australian single parent households. And there are limited statistics available on the relationship between child support and economic abuse. Liz Branigan’s (2004) landmark report entitled, ‘His money or our money: Financial abuse of women in intimate partner relationships’ was the first report to articulate the sites, causes and consequences of women’s economic abuse.²⁵⁵ Branigan acknowledges how insidious and

²⁴⁵ *Ibid.*

²⁴⁶ Nicola Sharp-Jeffs and Sarah Learmonth (2017), *Into Plain Sight: How economic abuse is reflected in successful prosecutions of controlling or coercive behaviour*. London: Surviving Economic Abuse, pp. 10–13 <https://survivingeconomicabuse.org/wp-content/uploads/2020/12/P743-SEA-In-Plain-Sight-report_V3.pdf>.

²⁴⁷ Rebecca Glenn and Jozica Kutin (2021), *Economic Abuse in Australia: Perceptions and experience*, Centre for Women’s Economic Safety, p. 5 <[EA-in-Australia-2021.pdf \(cwes.org.au\)](https://www.cwes.org.au/EA-in-Australia-2021.pdf)>.

²⁴⁸ Dr Nicola Sharp-Jeffs (2015), *Money matters: Research into the extent and nature of financial abuse within intimate relationships in the UK*, *The co-operative bank working in partnership with the Refuge*, p. 11 <[Money-Matters.pdf \(londonmet.ac.uk\)](https://www.londonmet.ac.uk/money-matters.pdf)>.

²⁴⁹ Adrienne E. Adams, Cris M. Sullivan, Deborah Bybee and Megan R. Greeson (2008), *Development of the Scale of Economic Abuse*, *Violence Against Women*, Vol. 14(5), 563.

²⁵⁰ *Ibid.*

²⁵¹ *Ibid.*, p. 564.

²⁵² *Ibid.*, p. 566.

²⁵³ Adrienne E. Adams, Megan R. Greeson, Angela K. Littwin and McKenzie Javorka (2019), *The Revised Scale of Economic Abuse (SEA2): Development and Initial Psychometric Testing of an Updated Measure of Economic Abuse in Intimate Relationships*, *Psychology of Violence (American Psychological Association)*, Vol. 10(3), 268 <[The-Revised-Scale-of-Economic-Abuse-SEA2-Development-and-Initial-Psychometric-Testing-of-an-Updated-Measure-of-Economic-Abuse-in-Intimate-Relationships.pdf \(isdi.org.za\)](https://www.isdi.org.za/The-Revised-Scale-of-Economic-Abuse-SEA2-Development-and-Initial-Psychometric-Testing-of-an-Updated-Measure-of-Economic-Abuse-in-Intimate-Relationships.pdf)>.

²⁵⁴ *Ibid.*, p. 269.

²⁵⁵ Liz Branigan’s (2004), *His money or our money: Financial abuse of women in intimate partner relationships*, Coburg, VIC: Coburg Brunswick Community Legal and Financial Counselling Centre cited in Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023), *Financial Abuse: The Weaponisation of Child Support*, Swinburne University of Technology and the National Council of Single Mothers and Their Children (now Single Mother Families Australia) <[Financial Abuse: The Weaponisation of Child Support in Australia \(swinburne.edu.au\)](https://www.swinburne.edu.au/Financial-Abuse-The-Weaponisation-of-Child-Support-in-Australia)>.

under recognised financial abuse is compared to other forms of intimate partner violence (IPV).²⁵⁶ But more notably, she offers an understanding of the complex ways in which bureaucratic, Government systems may support the perpetuation of abuse. Branigan contends that the Government condones violence as it financially rewards violent ex-partners and financially penalises victim-survivors who must escape these relationships because they are essentially forced to rely on income support – evidenced in the family violence exemption.²⁵⁷

In 2013, Good Shepherd Australia and New Zealand and Kildonan Uniting Care consulted with the family violence and financial counselling sectors to understand how single mothers experienced economic abuse well beyond the end of their relationship. Four reports were published from this consultation – in 2013, 2015 and two in 2016. Tanya Corrie and Magdalena McGuire's report in 2013 made several references to perpetrators capacity to minimise their income in order to make irregular child support payments, or to avoid paying child support altogether.²⁵⁸ From their conversations with the sector, they drew three conclusions – firstly, economic abuse is a long-term problem and is just as likely to occur post-separation as it is within the relationship; secondly, economic abuse impacts on children's wellbeing; and thirdly, economic abuse leads to poverty.²⁵⁹ But Corrie and McGuire acknowledged that failure to understand economic abuse and its relation to child support was making this form of abuse difficult to understand, identify and act-on by DSS.²⁶⁰ As such, they recommended that child support policies be changed to acknowledge that the avoidance of paying child support can be a form of economic abuse and family violence, and the appropriate recourse for the recovery of funds for victim-survivors be strengthened.²⁶¹

Drawing on Personal Safety Survey (PSS) data from 2012, Kutin, Roslyn Russell and Mike Reid (2017) measure the lifetime prevalence of economic abuse in Australia by age and gender, and the associated risk factors.²⁶² The researchers extract and re-analyse five questions relating to economic abuse from 15 questions relating to emotional abuse in the PSS. Their study builds-on the results of a 1999 South Australian Survey. Between 78% and 99% of women experiencing IPV experience economic abuse as part of the broader pattern of coercive, controlling and abusive behaviour.²⁶³ Moreover, they find that since the 1999 South Australian Survey the prevalence of economic abuse in Australia has more than doubled.²⁶⁴ Factors which increase vulnerability to economic abuse include separation, divorce, lower formal education levels, unemployment and being in a low-income household. Women were also more likely to experience economic partner abuse if they had a disability, had poor or very poor health and experienced moderate or high financial stress.²⁶⁵

Personal Safety Survey data from the 2021–22 financial year confirms that women experience economic abuse at more than double the rate of men.²⁶⁶ Since the age of 15 years, an estimated 1.5 million women have experienced economic abuse by an intimate partner.²⁶⁷

Australian Women Against Violence Alliance's (**AWAVA**) submission to the Joint Select Committee in 2020, pointed to the systemic continuation of financial abuse post-separation through legal systems by

²⁵⁶ *Ibid.*

²⁵⁷ *Ibid.*

²⁵⁸ Tanya Corrie and Magdalena McGuire (2013), *Economic Abuse: Searching for Solutions. A spotlight on Economic Abuse Research Report*. Good Shepherd Youth & Family Service and Kildonan Uniting Care <[economic-abuse_final-report.pdf \(goodshep.org.au\)](https://www.goodshep.org.au/economic-abuse-final-report.pdf)>.

²⁵⁹ *Ibid.*, p. 4.

²⁶⁰ *Ibid.*, p. 15.

²⁶¹ *Ibid.*, p. 6.

²⁶² Jozica Kutin, Roslyn Russell and Mike Reid (2017), *Economic abuse between intimate partners in Australia: prevalence, health status, disability and financial stress*, *Australia and New Zealand Journal of Public Health*, Vol. 41(3), 269 <<https://onlinelibrary.wiley.com/doi/10.1111/1753-6405.12651>>.

²⁶³ *Ibid.*

²⁶⁴ *Ibid.*, p. 271.

²⁶⁵ *Ibid.*, pp. 270-271.

²⁶⁶ Australian Bureau of Statistics (2021–22), *Personal Safety, Australia, Canberra: ABS* <<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>>.

²⁶⁷ *Ibid.*

violent ex-partners.²⁶⁸ Mothers are burdened with the financial costs of protracted court cases and vexatious litigation, all while fathers hide their assets to avoid paying child support.²⁶⁹ AWAVA recommended that non-payment of child support be recognised as potentially constituting financial abuse and that the child support system be formally recognised as one of the avenues through which systems abuse is perpetrated by ex-partners, particularly for victim-survivors of family violence who are at heightened risk of post-separation abuse.²⁷⁰

In 2021, Glenn and Kutin led research on the experience of economic abuse for the purposes of building literacy on economic abuse as a form of IPV.²⁷¹ This research was done for the Centre for Women's Economic Safety (CWES). Glenn and Kutin adopt Sharp-Jeff's characterisation of economic abuse, and define economic abuse in the context of IPV as "behaviour used to control a partner by restricting or exploiting their economic resources, such as money, food, transport, and housing, thereby threatening their economic security and potential for self-sufficiency."²⁷² On their own, some of these behaviours could be considered "illegal" but would not amount to "economic abuse". This is because, and as their survey findings suggest, economic abuse is often perpetrated as part of a pattern of controlling behaviour (and not in isolation) which also encompasses violence, intimidation, subordination and isolation.²⁷³ Fourteen per cent (n= 136) of their respondents did not think that any of the 20 listed behaviours²⁷⁴ ever indicated economic abuse, but of this number, 124 had never experienced any of those behaviours from an intimate partner.²⁷⁵ Women who experience other forms of IPV or controlling behaviour are better able to recognise economic abuse. Glenn and Kutin surmise that we "have a way to go in developing a common understanding about what is and is not healthy money management in a relationship [and post-relationship]."²⁷⁶ Particularly as traditional ideas about male and female roles, and the cultural expectation that the male breadwinner will have a larger say in financial decision-making, can mask experiences of economic abuse.

On Economic Abuse Awareness Day in 2021, CSMC said "For single mothers, the most common form of economic abuse occurs when an ex-partner manipulates finances to avoid or reduce child support payments. The deliberate non-payment or late payment of child support, underreporting of income, or non-lodgment of tax returns are all strategies of economic abuse. Economic abuse by ex-partners doesn't just take food from the table or the roof over the heads of women and their children, it can undermine a woman's sense of self and her confidence in her ability to care for her children."²⁷⁷

Many other reports have spotlighted the long-term impacts of family violence in single mother households and the inadequacy of Government income support for these women. But again, there has been little focus on ongoing post-separation economic abuse through the child support system. Anne Summers AO (2022) report 'The Choice: Violence or Poverty' explored how single mothers who have been in violent relationships are faced with the impossible choice of continuing to live with violence or facing financial insecurity.²⁷⁸ Single mothers were almost four times as likely to have experienced family

²⁶⁸ Australian Women Against Violence Alliance, *Submission to Joint Select Committee on Australia's Family Law System*, March 2020, p. 20 <https://awava.org.au/wp-content/uploads/2020/03/Final-AWAVA-submission-Joint-Select-Family-Law_31Jan2020.pdf>.

²⁶⁹ Prue Cameron (2014), *Relationship Problems and Money: Women Talk about Financial Abuse*, Research Report, *Wire Women's Information cited in Australian Women Against Violence Alliance, Submission to Joint Select Committee on Australia's Family Law System*, March 2020, p. 20 <https://awava.org.au/wp-content/uploads/2020/03/Final-AWAVA-submission-Joint-Select-Family-Law_31Jan2020.pdf>.

²⁷⁰ *Ibid*, p. 48.

²⁷¹ Rebecca Glenn and Jozica Kutin (2021) (as above n 247).

²⁷² *Ibid*, p. 3.

²⁷³ *Ibid*, p. 16.

²⁷⁴ The 20 listed behaviours include (but are not limited to): Forced or pressured you to give him/her your savings or other assets, Forced you to claim Government payments you were not entitled to, Stole your belongings, Made you take out a loan or buy something on credit when you didn't want to, Put bills in your name, leaving you to pay them, Kept you from having a job, or going to work or study, Decided how you could spend money rather than letting you spend it how you saw fit and Hid financial information from you etc. (*Ibid*, p. 8).

²⁷⁵ *Ibid*, p. 16.

²⁷⁶ *Ibid*, p. 16.

²⁷⁷ *Financial abuse and the single mother*, Council for Single Mothers and their Children (Blog Post, 23 November 2021) <[Financial abuse and the single mother - Council of Single Mothers and their Children \(csmc.org.au\)](https://www.csmc.org.au/financial-abuse-and-the-single-mother)>.

²⁷⁸ Anne Summers AO PhD (2022), *Domestic violence and its consequences in Australia today*, The University of Technology Sydney, <[The Choice: violence or poverty \(website-files.com\)](https://www.uts.edu.au/files/choice-violence-or-poverty)>.

violence at the hands of a previous partner compared to the general female population.²⁷⁹ Summers draws on PSS data from 2016 in which 311,000 respondents identified as single mothers. Of this number, 60% (n= 185,700) reported having experienced physical or sexual violence by a partner since the age of 15.²⁸⁰ 124,100 single mothers indicated they had experienced violence more than once while living with their most recently violent previous partner. And for 37% (n= 45,917) of these women, the violence increased after the final separation.²⁸¹ Many women were unable to leave their violent partners because they had no money or financial support. Summers' report further confirms much of what we know about poverty in single mother households. Women who left relationships experienced around a 20% decrease in household income per capita. But single mothers who experienced family violence experienced an even greater drop in household income – 34% after separation.²⁸² Single mothers report experiencing considerable financial stress and reliance on Government income support because they leave property or assets behind.

Kay Cook, Adrienne Byrt and Rachel Burgin et. al. (2023) draw on the post-separation lived experience of payee mothers who experienced family violence in their relationships, to show the insidious ways in which the child support system can be manipulated and weaponised against them.²⁸³ While separation puts women at heightened risk of violence, leaving an abusive relationship does not mean that the violence will end; in fact, violence may escalate or perpetrators will take-on a new format of abuse. Only 13% of the mothers who experienced abuse within a relationship reported that the violence stopped after separation.²⁸⁴ For the 434 mothers (75%) who had experienced financial control by an ex-partner, they reported that financial abuse had occurred over years, if not decades. Post-separation abuse was endured by 72% of mothers.²⁸⁵ There were 27 different ways that these mothers had been, or were still, controlled through their ex-partner's misuse of the child support system.²⁸⁶ These included: control over money and finances, deliberate withholding or non-payment of child support, deliberate minimisation of child support liabilities, not paying for shared parenting costs, destroying property or children's belongings, controlling employment, excessive court actions, or threats of legal action against them or reported or threats to report to Government agencies (for example, Services Australia or the ATO) as a way to cause financial harm.²⁸⁷

Although beyond the scope of this literature review, we note that the financial sector has recently responded to economic and financial abuse. In 2021, the Australian Bankers Association launched the 'Preventing and Responding to Family and Domestic Violence Guidelines' (**ABA Family Violence Guidelines**) which clearly states that that financial abuse is considered a form of family violence by the financial sector.²⁸⁸ The ABA Family Violence Guidelines outline how financial abuse can affect a bank's relationship with their customer and provide a framework to enable banks to provide consistent and safe arrangements to support their customers who may be affected by family violence. For example, the ABA Family Violence Guidelines encourage banks, to the extent they are able to do so, help customers open bank accounts without the usual identification documents, amend operating instructions from 'two to sign' accounts to 'one to sign' and encourage banks to work with professional financial counsellors, lawyers, community services workers, legal aid officers and/or family violence specialists to assist customers to access their finances in a timely manner when they have left their homes / post-separation.²⁸⁹

²⁷⁹ *Ibid*, p. 14.

²⁸⁰ *Ibid*, p. 11.

²⁸¹ *Ibid*.

²⁸² *Ibid*, p. 64.

²⁸³ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6).

²⁸⁴ *Ibid*, p. 23.

²⁸⁵ *Ibid*, p. 24.

²⁸⁶ *Ibid*, p. 33.

²⁸⁷ *Ibid*, pp. 25 and 101.

²⁸⁸ Australian Banking Association (2021), *Industry Guideline: Preventing and responding to family and domestic violence*, p. 1 <[Blank document \(ausbanking.org.au\)](#)>.

²⁸⁹ *Ibid*, p. 8 <[Blank document \(ausbanking.org.au\)](#)>.

2. Following the ABA Family Violence Guidelines, CWES' 'Design to Disrupt' discussion paper (2022) authored by Catherine Fitzpatrick reiterated the need for systemic intervention into economic and financial abuse and the opportunity for financial institutions to adopt 'Safety by Design' principles²⁹⁰ to intervene in economic and financial abuse as it is enacted across banking platforms.²⁹¹ Cook, Byrt and Burgin et. al. have said that "Instead of allowing systems to be used to enact financial abuse, Safety by Design should be at the heart of the Child Support Scheme and Family Tax Benefit program. This will protect women at risk of financial abuse."²⁹² Banks across Australia have started to introduce a range of interventions to support customers. Westpac was the first bank to introduce a self-reporting feature for customers to flag abuse and threats received via payments, in addition to using advanced data analytics to detect threats and patterns of abuse and send warnings to abusers or their financial institution.²⁹³ The Commonwealth Bank of Australia has partnered with UNSW's Gendered Violence Research Network to create the Financial Abuse Resource Centre to bridge the knowledge gaps in current research on economic and financial abuse.²⁹⁴ The National Australia Bank and CBA have agreed to adopt the primary recommendation of Fitzpatrick's paper – to include financial abuse in product terms and conditions as a reason for suspension or closure of accounts.²⁹⁵ In October 2023, ANZ became the last of the big four banks to commit to new terms and conditions that define financial abuse as unacceptable customer behaviour.²⁹⁶ In total, 13 banks across Australia now explicitly mention financial abuse in their terms and conditions.²⁹⁷ The customers of these banks are on notice that misusing their products and services as a tactic of coercive control brings consequences.²⁹⁸ However, we are conscious that child support and non-payment have remained largely absent from these conversations.

²⁹⁰ Fitzpatrick borrows the term 'Safety by Design' from the eSafety Commission. The 'Safety by design' principles for the financial sector are: Service provider responsibility (the burden of safety should never fall solely upon the user), User empowerment and autonomy (the dignity of users is of central importance) and Transparency and accountability (the hallmarks of a robust approach to safety).

²⁹¹ Catherine Fitzpatrick (2022), *Designed to Disrupt: Reimagining banking products to improve financial safety*, Centre for Women's Economic Safety <[CWES_DesigntoDisrupt_1_Banking.pdf](#)>.

²⁹² Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 33.

²⁹³ Westpac strengthens safeguards against abusive messages sent via payment transactions, Westpac (Media Statement, 9 February 2021) <[Westpac strengthens safeguards against abusive messages sent via payment transactions | Westpac](#)> cited in Catherine Fitzpatrick (2022), *Designed to Disrupt: Reimagining banking products to improve financial safety*, Centre for Women's Economic Safety, p. 16 <[CWES_DesigntoDisrupt_1_Banking.pdf](#)>.

²⁹⁴ Financial Abuse Resource Centre, Commonwealth Bank (Web Page) <[Financial abuse in the context of domestic & family violence - CommBank](#)>.

²⁹⁵ Catherine Fitzpatrick, *Banks put family violence perpetrators on notice. Stop using accounts to commit abuse or risk being 'debanked'*, The Conversation (Online, 4 July 2023) <[Banks put family violence perpetrators on notice. Stop using accounts to commit abuse or risk being 'debanked' \(theconversation.com\)](#)>.

²⁹⁶ Meg Dalling (ANZ), *Using design to combat economic abuse*, bluenotes (Blog Post, 18 October 2023) <<https://bluenotes.anz.com/posts/2023/10/anz-banking-preventing-financial-abuse>>.

²⁹⁷ These include: AMP, ANZ, Bank of China (Australia branch), Commonwealth Bank, HSBC, MyState, NAB, Westpac, Up, Australian Unity, Central Murray Credit Union Limited, G&C Mutual Bank and IMB Bank. There are 97 banks across the country.

²⁹⁸ Catherine Fitzpatrick, *And that's four from four (LinkedIn, 18 October 2023)* <<https://www.linkedin.com/feed/update/urn:li:activity:7120248827760033792/>>.

4. Post-separation weaponisation of child support

Summary

The literature demonstrates the various ways in which fathers manipulate and misuse the child support system while single mothers and their children manage the economic consequences, particularly as mothers continue to financially support children well into adulthood. Fathers deliberately withhold child support payments and/or manipulate their taxable incomes to reduce their child support liabilities often in contravention of their child support agreements. The literature considers that fathers can do so because the child support system is constructed to facilitate this abuse.

The literature also demonstrates how the family violence exemption rewards violent fathers, and inconsistency in application of this policy forces women to choose whether to continue to engage with their violent ex-partner or subsist in economic disadvantage.

4.1 Deliberate withholding of child support payments

Withholding child support is a unique form of violence that can only begin post-separation.²⁹⁹ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) have identified that women can be coerced into accepting private child support agreements, as this makes it easier for non-payment to go undetected and more difficult for payees to pursue debts.³⁰⁰ This was acknowledged by the Australian Law Reform Commission as far back as 2011. Moreover, the Commonwealth Ombudsman said that “some payees with Private Collect arrangements acquiesce to payers’ coercion and agree to hide the fact that they are not collecting their full entitlement to child support.”³⁰¹

In 2014, Kristin Natalier and Belinda Hewitt interviewed 58 separated parents (none of whom were related) for their perspectives on how child support should be spent.³⁰² Almost all of the 28 fathers in their study viewed child support as “special money” – a categorisation limiting how money can be legitimately claimed, allocated and spent.³⁰³ Defining child support as special money allowed fathers to question the legitimacy of their ex-partner’s spending and mothering, based on an alignment of mothering with traditionally feminine characteristics of nurturance and financial dependency. Fathers overwhelmingly felt that money should be spent only on the child-specific goods and services nominated by fathers.³⁰⁴ Whereas the surveyed mothers felt that they could use payments on goods or ‘treats’ that directly and visibly contributed to their children’s quality of life.³⁰⁵ Mothers from a low-income household also used child support payments on groceries and other household expenses.³⁰⁶ The difference between fathers and mothers expectations of earmarking and calculating child-specific marginal costs generally underpinned many fathers’ belief that their ex-partners spent the money inappropriately. One father linked his criticisms about child support to his ex-partner’s materialism: “the amounts he paid

²⁹⁹ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 28.

³⁰⁰ *Ibid.*, p. 30.

³⁰¹ Australian Law Reform Commission (2011), *Family Violence and Commonwealth Laws: Improving Legal Frameworks (Final Report No 117, November 2011)*, para 12.43 <[whole_alrc_117.pdf](#)>.

³⁰² Kristin Natalier and Belinda Hewitt (2014), (as above n 21).

³⁰³ *Ibid.*, p. 906.

³⁰⁴ *Ibid.*, p. 912.

³⁰⁵ *Ibid.*, p. 917.

³⁰⁶ *Ibid.*, p. 918.

reflected not the child's needs but the mother's desires, implying her lack of child-centeredness."³⁰⁷ In the context of post-separation parenting, Natalier and Hewitt argue that men withholding child support or trying to dictate how child support is spent because they view it as "special money" reinforces child support payments as not only a flashpoint of conflict, but as a tool to "reproduce dominance and subordination" between fathers and mothers that impacts across all domains of parenting.³⁰⁸

Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) surveyed 470 parents about their experiences of the child support system and whether they received payments in full and on time.³⁰⁹ More than 99% of respondents identified as female, 85% reported having a child support agreement in place, 8% had no agreement and 7% had a child support exemption due to family violence.³¹⁰ Forty-three per cent of women who used Agency Collect were owed unpaid child support within the previous month, which was 18% higher than DSS reporting at the time.³¹¹ It should be noted that the amount of child support transferred between parents through Agency Collect increased by 5.3% to \$4.015 billion in FY2022–23.³¹² Of the 258 mothers who reported that they Agency Collect, 31% of them moved from Private Collect to Agency Collect due to "partial, sporadic or non-payment of child support collections."³¹³ However, even then almost a third of mothers on Agency Collect were owed more than \$1000 in unpaid child support.³¹⁴ For women on Agency Collect, the mean debt for the previous month was \$653, compared to \$358 for women collecting privately.³¹⁵ Over one fifth of respondents said they were made to feel "grateful" for any child support payments made by Services Australia.³¹⁶

In their submission to the Australian Parliamentary Inquiry into Family, Domestic and Sexual Violence in 2020, CSMC quoted a study they commissioned authored by Andi Sebastian and Irit Ziv on, broadly, the lives of single mothers across income security, employment and education, housing, family law and family violence and quality of life.³¹⁷ Of the 1,000 mothers who responded to their survey, one in three rarely or never received their assessed child support.³¹⁸ Of the nearly 42% of respondents with Formal Collect arrangements, only 23% always received the payment in full and on time.³¹⁹ CSMC said in their submission that "Irregular child support payments are always a problem for the recipient parent and ultimately for children. Erratic payments result in insufficient money for groceries, utilities and rent; school expenses that are late or deferred. These in turn mean children are often aware of the increased levels of stress for their parent, may not have the supplies and uniform they need at the time they need them, or feel ashamed at not being able to participate in camps, excursions and social activities."³²⁰

The DSS consistently asserts that there is a 100% adherence to child support payments in Private Collect. The 2015 Standing Committee noted this inaccuracy in reporting: "Payments made through Private Collections are regarded as one hundred per cent compliant – meaning that one hundred per cent of owed child support is assumed to have been paid – a figure that the Government has admitted is inaccurate since as early as 2015."³²¹ The CSA's own figures from 2010 showed that less than 50% of non-resident parents paid their full child support obligations in 2009, with 12% of those parents paying nothing at all.³²² In 2011–12, it was reported that 24.7% of payers with CSA arrangements had

³⁰⁷ *Ibid*, p. 915.

³⁰⁸ *Ibid*, p. 908.

³⁰⁹ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9).

³¹⁰ *Ibid*, p. 2.

³¹¹ *Ibid*, p. 13.

³¹² Services Australia (2023) (as above n 181), p. 78.

³¹³ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9), p. 9.

³¹⁴ *Ibid*, p. 13.

³¹⁵ *Ibid*, p. 13.

³¹⁶ *Ibid*, p. 10.

³¹⁷ Council of Single Mothers and Their Children, *Submission to the Australian Parliamentary Inquiry into Family, Domestic and Sexual Violence*, 31 July 2020, p. 11 < [CSMC Submission Federal Inquiry Family Domestic Sexual Violence July2020.pdf](#) > and Andi Sebastian and Irit Ziv (2019), *One in eight: Australian single mothers' lives revealed, Report of a national survey undertaken in 2018 by the Council of Single Mothers and their Children* < [Microsoft Word - SurveyReport - Editable.docx \(csmc.org.au\)](#) >.

³¹⁸ Andi Sebastian and Irit Ziv (2019) (as above n 317), p. 16.

³¹⁹ *Ibid*.

³²⁰ Council of Single Mothers and Their Children (as above n 317), p. 11.

³²¹ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 25.

³²² Child Support Agency (2010), *Facts and Figures 2008–09*, Child Support Agency, Belconnen.

outstanding debts and, of whom, only 53.6% had a payment arrangement in place to resolve it.³²³ Even then, in 2021–22 Services Australia reported collecting \$1.74 billion in child support payments from \$1.74 billion in Agency Collect liabilities. While this looks like 100% of child support liabilities were collected, it is not stated how much of the \$1.74 billion collected was for payers' outstanding child support debts.³²⁴ The assumption that compliance rates for Private Collect are 100% obscures the true nature of child support for children, particularly given that, as has previously been said, DSS encourages and supports separated parents to independently manage their child support responsibilities outside the purview of DSS. As Cook said in 2013, "The promotion of private arrangements with the assumption that payers will be 100 per cent compliant renders the problematic nature of low-income women's financial dependency upon their ex-partner invisible."³²⁵

It is interesting to note that in 2019–20, Services Australia issued 13,996 'nudge letters' to parents who had missed their child support payments. These letters resulted in the full payment of approximately \$18.1 million in outstanding payments, and a further \$12.2 million where parents entered into payment arrangements.³²⁶ Thought it is no clear what percentage of these payments originated from the deliberate withholding of child support.

Maria Vnuk, Bruce Smyth and Prem Aleema (2020) have also labelled the difference between official and actual child support receipts as the 'black box' of informal or private child support arrangements, which "likely occurs in the shadow of the official caseload of [Services Australia]."³²⁷

Vnuk, Smyth and Aleema's article 'Paying more or accepting less child support: Parental compromises in CSA Private Collect' explores the degree to which private agreements are likely to co-occur in the context of coercion.³²⁸ Fear of collection because of coercion – particularly for victim-survivors of family violence – is understood, but the researchers call attention to the lack of published empirical data on the relationship dynamics surrounding private child support agreements. They suggest that this is because financial and economic abuse have only recently entered the broader literature on family violence.³²⁹ Vnuk, Smyth and Aleema find clear differences in the responses from payers and payees for the reported reasons for paying more or accepting less child support than due. Male payers more frequently said they paid extra to protect contact with their children and/or because the original amount did not seem fair.³³⁰ Whereas safety concerns were more likely to affect a payees' decision to take less child support.³³¹ A small but significant number of female payees who accepted less child support reported experiencing pressure and intimidation over child support in the context of concerns about their child's and/or their own safety.³³²

Findings from the literature on withholding of child support, as noted above, are also consistent with Rachel Carson, Rae Kapsiew and Lixia Qu's et. al. research (2022) for ANROWS on parents' and carers' compliance with and enforcement of family law parenting orders.³³³ Carson, Kapsiew and Qu et. al. interviewed 466 parents and carers and found that 54% of respondents reported that one parent was regularly spending less time with the child than provided for in parenting orders, and that for 48% of this subset, their child support assessment was no longer appropriate.³³⁴ However, nearly half these parents and carers reported that they had not sought a new child support assessment. The risk of family violence

³²³ Department of Human Services (2012), *Family Tax Benefit Part A and Part B*, Government of Australia (Web Page) <<http://www.humanservices.gov.au/customer/services/centrelink/family-tax-benefit-part-a-part-b>>.

³²⁴ Cited in Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 25.

³²⁵ Kay Cook (2013) (as above n 123), p. 47.

³²⁶ Services Australia (2020) (as above n 181), p. 39 cited in Joint Select Committee on Australia's Family Law System (2021) (as above n 60), p. 20.

³²⁷ Maria Vnuk, Bruce Smyth and Prem Aleema (2020), *Paying more or accepting less child support: Parental compromises in CSA Private Collect*, *Australian Journal of Family Law*, Vol.33, 243 p. 244.

³²⁸ *Ibid.*, p. 245.

³²⁹ *Ibid.*

³³⁰ *Ibid.*, p. 261.

³³¹ *Ibid.*

³³² *Ibid.*

³³³ Rae Kapsiew, Rachel Carson, Helen Rhoades, Lixia Qu, John De Maio and Briony Horsfall (2022) (as above n 235).

³³⁴ *Ibid.*, p. 31.

was a significant deterrent in seeking a new child support assessment, especially in cases where a successful assessment would likely result in minimal financial gain. Mothers were also discouraged from seeking a new child support assessment due to a lack of resources, namely time and costs associated with seeking legal advice, appealing child support assessments or parenting orders.³³⁵ Mainly, mothers felt seeking a new child support was futile, due to previous negative experiences with the child support system.³³⁶ An area requiring further research is how a mother's earning capacity continues to be impacted, as she is not able to rely on current parenting orders to plan her hours of employment. Although not explored in this study, it is notable that when fathers chose to 'self-represent' their employment hours were mostly always stated as 'unclear'. Fathers were close to four times more likely to self-represent when their employment hours were ambiguous.³³⁷

In Cook, Byrt and Burgin's et. al. (2023) study on the weaponisation of child support in Australia, the misuse and manipulation of the child support system was found to be central to single mothers' experiences of economic abuse by their ex-partners following separation.³³⁸ From 1 October 2022 until 31 January 2023, the researchers used an anonymous online survey to collect single mothers' experiences of child support, family violence and financial safety. 540 respondents provided data for the survey, but only 312 had completed all the questions. They found that amid a suite of complex and coercive ways to enact control, the most common forms of abuse included the deliberate withholding of child support.³³⁹ Eighty-one percent of mothers reported the deliberate withholding or non-payment of child support and 80% experienced the deliberate minimisation of their ex-partner's child support liabilities.³⁴⁰ There was also a correlation between past or current experiences of economic abuse (in other forms) and the deliberate withholding of child support as a dominant tactic. Notably, 84% of mothers who had experienced economic abuse in the last year also experienced the deliberate withholding of child support and 91% who were currently experiencing economic abuse also experienced the deliberate withholding of child support.³⁴¹

The deliberate withholding or delay of child support payments means that there can be insufficient funds for necessities, bills, rent, school and childcare expenses. If a parent is unable to provide the basics for themselves and their child, it often means that the parent will go without to ensure they can provide for their child. The deliberate withholding or delay of paying child support is one of the highest causes of insecure housing experienced by single mothers. In Cook, Byrt and Burgin's et. al. study, 66% of respondents reported that the withholding of child support impacted their housing and 69% reported impacts to housing as a result of deliberate minimisation of child support.³⁴²

4.2 Manipulation of taxable income

The amount of child support to be paid by the non-resident parent to the resident parent is calculated using a formula that takes into account the incomes of both parents less an equal amount for 'self-support'. The child support formula also includes a consideration of the number of nights per year the child spends with each parent which is the care that they provide. However, this formula provides a loophole in which payers can minimise their child support liabilities by reducing their taxable incomes.³⁴³ This reduces the extent to which children can share in the resources of both their parents.³⁴⁴

Our review found a website – Child Support Australia – that lists the legal ways in which parents can manipulate their taxable income to reduce child support payments. These include, entering into salary

³³⁵ *Ibid*, p. 46.

³³⁶ *Ibid*, p. 45.

³³⁷ *Ibid*, p. 163.

³³⁸ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 74.

³³⁹ *Ibid*, p. 29.

³⁴⁰ *Ibid*, p. 27.

³⁴¹ *Ibid*, p. 93.

³⁴² *Ibid*, p. 35.

³⁴³ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6).

³⁴⁴ *Ibid*, p. 61.

sacrifice agreements, becoming self-employed and underreporting business earnings, delay reporting changes in income or employment, delay lodging tax returns and/or increasing superannuation contributions.³⁴⁵ It is also known that paying fathers use company structures to minimise their income and keep the money within the business. Further, stakeholders in the family law sector have said that certain industries – for example, construction – pay cash wages, so paying fathers can underreport their income. The website also boldly suggests hiring a good accountant, and notes “But you can’t simply shift income and investment funds around to artificially reduce taxable income. That usually doesn’t work.”³⁴⁶

Indeed, the CSA, the Australian Law Reform Commission and Federal Parliament told the 2005 Taskforce that “tax minimisation and avoidance are both significant problems for the Child Support Scheme.”³⁴⁷

In their submission to the Australian National Audit Office in Respect of Child Support Collection Arrangements in 2016, CSMC argued that payers who fail to lodge tax returns are “attempting to exert a form of control and may therefore be inflicting financial abuse on the payee.”³⁴⁸ CSMC said: “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 [family violence] find this behaviour continues well beyond separation. By refusing to act and enforce lodgement, we contend that the ATO and Child Support Agency are enabling the financial abuse to continue.”³⁴⁹

Terese Edwards told the Sydney Morning Herald in 2022 that there are many cases of parents dropping out of the tax system altogether, moving payments through trusts, partnerships or even members of extended family to minimise their taxable income.³⁵⁰ Edwards told the newspaper, “The community should be very annoyed that there is such a high degree of illegal activity going on by people staying out of the tax system to avoid child support ... This is the most gender-neutral level that could be pulled and should not attract ire from anyone.”³⁵¹

Manipulation of taxable income is not a new tactic employed by payers of child support. The 2005 Taskforce noted that a “large minority of child support payers do not lodge tax returns”, making an assessment of their actual capacity to pay child support impossible.³⁵² Around the same time, Allan Shephard found in his analysis of 1,113 CSA files that 40% payers with a ‘major’ child support debt had also failed to lodge tax returns.³⁵³ Shephard also observed higher rates of finalisation (i.e., debt collected and/or a payment arrangement put into place) where the payers were tax return filers and/or wage or salary earners whose payments were made through employer withholding. There is greater discretion for non-filers and self-employed payers to withhold child support.³⁵⁴ As payers who fail to lodge tax returns are also likely not to pay child support, these costs will be held by women.³⁵⁵

In the 2010–2011 financial year, the CSA introduced the Lodgement Enforcement Program which would refer payers to the ATO for investigation for tax return non-filing and/or attempting to avoid their child support obligations by under-declaring their income. The Lodgement Enforcement Program existed in

³⁴⁵ *Child Support Australia, How to Avoid Child Support Legally (Web Page)* <[How to Avoid Paying Child Support \(Legally\) | Child Support Australia](#)>.

³⁴⁶ *Ibid.*

³⁴⁷ Department of Social Services (2005) (as above n 12), p. 96 cited in Kay Cook (2013) (as above n 123), p. 47.

³⁴⁸ Council of Single Mothers and Their Children, *Submission to the Australian National Audit Office in Respect of Child Support Collection Arrangements*, 25 November 2016, p. 3 <[CSMC-SubmissionANAO-ChildSupportCollection2016-V3.pdf](#)>.

³⁴⁹ *Ibid.*

³⁵⁰ Shane Wright, ‘Tighten tax system to target child support avoidance: single parents’, *The Sydney Morning Herald (Online)*, 18 August 2022) <[Child poverty: Tighten tax system to target child support avoidance, single parents say \(smh.com.au\)](#)>.

³⁵¹ *Ibid.*

³⁵² *Report of the Ministerial Taskforce on Child Support (2005), In the Best Interests of Children – Reforming the Child Support Scheme*, Department of Social Services, Commonwealth of Australia, p. 60 <https://www.dss.gov.au/sites/default/files/documents/best_interests_children_full_report.pdf>.

³⁵³ Allan Shephard (2005), *The Australian Child Support Agency: Debt Study and Follow-up on Intensive Debt Collection Process*, *Family Court Review*, Vol. 43(3), 387.

³⁵⁴ *Ibid.*, p. 388.

³⁵⁵ Kay Cook (2013) (as above n 123), p. 50.

tandem with the Tax Refund Intercept Program which, according to the Australian National Audit Office in 2017, “maximises child support collections as virtually all available refunds are intercepted.”³⁵⁶ The National Audit Office similarly reported that the value of child support debt collected through the Lodgement Enforcement and Tax Refund Intercept programs in 2015–16 was \$114.6 million or 7.6% of the total value of outstanding child support debt in the same year (\$1.5 billion).³⁵⁷ It is not clear whether the Lodgement Enforcement Program still exists, as we could not locate any information post 2017. Payers are, of course, required to notify the ATO of their child support obligations for income test purposes. This includes the amounts paid and the benefits provided for the maintenance of a child which are deducted from the total of the other components that make up adjusted taxable income.³⁵⁸ The Tax Refund Intercept program continues, and Services Australia reported that in FY2022–23, \$168.3 million was collected / corrected through this program (an increase of 46.9% from 2015–16).³⁵⁹

When asked if they believed their ex-partner minimised their income on their tax returns, 66% of the single mothers with Agency Collect in Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards’ survey answered “yes”.³⁶⁰ Of these women, 56% said this was done by cash in hand work, 8% said this was done by working part-time, 4% said their ex-partner had done this by threatening to take an early retirement and 3% said it was done by putting all assets and bank accounts in a third party’s name.³⁶¹ For the mothers who had their current child support assessments based on ‘estimated income’ – 52.9% of the total sample – 69% believed their ex-partners had reduced their taxable income.³⁶² Over a quarter of respondents to Cook, Byrt and Burgin’s et. al. study said that their former partners threatened to not lodge a tax return.³⁶³

Cook, Byrt and Burgin et. al. note that while Services Australia have improved their compliance procedures since the mid-2000s to tackle this very issue, the proportion of payers who have not lodged tax returns and the proportion of parents with liabilities less than \$500 per annum have remained steady over the last five years (from 2017–2022), and are currently measured at 22% and 28% respectively.³⁶⁴ Cook, Byrt and Burgin et. al. draw a link between the discrepancy between payers’ and payees’ median annual incomes within each of the two collection method cohorts (i.e., Agency Collect or Private Collect) and the amount of child support being paid. DSS data from 2022 showed that the median income of payers in Private Collect was \$54,125 which was \$6,000 higher than the annual income of payers in Agency Collect. The median income of payees in Private Collect was \$33,961 which was \$2,000 lower than payees in Agency Collect.³⁶⁵ They note that this discrepancy “raises concerns about whether Private Collect payees are particularly vulnerable to financial abuse. In particular, the fact that almost a third of the caseload has orders below \$10 per week is of significant concern and indicates potential deliberate minimisation of payer taxable incomes and thus child support liabilities.”³⁶⁶

³⁵⁶ Australian National Audit Office (2017), *Child Support Collection Arrangements between the Department of Human Services and the Australian Taxation Office, The Auditor-General ANAO Report No.50 2016–17 Performance Audit*, p. 9 <[ANAO Report 2016-2017 50.pdf](#)>.

³⁵⁷ *Ibid.*, p. 18.

³⁵⁸ Australian Taxation Office, *IT7 Child support you paid 2023*, Australian Government (Web Page) <<https://www.ato.gov.au/Individuals/Tax-return/2023/Tax-return/Income-test-questions-IT1-IT8/IT7-Child-support-you-paid-2023/>>.

³⁵⁹ Services Australia (2023) (as above n 181), p. 80.

³⁶⁰ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9), p. 5.

³⁶¹ *Ibid.*

³⁶² *Ibid.*

³⁶³ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 111.

³⁶⁴ *Ibid.*, p. 63 citing Department of Social Services (2022), *Services Australia child support extract data 2022, Child support program fact sheet – September quarter 2022* <https://data.gov.au/data/dataset/6379b974-e547-4303-a361-6edebbb52550/resource/6b8cb72e-3ff4a23-b1e1-61123518132d/download/child-support-a3-factsheet-september-qtr-2022-fnalr1-pdf-09_12_22.pdf>.

³⁶⁵ *Ibid.* citing Department of Social Services (2022), *Services Australia child support extract data 2022, Child support program fact sheet – September quarter 2022* <https://data.gov.au/data/dataset/6379b974-e547-4303-a361-6edebbb52550/resource/6b8cb72e-3ff4a23-b1e1-61123518132d/download/child-support-a3-factsheet-september-qtr-2022-fnalr1-pdf-09_12_22.pdf> and Department of Social Services (2022), *Annual Report 2021–2022*, <https://www.dss.gov.au/sites/default/files/documents/10_2022/2021-22-annual-report.pdf>.

³⁶⁶ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 63.

Eva's story, victim-survivor of economic abuse

Eva and Jason separated in January this year after a history of family violence perpetrated by Jason. Eva has fulltime care of their one year old son, Kaleb, and is currently unemployed. Eva registered with Services Australia for collection of child support two months after their separation. At time of separation Jason's income from employment was \$180,000 per annum. Services Australia assessed that Jason would have to pay \$410 of child support per week.

Within 1 month of this assessment and coinciding with Eva obtaining an order for a family violence restraining order, Jason submitted to Services Australia a notice of estimated income of \$0. Jason claimed to have ceased employment with his current employer. Based on his notice of change in estimated income, Services Australia reduced his child support payment to \$30 per week. Eva requested an investigation by Services Australia. This investigation took over 3 months, in which time Jason made no child support payments. Services Australia eventually determined that Jason had taken on a new job and assessed his revised income as \$170,000 per annum. Jason had only been unemployed for 10 days.

Services Australia garnished Jason's tax refund for FY2022–23 financial year but this only resulted in him having to make a one-off \$600 payment to Eva. Jason continued to make no child support payments after the Services Australia investigation. But his wages were not garnished as Eva was advised that Jason needed to be given time to comply with the new assessment (or sufficient time for Services Australia to ascertain whether garnishing father's wages was an appropriate course of action).

Within a couple of weeks of the new income assessment, Jason again submitted a new estimated income of \$75,000 per annum based on his stated intention (with no proof of booking) to travel overseas for 6 months later in the year. Jason told Eva he was planning to travel overseas for 2 weeks.

Jason's new estimated income of \$75,000 was accepted. Eva had to again ask Services Australia to investigate. On commencement of their second investigation, Jason submitted a new estimated income of \$0 based on having to cease employment entirely due to stress. Eva has advised Services Australia she believes Jason will work as sole trader and use his family trust to declare a nominal income at the end of the financial year. Services Australia has advised Eva that there is not much they can do where a parent is self-employed and declares nominal income for tax purposes.

This is all despite Jason continuing to receive rental income from the five investment properties owned by him:

- *For two of those properties, he has declared in previous tax returns a low rental income (after deduction of expenses).*
- *For three of the properties, he declares no income in his tax returns. Eva knows he is paid by direct cash transfer (from the tenant or Airbnb guest) into his personal bank accounts.*

Services Australia has advised the Eva that they cannot assess / include income from rentals / Airbnb properties that the other party elects not to declare in their annual tax returns.

Eva is currently 2 months into the latest Services Australia investigation. Jason continues to pay no child support to her for the support of Kaleb.

4.3 Non-periodic and extraordinary costs

Child support does not cover extra-curricular activities. As such, the only way to try to have such activities covered is an informal arrangement with the other parent, or to use non-period payments as part of the child support plan. Both arrangements are only available on agreement and must specify what payments can be credited towards the child support liabilities of the paying parent.

The negotiation of child support encompasses far more than covering the basic costs of children. As Cook, Natalier and Hayley McKenzie (2015) note, “Decisions [on child support] hold with them complex sets of emotions and strategies to manage longer term financial, emotional and relationship interests. The negotiations and sometimes coerced choices described by mothers are reminders of the impact of relationships on child support outcomes, and the role of child support as both a financial and a social transfer.”³⁶⁷

Payment for non-periodic amounts or extraneous expenses that are made by the payer are ‘extraordinary payments’ or ‘non-agency payments’.³⁶⁸ The most common use of the non-periodic payments provisions is for private school fees.³⁶⁹ The Services Australia website says that a payor can request that Services Australia consider these payments and seek to have their child support payments be reduced by the amount paid. The DSS Social Services Guides also state that the Child Support Registrar³⁷⁰ will accept a parent’s advice (generally the paying parent) that a payment received or the value of goods or services provided by the other parent were intended as a payment towards child support debt and thus, that child support payable at that time should be reduced by the equivalent amount. Where the parents disagree, the Registrar will seek evidence from both parents and decide, on the basis of that evidence, whether the relevant intention existed when the payment was made. The Registrar will look at whether the parents have agreed that previous payments made in similar circumstances were for child support as this may indicate the same intention in relation to the present payment, the circumstances in which the payment was made and whether consent of the payee parent was sought, any documents that support the case of either parent and whether there are legal proceedings afoot that may suggest conflict between the parents.³⁷¹

We could not locate much literature on this issue, but know that many mothers pay for non-periodic costs beyond what their child support agreements cover. And that these mothers choose not to raise these costs to maintain an amicable relationship with the father.

³⁶⁷ Kay Cook, Hayley McKenzie and Kristin Natalier (2015), *Mothers’ experiences of child support: qualitative research and opportunities for policy insight*, *Journal of Family Studies*, Vol. 21(1), 57, p. 64.

³⁶⁸ Services Australia, *Child Support online account help – Advise of extraordinary payment*, Australian Government (Web Page) <[Child Support online account help - Advise of extraordinary payment - Services Australia](#)>.

³⁶⁹ Cath Devine (2023) (as above n 185), p. 142.

³⁷⁰ The Child Support Registrar is the Chief Executive Officer of Services Australia.

³⁷¹ Department of Social Services (2023), 5.3.1 Non-agency payments, *Guide to social policy law: Child support guide* <[5.3.1 Non-agency payments | Child Support Guide \(dss.gov.au\)](#)>.

Quote from Jennifer, victim-survivor of economic abuse

“My ex-husband has not complied with non-periodic payments for years. Because we have a private agreement, I send him a spreadsheet of costs periodically. Often, he will ignore costs, say he doesn't agree or fake his own periodic costs to negate mine. For instance, he will forge receipts for laptops never given to the children. The periodic costs that I require payment for include psychologist costs, dental, health insurance, school uniforms and sports registration. There is very little I can do to enforce payment and have given up. There was an email he sent once that said he wouldn't pay for half of the periodic costs, but if I got into financial strife, he would send me some money.”

Again, rather than providing the gendered, redistributive benefits for which it was established, the child support system seems to reinforce traditional gender roles and power dynamics.

AIFS' submission to the Joint Select Committee in 2020, raised that payers (the majority being fathers) 'feel' that they are paying above their child's needs.³⁷² However, Cook and Christine Skinner (2019), remind us that as the majority of resident parents, mothers, remain financially responsible for providing for their children and their immediate needs.³⁷³ Neither does the assessment formula take into consideration all medical expenses, school activities and camps, birthday parties and social activities for children. Events such as school camps, sport, birthday parties and Christmas are commonly weaponised by paying fathers who may choose to withhold payment around these events / dates to control the mother. Over a third of respondents to Cook, Byrt and Burgin's et. al. study said that their ex-partners deliberately withheld child support right before school fees were due or kids' birthdays as a threat, punishment or to make the mother look like a 'bad mother'. They also said that their ex-partners would threaten them if they asked for other forms of support, such as help with dental bills or school fees.³⁷⁴ As noted in Cook, Goodall, McLaren and Edwards' survey from 2019, 75% of respondents said their children missed out on social activities, 66% of respondents struggled to pay for school fees, books and uniforms, 52% of respondents said they couldn't afford to send their children to school camps, 76% of affected respondents felt that they could not provide their children with what they needed and 73% of respondents said that they got depressed watching their children miss out.³⁷⁵

CSMS's submission to the Australian Parliamentary Inquiry into Family, Domestic and Sexual Violence in 2020 notes how conflict over child support payments and non-periodic costs often results in children being aware of the increased levels of stress for their mother, not having supplies or uniforms that they need at the time they need them and feeling ashamed at not being able to participate in camps, excursions or social activities.³⁷⁶

Resident mothers covering non-periodic costs, in addition to expenses such as utilities, groceries and rent or mortgage repayments, are vulnerable to increased financial stress. Evidence shows that single-parent families in Australia – of which nearly 83% are headed by single mothers – experience higher rates of poverty than any other family type, and that as a result of the cumulative impacts, older women are the fastest growing population group to experience homelessness in Australia.³⁷⁷ Respondents to Cook, Byrt and Burgin's et. al. study overwhelmingly felt the threat of poverty as they raised their children. “[The] impacts of living on a low and unpredictable income are most keenly felt by the children

³⁷² Australian Institute of Family Studies, *Submission to the Joint Select Committee on Australia's Family Law System*, January 2020, p. 24 <Microsoft Word - AIFS Submission to Joint Parliamentary Inquiry submitted20200131.docx>.

³⁷³ Kay Cook and Christine Skinner (2019), *Gender Equality in Child Support Policy: Fathers' Rhetoric of "Fairness" in a Parliamentary Inquiry*, *Social Politics: International Studies in Gender, State and Society*, Vol. 26(1), 164.

³⁷⁴ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 111.

³⁷⁵ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9).

³⁷⁶ Council of Single Mothers and their Children (as above n 317), p.11.

³⁷⁷ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 15.

that the child support system was designed to assist.”³⁷⁸ The responses from Cook, Goodall, McLaren and Edwards’ survey (2019) are also telling – 64% of mothers with child support debts reported difficulty in buying groceries, 66% had drawn on their savings to cover the shortfall in child support and pay for living costs, 59% borrowed money to cover their expenses, 58% said it was difficult for them to run or maintain a roadworthy car, 44% experienced housing stress, with 29% noting that child support debts made it hard to pay their rent, and another 15% noting the same with respect to their mortgage payments.³⁷⁹

4.4 Adult child maintenance

Adult child maintenance is continued financial assistance from parents after the child has turned 18 years. This is because child support is only payable until the child reaches 18 (unless the child is still attending secondary school on a full-time basis after turning 18).³⁸⁰ This application must be made to Services Australia after the child’s 17th birthday but before the child’s 18th birthday. After this time the child support legislation is no longer applicable. If the adult child is over 18, parents can make their own agreement or file consent orders in court to continue maintenance (where both parents agree to the orders) under the FLA.³⁸¹ A court will only make an adult child maintenance order in limited circumstances, namely if it is to support the adult child’s full-time tertiary education or if the adult child has a serious illness or disability. If the adult child ceases their education or ceases to have the relevant disability, the order stops being in force. If the payee does not inform the payer as soon as practicable, overpayments may be recoverable.³⁸²

The contribution to be made by parents will depend on the child’s necessary expenses and income, and the financial circumstances of the parents. “Necessary expenses” can include the adult child’s share of food / household supplies, utility expenses, health expenses, transport and accommodation costs and expenses associated with further education.³⁸³ Because adult child maintenance is court-ordered, many single mothers will forego this administrative process and continue to informally support their adult children even after they have finished secondary education.

It is broadly acknowledged that Millennials and Generation Z are increasingly reliant on their parents for financial support during complex economic times. There is existing literature on this trend; however, the research does not realistically capture the extent of the financial support provided by parents to their adult children, including ad hoc transfers of money. Neither has the nexus between single parents and adult child maintenance nor the reality of adult child maintenance by single mothers in Australia been adequately reported. In the U.S., it is known that divorce is a predictor of less frequent contact and higher conflict levels between adult children and fathers relative to mothers.³⁸⁴ This is suggestive of more reliance on mothers.

According to Housing Income and Labour Dynamics in Australia (**HILDA**) data from 2019–20, in each of the years from 2016 to 2020, the median amount transferred from parents to their adult children in the previous financial year was \$1,000. For those aged between 15–24 years the median was \$500, and for those over 24 it was \$5,000.³⁸⁵ In another survey by Finder involving more than 1,011 respondents, of whom 44% were parents with children over 18, 23% of that number were subsidising

³⁷⁸ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9), p. 21.

³⁷⁹ *Ibid.*

³⁸⁰ *Child support (Assessment) Act 1989 (Cth)*, s 151B.

³⁸¹ *Family Law Act 1975 (Cth)*, s 66L.

³⁸² *Family Law Act (1975)*, s 66VA.

³⁸³ Legal Services Commission of South Australia (2020), *Adult Child maintenance – Fact sheet*, South Australian Government, p. 2 <[Adult Child Maintenance \(lsc.sa.gov.au\)](https://www.lsc.sa.gov.au)>.

³⁸⁴ See: Rin Reczek, Lawrence Stacey and Mieke Beth Thomeer (2022), *Parent–adult child estrangement in the United States by gender, race/ethnicity, and sexuality*, *Journal of Marriage and Family*, Vol. 85(2), 494 <[Parent–adult child estrangement in the United States by gender, race/ethnicity, and sexuality - Reczek - 2023 - Journal of Marriage and Family - Wiley Online Library](https://onlinelibrary.wiley.com/doi/10.1111/jmfm.12582)>.

³⁸⁵ Jennifer Baxter and Megan Carroll (2022), *Financial support between family members – Research Snapshot*, Australian Institute of Family Studies, Australian Government, p. 3 <[AIFS Snapshot: Financial support between family members](https://www.aifs.gov.au/ifs/research-snapshots/financial-support-between-family-members)>.

the cost of their adult child's groceries, 17% allowed their adult children to live at home rent free, while 14% said they paid for their adult children's bills (e.g., phone and internet).³⁸⁶ The latest HILDA data from 2022 also confirmed a sustained trend towards young adults staying in the family home until their mid-late 20s.³⁸⁷ This has only deepened post-COVID 19 with the cost of living crisis. Between September 2021–2022, a reported 13% of Australians had either moved back home with their parents or had an adult child return home for reasons ranging from caring obligations to saving money. This is equivalent to 858,000 households across the country.³⁸⁸

Outside of these reports, evidence of child maintenance by single mothers in Australia is largely anecdotal. It is known that often children feel unable to ask their fathers for money to help them realise their life needs. Mothers are left to pay for children's ad hoc financial needs throughout their lives. Commonly, the father will know that their child will be supported financially by the mother and will then push the responsibility for ad hoc payments to her. These kinds of financial transfers and support are likely to be informal.

Quote from Jennifer, victim-survivor of economic abuse

“My three children come to me for all their ad hoc financial needs even during the weeks they are with my ex-husband. They have learnt to not ask him for any money. If I don't send them food, transport or social money they would simply go without.”

One of the few pieces of literature we could locate was a 2014 paper by Sally Goldfarb published in the Harvard Journal of Law and Gender.³⁸⁹ Her literature review on financial support provided to adult children by parents (divorced and married) confirmed that U.S. adult children from separated households received less parental support than their counterparts, but that adult children were more likely to live with, be in close contact with and receive financial support from their mothers into adulthood. In one study cited by Goldfarb, twice as many young adults whose parents were divorced received money from their mothers as from their fathers, and about ten times as many were living with their mothers as their fathers.³⁹⁰ Notably, voluntary support for adult children attending college was more often provided by divorced mothers than by divorced fathers – only 29% of children of divorced parents in California received full or consistent partial support for college, compared to 88% of children of married parents. Where divorced fathers did financially contribute toward college, they were more likely to support their sons rather than daughters.³⁹¹ The result is that children of divorced, separated and unmarried parents have on average lower rates of attending and graduating from college than those whose parents are married to each other. This remains true in the U.S. as at 2018.³⁹²

³⁸⁶ Anastasia Lloyd, *Bank of Mum and Dad: 44% of parents subsidise the lives of their adult kids*, Finder.Com (Blog Post, 11 November 2020) <[Bank of Mum and Dad: 44% of parents subsidise the lives of their adult kids | finder.com.au](#)>.

³⁸⁷ Roger Wilkins, Esperanza Vera-Toscano, Ferdi Botha, Mark Wooden and Trong-Anh Trinh (2022), *The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 20, The 17th Annual Statistical Report of the HILDA Survey*, Melbourne Institute: Applied Economic & Social Research The University of Melbourne <[HILDA Statistical Report 2022.pdf \(unimelb.edu.au\)](#)>.

³⁸⁸ Natascha Kwiet-Evans, *Boomerang generation: 858,000 Aussie households have an adult kid living at home*, Finder.Com (Blog Post, 26 September 2022) <[Boomerang generation: Australians are moving back in with their parents \(finder.com.au\)](#)>.

³⁸⁹ Sally F Goldfarb (2014), *Who pays for the 'boomerang generation'? A legal perspective on financial support for young adults*, Harvard Journal of Law and Gender, Vol. 37 <[untitled \(ssrn.com\)](#)>.

³⁹⁰ *Ibid.*, p. 80.

³⁹¹ *Ibid.*, p. 78.

³⁹² See: M. Scott Gordon, *Are Children of Divorce Less Likely to Graduate from College?* Gordon & Perlut, LLC (Blog Post) <[Are Children of Divorce Less Likely to Graduate from College? \(familylawadvocate.com\)](#)>, Study: *Children of Divorce Less Likely to Earn Degree, Inside Higher Ed* (Blog Post, 28 August 2018) <[Study: Children of Divorce Less Likely to Earn Degree \(insidehighered.com\)](#)> and Angie Hunt, *Children of divorce are less likely to earn a four-year or graduate degree, according to a new study, Futurity* (Blog Post, 29 August 2019) <[Kids of divorce less likely to earn college degrees - Futurity](#)>.

Concerningly, as Goldfarb notes, this means that financially struggling single mothers who support adult children are at a heightened risk of becoming impoverished in their older age.³⁹³ Goldfarb writes, “Most mothers supporting adult children are on the threshold of middle age or beyond. Thus, their financial contributions to their adult children come at a time when they should be preparing for their own retirement. Women who make financial sacrifices on behalf of their adult children at the expense of their own retirement savings are in danger of economic disaster in old age.”³⁹⁴ This is supported by research in Australia which shows that older single women have emerged as the fastest growing cohort of people experiencing housing stress and homelessness, though the links between poverty in older women and adult child maintenance are not known.³⁹⁵

4.5 Impacts of the family violence exemption

While all separated mothers are required to seek child support as a condition of their FTBA eligibility (known as the Maintenance Action Test or ‘MAT’), women who experience family violence can seek an ‘exemption’ from child support. In practice, the exemption is accessible for reasons relating to fear of violence, risk of harmful or disruptive effects, exceptional cultural circumstances, where the father of the child is unknown or where the identity of the father cannot be proven.³⁹⁶ The rationale behind the exemption is that it is warranted (based on the legislation and policy) where it is inappropriate for an individual to maintain contact with the mother and child because they are dangerous and may pose a risk of future violence.³⁹⁷

Services Australia may identify at-risk parents and may support the granting of the family violence exemption where the parent has not yet applied for a child support assessment.³⁹⁸ However, the ultimate decision to exempt their ex-partner from paying child support is the individual decision of the mother once she is determined to be eligible.³⁹⁹ If the full exemption is not wanted, a partial exemption may also be granted to enable the mother to “collect whatever [she] can privately without the full deemed amount being applied.”⁴⁰⁰ A past history of family violence without a current risk of family violence may not in itself support an exemption.⁴⁰¹ In 2022, only approximately 14% of the total child support caseload had a family violence exemption in place.⁴⁰² This is likely a fraction of the true number of women who experience post-separation family violence.

The literature is unanimous that the family violence exemption creates a perverse situation in which the only way to keep the mother and her child(ren) safe is to withdraw all claims for child support. For these mothers and their children, there is the double burden of both the continued threat of violence and the reduced income associated with not receiving child support. The mother remains entitled to welfare payments and the FTB above the base rate, but she misses out on supplemental income from child support – which is not compensated for by income support.⁴⁰³ This is particularly evidenced whether a mother obtains an exemption for her high-income ex-partner or where her child has special needs; in these circumstances it is unlikely that the corresponding increase in the FTBA will match the payments

³⁹³ Sally F Goldfarb (2014) (as above n 389), p. 85.

³⁹⁴ *Ibid.*, p. 84.

³⁹⁵ See: Australian Human Rights Commission (2019), *Risk of Homelessness in Older Women: Background Paper Exploring a Growing Problem <Older Women's Risk of Homelessness: Background Paper (2019) | Australian Human Rights Commission>*.

³⁹⁶ Department of Social Services (2023), 3.1.2.70 Exemptions from the maintenance action test, *Guides to Social Policy Law Child Support Guide*, Australian Government <3.1.5.70 Exemptions from the maintenance action test | Family Assistance Guide (dss.gov.au)>.

³⁹⁷ National Social Security Rights Network (2018), *How well does Australia's social security system support victims of family and domestic violence? Surry Hills: NSSRN*, pp. 41-42 in Heather Douglas and Rachna Nagesh (2021) (as above n 28), p. 543.

³⁹⁸ Department of Human Services (2021), *Child Support and your Family Tax Benefit Part A*, Australian Government <<https://www.servicesaustralia.gov.au/child-support-and-your-family-tax-benefit-part>>.

³⁹⁹ *Ibid.*

⁴⁰⁰ *Ibid.*

⁴⁰¹ Kristin Natalier (2018) (as above n 16), p. 125.

⁴⁰² Department of Social Services (2022), *Services Australia child support extract data 2022, Child support program fact sheet – September Quarter 2022* <https://data.gov.au/data/dataset/6379b974-e547-4303-a361-6ede52550/resource/6b8cb72e-3ff4a23-b1e161123518132d/download/child-support-a3-factsheet-september-qtr-2022-finalr1-pdf-09_12_22.pdf>.

⁴⁰³ Rebecca Patrick, Kay Cook and Hayley McKenzie (2008), *Domestic Violence and the Exemption from Seeking Child Support: Providing Safety or Legitimizing Ongoing Poverty and Fear*, *Social Policy and Administration*, Vol.42(7), 749.

she would have received. Exempting a violent partner from paying is also contrary to the rights (or best interests) of the child. And as noted as by Rebecca Patrick, Kay Cook and Hayley McKenzie (2008), the “impact of poverty compounds the impact of violence and violence creates and extends poverty for women and their children.”⁴⁰⁴ As such, neither does the child support policy nor the family violence exemption provide the intended protection in terms of reducing single mother poverty. Some of the literature goes so far as to suggest that the family violence exemption, and process, is akin to subjecting women to further domination and subordination.⁴⁰⁵

There are four key issues identified in the literature in relation to the family violence exemption. Firstly, that some mothers are unaware or not informed of the exemption by their Services Australia caseworkers. Related to this is that any available information is difficult to navigate and understand. Without clear and available information, mothers may be deterred from applying.⁴⁰⁶ Secondly, that Services Australia are not supportive through the application process and are often ill-equipped to handle disclosures of family violence. These feelings of not being supported are heightened for culturally and linguistically diverse groups.⁴⁰⁷ The aforementioned also generally relate to how child support recipients perceive interactions with Services Australia. Thirdly, that some mothers fear their ex-partner’s (re)actions if they get an exemption (though some mothers report the opposite – being threatened to pursue an exemption so that fathers do not have to make child support payments).⁴⁰⁸ Other women believe it would be easier to negotiate with their violent ex-partners than involve Government agencies.⁴⁰⁹ Fourthly, that when mothers are granted the family violence exemption, the violent partner is essentially ‘rewarded’ by not having to pay child support.⁴¹⁰ In those U.S. States with similar policy contexts to Australia, the child support debt keeps accruing whilst there is a waiver in place but once it has expired the former partner is liable for full payment. Whereas in Australia, neither does the violent partner have to pay child support nor does any debt accrue creating little motivation to pay, and in effect they are financially rewarded for their previous abuse.

Patrick, Cook and McKenzie (2008) asked 19 single mothers about how policies and practices shaped their experiences as single parents seeking and using child support from violent ex-partners.⁴¹¹ All of the mothers at some point either feared or were at risk of ongoing violence and abuse and hence were entitled to apply for the family violence exemption. But of the nineteen mothers, only seven applied for and were granted an exemption.⁴¹² These mothers applied for the exemption because of the advice provided by the key agencies, which was to ensure income support payments and/or to minimise the risk of further abuse.⁴¹³ These mothers said that the exemption was a “short-term” solution to their child support arrangements and useful for decreasing immediate threats or fear of violence during the initial period of separation transition. A key factor in deciding to seek an exemption was the support and trust of CSA staff.⁴¹⁴ Without a supportive caseworker many respondents dropped out of the exemption process. Others were unable to secure an exemption due to a lack of recognition of violence, despite having been in a long-term relationship with their perpetrator, or because they had not been notified that they could apply for an exemption.⁴¹⁵ The findings point to a real inconsistency in the application of child support policy which, according to Patrick, Cook and McKenzie, results in women being “further

⁴⁰⁴ *Ibid*, p. 754.

⁴⁰⁵ *Ibid*, p. 760.

⁴⁰⁶ Heather Douglas and Rachna Nagesh (2021) (as above n 28), p. 545.

⁴⁰⁷ *Ibid*.

⁴⁰⁸ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 29.

⁴⁰⁹ Heather Douglas and Rachna Nagesh (2021) (as above n 28), p. 545.

⁴¹⁰ Rebecca Patrick, Kay Cook and Hayley MacKenzie (2008) (as above n 403), pp. 752-753 and Kay Cook (2022), *The failure of child support: Gendered systems of inaccessibility, inaction and irresponsibility*. Policy Press cited in Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 103.

⁴¹¹ Rebecca Patrick, Kay Cook and Hayley MacKenzie (2008) (as above n 403), p. 754.

⁴¹² *Ibid*, p. 757.

⁴¹³ *Ibid*.

⁴¹⁴ *Ibid*.

⁴¹⁵ *Ibid*, pp. 758-759.

marginalised as they are excluded from the decision-making process” about their own futures and security.⁴¹⁶

The above findings are echoed in Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards’ 2019 survey.⁴¹⁷ For the mothers with histories of family violence, 41% (n= 191) did not know that they could seek the exemption, 5% did not know enough to seek the exemption and 6% did not feel supported by caseworkers to seek an exemption.⁴¹⁸ Resultingly, only 12% (n= 56) had sought an exemption on the basis of experiencing post-separation abuse.⁴¹⁹ In response to the question of whether family violence or conflict influenced their child support arrangement, 20% of mothers said they sought Agency Collect because it would be unsafe to use Private Collect. Conversely, 7% said they sought Private Collect because they thought it would reduce conflict.⁴²⁰ Elsewhere we have noted that underpayment and withholding of child support is rife in private agreements. Andi Sebastian and Irit Ziv (2019) also find that payee parents who reported experiencing family violence report lower proportions of compliance with child support obligations generally.⁴²¹

Heather Douglas and Rachna Nagesh’s (2021) study draws on interviews with 65 women from Brisbane, Queensland who had experienced family violence and engaged with the legal system for this violence.⁴²² Of this number, 26 discussed issues of child support. Only four of the 26 mothers had an active family violence exemption, one had applied but been refused and three had decided not to apply.⁴²³ Most found out about the exemption from social workers (not from Services Australia). However, Douglas and Nagesh note that this is in contrast to Kristin Natalier’s finding from 2018, where none of the 31 women she interviewed about their engagement with child support were offered the exemption even where they had reported prior physical abuse.⁴²⁴ This is again evidence of the inconsistency in application referred to by Patrick, Cook and McKenzie above. As Douglas and Nagesh suggest, there is an unfair responsibility placed on single mothers to wholly deal with post-separation violence and threats to safety (including financial) whilst still providing for their children, which is the “significant moral paradox” posed by the exemption.⁴²⁵ They contend that fathers being able to get out of paying anything is economic abuse, manipulation of the system and part of men’s broader pattern of coercive and controlling behaviour.⁴²⁶

Stakeholders have long campaigned for guaranteed child support payments as the most practical option for women who experience family violence in the relationship and post-separation abuse. Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) recommend that the Government – rather than the individual woman – could be the child support payee in such cases, continuing to seek collection and enforce compliance of the payer.⁴²⁷

⁴¹⁶ *Ibid*, p. 760.

⁴¹⁷ Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9).

⁴¹⁸ *Ibid*, p. 18.

⁴¹⁹ *Ibid*.

⁴²⁰ *Ibid*.

⁴²¹ Andi Sebastian and Irit Ziv (2019) (as above n 317), p. 16.

⁴²² Heather Douglas and Rachna Nagesh (2021) (as above n 28).

⁴²³ *Ibid*, p. 546.

⁴²⁴ Kristin Natalier (2018) (as above n 16), p. 127 cited in Heather Douglas and Rachna Nagesh (2021) (as above n 399), p. 548.

⁴²⁵ Heather Douglas and Rachna Nagesh (2021) (as above n 28), pp. 549-550.

⁴²⁶ *Ibid*, p. 552.

⁴²⁷ Kay Cook, Adrienne Byrt and Rachael Burgin et. al. (2023) (as above n 6), p. 137.

5. International models

Summary

The literature demonstrates that Australia differs from some of its international counterparts, in that the burden of responsibility for seeking and enforcing child support falls disproportionately on the mothers. International approaches demonstrate that Government involvement through guaranteed child support schemes, as implemented in some of the Nordic countries, would shift the burden of enforcing any outstanding child support debt from the mother to the Government.

The research on international child support systems is vast, and for that reason this Paper covers only a small sub-set of the literature.

Fathers' non-compliance with child support obligations is understudied globally. Most of the research on child support has been conducted in Australia, the United States and some European countries where national household surveys (e.g., the European Union Statistics on Income and Living Conditions) specifically ask about child support and single mother's experience of poverty.⁴²⁸ But even then, Kay Cook (2022) writing for Transforming Society, a media channel published by Bristol University Press and Policy Press in the United Kingdom, argues that existing data on child support only reinforces the idea that systems are 'working', even when they are not.⁴²⁹ Although most countries possess records on how many families enter into the child support system, and a subset of these countries have information regarding whether these families qualify for increased or decreased income support as a consequence, this data fails to offer insights into whether the system is working. Record-keeping and the veracity of this data for parents who have private agreements is even more questionable, although is commonly presumed that compliance is at 100%.⁴³⁰

Much less is known about child support in low-income countries. There is a real need to conduct cross-national, comparative analysis on the child support system. Laura Cuesta's brief for UN Women (2020) also recommended that child support data be added to existing national household surveys and longitudinal studies on poverty in women and single mothers.⁴³¹

Research by the Organisation for Economic Co-operation and Development showed that as far back as 2010, for 21 wealthy countries from the 'Global North', fewer than 50% of children in single parent families received any child support.⁴³² More recently, Laura Cuesta's (2020) analysis of single parent households in 33 countries including, amongst others, Chile, the Dominican Republic, United States, United Kingdom, Ireland, France, Australia and Canada, confirmed that in 27 of the countries examined, the majority of resident mothers did not receive any child support.⁴³³ Rates of compliance were highest

⁴²⁸ Dr. Laura Cuesta (2020), *Public Guarantee of Child Support: A Key Policy for Improving the Economic Well-being of Lone-Mother Families*, UN Women Policy Brief No. 25, p. 2 <[Policy-brief-Public-guarantee-of-child-support-en.pdf \(unwomen.org\)](#)>.

⁴²⁹ Kay Cook, *The international failure of child support*, Transforming Society (Blog Post, 3 May 2022) <[Transforming Society ~ The international failure of child support](#)>.

⁴³⁰ *Ibid.*

⁴³¹ Dr. Laura Cuesta (2020) (as above n 428), p. 5.

⁴³² Organisation for Economic Co-operation and Development – Social Policy Division – Directorate of Employment, Labour and Social Affairs (2010), PF1.5: *Child Support*, OECD Family Database <[Child Support \(oecd.org\)](#)>.

⁴³³ Dr. Laura Cuesta (2020) (as above n 428), p. 2.

in the Nordic countries including, Denmark, Iceland and Austria and lowest in France, Guatemala and Egypt.⁴³⁴ In two-thirds of the countries examined, poverty rates among single parent families were double those observed among two parent families. The United States was among the countries that had both the highest single parent poverty rates and the largest difference between single and two parent family poverty rates.⁴³⁵

Mia Hakovirta and Merita Jokela (2019) remind us that the overall poverty reduction effect of child support for single parent families is also dependent on the amounts received, as well as the rate of receipt.⁴³⁶ Their study looks at the extent to which child support assists single mother families with low-incomes (compared to families with moderate or higher incomes) across Finland, Germany, Spain, the United Kingdom and United States.⁴³⁷ Hakovirta and Jokela use Luxembourg Income Study data from 2013 that includes information on household composition, incomes, expenditure and employment. They find that in Finland, Spain and the United States, over half of single mothers' income comes from earnings, while in the United Kingdom, earnings constitute only around 30% of single mothers' (and single mothers' who receive child support) total income. The most significant source of income for single mothers in the United Kingdom comes from income support from the Government.⁴³⁸ Child support constitutes 25% of single mothers' income in households who receive child support in Spain, and nearly 20% in the United States and Germany.⁴³⁹ Receipt of child support is highest in Finland where 80% of single mothers receive child support or guaranteed child support. But despite the availability of guaranteed payments, over 60% of single mother households in Germany report low compliance.⁴⁴⁰ The above evidences that there is great variation in the coverage, access and the level of the child support across and within countries because of different levels of enforcement.⁴⁴¹ In Spain for example, child support is rarely enforced, because court proceedings are slow and expensive and single parents cannot afford lawyers. In Germany single mothers with low-income seem to benefit most from child support as the proportion of single mothers receiving child support payments is highest in the two lowest income quintiles and lowest among the wealthiest income group.⁴⁴² Most notably, Hakovirta and Jokela's results show that in contrast to the United Kingdom and the United States, in Finland, Germany and Spain more single mothers who are in the low-income quintiles and below the poverty threshold receive child support.⁴⁴³ This may be because of guaranteed child support. Finland, Germany and Spain also have dual income models, whereas in the United Kingdom and some States in the United States, only the incomes of the non-resident parent are taken into account when assessing the support level.

The reasons for non-compliance with child support policy across different countries are likely to be similar, albeit with slight nuance based on the demographics, policy context and cultural values in that country. In a comparison of child support schemes in selected countries published in 2005, the DSS noted: "Of course, it is always difficult to make international comparisons of complex structures such as a child support scheme or family benefit regimes, where the tax, law, welfare, education, and health systems are all involved. Countries do not necessarily collect the same data in the same way, and some factors, such as community values, are problematic to measure or analyse, let alone compare. In addition, benefits provided to families may vary greatly between high-and low-income families, single-

⁴³⁴ *Ibid*, p. 3.

⁴³⁵ *Ibid*.

⁴³⁶ Mia Hakovirta and Merita Jokela (2019), *Contribution of child maintenance to lone mothers' income in five countries*, *Journal of European Social Policy*, Vol.29(2), 257.

⁴³⁷ *Ibid*.

⁴³⁸ *Ibid*, p. 264.

⁴³⁹ *Ibid*.

⁴⁴⁰ *Ibid*, p. 265.

⁴⁴¹ *Ibid*, p. 268.

⁴⁴² *Ibid*.

⁴⁴³ *Ibid*, p. 269.

and dual-income families, and families with different numbers of children, so it is difficult to ascribe a particular "level" of benefit to a country."⁴⁴⁴

Cook suggests that there are three main factors contributing to the universal experience of non-payment of child support.⁴⁴⁵ We know these to be the experiences of resident mothers in Australia. Firstly, child support schemes place the onus on mothers to pursue child support payments. Cook writes, "[Fathers] are often largely free to ignore mothers' or state requests, evade systems, withhold information, impose conditions or not comply. If fathers do not freely share their resources with children, it is mothers who must re-exert themselves through administrative, legal or interpersonal systems to recommence this institutionalised system of begging." Secondly, child support schemes have become a political battlefield between mothers and fathers, so much so that children's rights have become the secondary focus. Reforms over the years have focused on optimising the child support formula, so that the system is 'fair' to mothers and fathers. This means that any underpayment is framed as suspicious because of the assumed "technical precision of the system or with mothers' failure to enact the system." Fathers' responsibilities are again minimised. Thirdly, by encouraging private agreements Governments can absolve themselves of responsibility for non-compliance. This is even as systems that encourage private agreements and transfers ignore the gendered financial, social and relational power differences that exist between mothers and fathers. Cook writes, "By condoning – and actively championing – private negotiations as a better way to calculate and transfer payments, states reinforce single mothers' subordinate financial and social status."⁴⁴⁶

Mia Hakovirta and Laura Cuesta et. al. (2022) analyse child support policy across 13 high-income countries and explore the similarities and differences across child support policy.⁴⁴⁷ Three main child support schemes emerge from their analysis: court-based systems,⁴⁴⁸ agency-based systems (e.g., Australia) and hybrid systems⁴⁴⁹ (in which the courts and another agency/institution are involved in calculating obligations).⁴⁵⁰ In addition, many countries, including Australia, encourage parents to negotiate their own private agreements but with certain qualifications; in Spain, these agreements need to be ratified by another body to be binding and in the United States, parents receiving income support are not allowed to use private agreements.⁴⁵¹

They further find that while in most countries, like Australia, the incomes of both parents are considered in determining the amount of child support, only the non-resident parents' incomes are explicitly considered in Iceland, Netherlands, the United Kingdom, New Zealand, Canada and a minority of States in the United States.⁴⁵² The most common policy response is to reduce child support amounts based on nights spent at the non-resident parent's house, in some countries no reductions in child support are made when there are shared care arrangements.⁴⁵³

There is little research on how often various enforcement actions are taken or their effectiveness, though the most common enforcement tools in Hakovirta and Cuesta's et. al. analysis seem to be liens⁴⁵⁴, holding people in contempt of court, stopping parents from leaving the country, automatic deductions

⁴⁴⁴ Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (2005), *A Comparison of Child Support Schemes in Selected Countries to the Secretariat to the Ministerial Taskforce on Child Support*, Australian Government p. 1 <[A Comparison of Child Support Schemes in Selected Countries - Secretariat to the Ministerial Taskforce on Child Support May 2005 \(dss.gov.au\)](#)>.

⁴⁴⁵ Kay Cook (2022) (as above n 429).

⁴⁴⁶ Ibid.

⁴⁴⁷ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022), *Child Support Policy across High-Income Countries: Similar Problems, Different Approaches*, *The ANNALS of the American Academy of Political and Social Science*, Vol. 702(1), 97 <[Child Support Policy across High-Income Countries: Similar Problems, Different Approaches - Mia Hakovirta, Laura Cuesta, Mari Haapanen, Daniel R. Meyer, 2022 \(sagepub.com\)](#)>.

⁴⁴⁸ For example: Austria, Canada, France, Germany and Ireland.

⁴⁴⁹ For example: Finland, Netherlands, Sweden and the United States.

⁴⁵⁰ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447), p. 99.

⁴⁵¹ Ibid, p. 104.

⁴⁵² Ibid, p. 100.

⁴⁵³ Ibid.

⁴⁵⁴ A lien is right to retain the possession of property and hold it as security for goods or services provided until payments are made, or obligations fulfilled.

from wages, driver's license suspension and even incarceration.⁴⁵⁵ That being said, the United Kingdom's Child Maintenance Service reportedly removed just three passports and one driving license for non-compliance in 2021.⁴⁵⁶ Most European countries (discussed below under section 5.2) now have guaranteed child support. Each country's guaranteed child support scheme is slightly different. In France, guaranteed support is available only for those who have not re-partnered. In Belgium, Norway and Spain, only low-moderate income households qualify for guaranteed support. Germany limits the guaranteed payments to a maximum of 72 months or until the child turns 12.⁴⁵⁷ Some countries guarantee support on non-compliance, whereas in Finland, France and Sweden it is also available to 'top up' private support to complement the amount of child support that was meant to be paid. In most countries, the public guarantee is less than the amount ordered for the typical couple. In Spain and Estonia, the public guarantee is less than half the amount due from the other parent. In Norway, Finland, and France, the public guarantee is between half and 70% of the order for a typical couple. But in Sweden, the public guarantee is higher than the amount that would be ordered for a typical income one child family.⁴⁵⁸ Australia, the United States, United Kingdom and New Zealand do not have guaranteed schemes.

All of the countries in Hakovirta and Cuesta's et. al. study face challenges related to non-payment of child support.⁴⁵⁹ They deduce that single mother poverty is closely related to enforcement of non-payment, and the impacts can be allayed by policy such as guaranteed support. Cuesta, writing for UN Women, points out that a strong child support enforcement agency doesn't always guarantee comparative rates of compliance. For example, despite the United States spending US\$5.8 billion on enforcement programs in 2017 alone, only 50% of single parents had a child support agreement in place that year and, of these parents, fewer than 50% received full payment.⁴⁶⁰ Cuesta says that in the United States, non-compliance is primarily linked to fathers' ability to pay and less so to fathers' willingness to pay. Many fathers want to pay support but do not have the resources to comply with their obligations. Moreover, the child support enforcement system often fails to acknowledge how racial inequality shapes the labour market of many fathers in the United States, especially Black fathers.⁴⁶¹

This is one perspective on non-payment in the United States, but backed up by Hakovirta and Cuesta et. al. who say of the United States' experience, "an enforcement-focused approach for parents struggling to make payments can be counterproductive, and a services-oriented approach for parents who could make payments but are unwilling risks ineffective (and potentially expensive) policies."⁴⁶²

Hakovirta and Cuesta et. al. and Cuesta recommend a system of guaranteed child support. Hakovirta and Cuesta et. al. write, "A guarantee tied to the level of the order follows from the perspective of child support being the right of the child. Having a known and stable amount of support would result in a more stable budgeting for the child's family, which could result in different choices about housing quality or other investments in children. Moreover, it would shift the social contract so that the custodial parent and children were not harmed by nonpayment."⁴⁶³ Similarly, Cuesta recommends "Build(ing) on existing cash transfer programmes to create a public guaranteed child support for lone-mother families [and] Ensur(ing) that a public guaranteed child support programme is compatible with other social welfare programmes; lone mothers should not have to choose between receiving child support and receiving other Government benefits."⁴⁶⁴

⁴⁵⁵ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447), p. 103.

⁴⁵⁶ Child Maintenance Service (2021), *Child Maintenance Service statistics: data to September 2021 (experimental)*, Government of the United Kingdom <[Child Maintenance Service statistics: data to September 2021 \(experimental\)](https://www.gov.uk/government/statistics/child-maintenance-service-statistics-data-to-september-2021-experimental) - GOV.UK (www.gov.uk)>.

⁴⁵⁷ Mia Hakovirta and Merita Jokela (2019) (as above n 436), p. 260.

⁴⁵⁸ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447), pp. 104–107.

⁴⁵⁹ *Ibid.*, p. 108.

⁴⁶⁰ Office of Child Support Enforcement (2021), *Annual Report to Congress FY 2018, Administration for Children and Families*

<https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2018_annual_report.pdf> in Dr. Laura Cuesta (2020) (as above n 385), p. 2.

⁴⁶¹ Dr. Laura Cuesta (2020) (as above n 428), p. 2.

⁴⁶² Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447), p. 108.

⁴⁶³ *Ibid.*, p. 106.

⁴⁶⁴ Dr. Laura Cuesta (2020) (as above n 428), p. 5.

5.1 United Kingdom

Child support (or 'child maintenance' as it is referred to in the United Kingdom) is paid for children under 16 (or under 20 if they are still in full-time education).⁴⁶⁵ There is no requirement for separated families to have an arrangement for child support, and in some cases both parents may want no arrangement. The National Audit Office (NAO) (2022) estimates that 44% of separated families in the United Kingdom have no child support arrangement, 38% of separated families have a private arrangement and 18% of separated families use a statutory arrangement.⁴⁶⁶ Statutory arrangements are administered by the Department for Work & Pensions' Child Maintenance Service (CMS), which replaced the Child Support Agency in 2012. Since 2012 there have been two types of statutory arrangement – Direct Pay and Collect & Pay. Direct Pay is when CMS are responsible for working out the amount of child support a non-resident parent must pay, but parents agree between themselves how and when payments are made.⁴⁶⁷ Currently, the only factor that can be considered in denying a Direct Pay arrangement is when a paying parent is deemed 'unlikely to pay' based on their history within CMS.⁴⁶⁸ Under Collect & Pay, CMS calculates the amount of child support, then collects the payment from the payer and pays it to the payee. There are ongoing collection charges for use of the Collect & Pay service.⁴⁶⁹ As at March 2022, 510,000 children were on Direct Pay arrangements and around 270,000 were on Collect & Pay.⁴⁷⁰ CMS charges the payer 20% and the payee 4% of the amount collected for Collect & Pay arrangements. These fees are waived for victim-survivors of family violence (or 'domestic abuse' as it is referred to in the United Kingdom) but not for low-income single parents.⁴⁷¹ The fees were part of a move to push families into family-based arrangements while reducing Government involvement and expenditure.⁴⁷² Over 90% of single parent households in the United Kingdom are headed by mothers.⁴⁷³ Unlike the dual income model in Australia, in the United Kingdom, the income of the resident parent is not relevant to the child support payable by the non-resident parent. Child support is calculated on the net-income of the non-resident parent and is an approximation of what they would spend if their child lived with them.⁴⁷⁴ Deductions can be made for shared overnight care, and both parents can ask CMS to take into account other expenses (exceeding £10 a week) such as for costs of keeping regular contact with a child/ren (e.g., fuel or travel costs), boarding school fees, mortgage, loan or insurance payments from the joint property and costs of supporting a child with a disability or long-term illness. The resident parent can ask CMS to take any additional income and assets into account including, rental income over £2,500 a year, interest and dividends from savings and investments over £2,500 a year, any income the payer may be diverting so that it is not included in the calculation (e.g., giving it to someone else or choosing to have a company car instead of a higher salary) and assets like shares and stocks. If the payer's gross weekly income is more than £3,000, the resident parent can also apply to the court for extra child support.⁴⁷⁵

Child support in the United Kingdom has undergone various reforms over the years. As noted by the media site, PoliticsUK, "Where the initial introduction of the Child Support Agency was publicly driven

⁴⁶⁵ UK Government, *Child Maintenance Service (Web Page)* <[Child Maintenance Service: What child maintenance is - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/organisations/child-maintenance-service/about-us)>.

⁴⁶⁶ National Audit Office (2022), *Child maintenance session 2021–2022, a Report by the Comptroller and Auditor General for the Department for Work & Pensions*, p. 4 <[Child maintenance \(Summary\) \(nao.org.uk\)](https://www.nao.org.uk/publications/2022/child-maintenance-session-2021-2022/)>.

⁴⁶⁷ UK Government, *Child maintenance: paying through the Child Maintenance Service (Guidance) (Web Page)* <[Child maintenance: paying through the Child Maintenance Service - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/child-maintenance-paying-through-the-child-maintenance-service)>.

⁴⁶⁸ Both parents are given a choice of which arrangement they prefer. If either parent chooses Direct Pay, the payment method will be Direct Pay. If the paying parent misses or is late with payments, CMS can change the payment method from Direct Pay to Collect and Pay. Therefore, Direct Pay is the default method if either parent opts for Direct Pay. However, this method is denied by CMS if the paying parent misses or is late with payments.

⁴⁶⁹ UK Government, *Child maintenance: paying through the Child Maintenance Service (Guidance) (Web Page)* <[Child maintenance: paying through the Child Maintenance Service - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/child-maintenance-paying-through-the-child-maintenance-service)>.

⁴⁷⁰ National Audit Office (2022) (as above n 466), p. 7.

⁴⁷¹ *Ibid.*, p. 5. Also see: the rules regarding waivers are stipulated in the *Child Support Fees Regulations 2014*, regs 4 and 12.

⁴⁷² *Ibid.*, p. 9.

⁴⁷³ Richard Partington, *Half of all children in lone-parent families are in relative poverty*, *The Guardian* (Online, 4 July 2022) <<https://www.theguardian.com/business/2022/jul/04/half-of-all-children-in-lone-parent-families-are-in-relative-poverty>>.

⁴⁷⁴ UK Government, *How the Child Maintenance Service works out child maintenance (Web Page)* <[Print How the Child Maintenance Service works out child maintenance: How child maintenance is worked out - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/how-the-child-maintenance-service-works-out-child-maintenance)>.

⁴⁷⁵ *Ibid.*

by a desire to reduce the cost of benefits paid to lone parents and to improve work incentives, later reforms have been far more explicitly predicated around reducing child poverty. There has been a debate as to the extent to which this latter objective has been effective.⁴⁷⁶ In fact, the statutory system introduced in 2012 is intended to act as a fallback for parents rather than default.⁴⁷⁷ This objective of reducing Government expenditure on CMS and maximising the number of child support arrangements made without Government involvement has been effective. The NAO notes that the take-up of family-based arrangements had risen by close to 10% between 2012 and 2020.⁴⁷⁸ At the same time, CMS reduced the gross annual cost to the taxpayer of administering child support by 27%, from £497 million in 2011–12 to £365 million in 2020–21.⁴⁷⁹

CMS considers a child support arrangement to be effective if at least some of the amount due is paid in the previous three months, payments are at least usually on time and the parent surveyed thinks it works well. It also considers a family-based arrangement to be effective if the parent surveyed, again, thinks it works well, even where child support payments are irregular.⁴⁸⁰ In early 2020, CMS reported that Collect & Pay had a compliance rate of 68%, but it is widely believed that actual rates of non-compliance are much higher. Joe Richardson and Adam Butler (2021) estimate that just 29% of single parents were receiving the full amount of child support due to them on a regular basis at this time.⁴⁸¹ And just 24% of those who had experienced economic abuse received child support payments in full or on a regular basis regularly, compared to 38% of those who had not.⁴⁸² Richardson and Butler reiterate that because CMS considers that a paying parent is compliant if the paying parent has paid “something” towards their child support arrangement over the past three months, a paying parent can be contributing 1% of what is actually owed and will still be presented as compliant.⁴⁸³

The NAO reports that arrears in Direct Pay arrangements were estimated to be £40 million as of October 2021 and for Collect & Pay, which CMS has responsibility for collecting, £440 million. As at September 2021, one in four paying parents with an ongoing arrangement had not paid any child support on their Collect & Pay arrangement for more than three months, and one in seven had not paid for more than six months.⁴⁸⁴ The NAO notes that most parents don't stay on Direct Pay, despite starting on this arrangement, because of the difficulty in enforcing payments. Part of the issue is that CMS does not monitor whether payments are made. On average, paying parents moving onto Collect & Pay in the quarter ending September 2021 from Direct Pay owed £1,100, around five months' worth of maintenance to the resident parent.⁴⁸⁵

Low-income paying parents are more likely to build up arrears on Collect & Pay than the higher-income parents – 46% of paying parents using CMS do not earn enough to pay income tax (the threshold being £12,570 in 2021–22), but these parents represented 62% of those with arrears as at March 2021.⁴⁸⁶ Parents in the bottom 20% income quintile are twice as likely to be in family courts (often challenging shared finances) as those in the top 20%.⁴⁸⁷ Because of these reasons, single mothers in the United Kingdom are also likely to experience debt and poverty at disproportionate rates.⁴⁸⁸

⁴⁷⁶ *Child Maintenance, PoliticsUK* (Blog Post, 12 April 2023) <[Child Maintenance - How much is it? How does it work? \(politics.co.uk\)](https://www.politics.co.uk/blog/2023/04/child-maintenance-how-much-is-it-how-does-it-work/)>.

⁴⁷⁷ Dr. Samantha Callan (2023), *Independent review of the Child Maintenance Service (CMS) response to Domestic Abuse, Report for the Department of Work and Pensions*, p. 6 <[Independent review of the Child Maintenance Service \(CMS\) response to domestic abuse \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118484/independent-review-of-the-child-maintenance-service-cms-response-to-domestic-abuse.pdf)>.

⁴⁷⁸ *National Audit Office (2022) (as above n 466)*, p. 9.

⁴⁷⁹ *Ibid.*, p. 15.

⁴⁸⁰ *Ibid.*, p. 6.

⁴⁸¹ Joe Richardson and Adam Butler (2021), *The Single Parent Debt Trap, Gingerbread Charity and Step Change Debt Charity*, p. 35 <<https://www.stepchange.org/Portals/0/assets/pdf/single-parent-trap-report.pdf>>.

⁴⁸² *Ibid.*, p. 36.

⁴⁸³ *Ibid.*, p. 35.

⁴⁸⁴ *National Audit Office (2022) (as above n 466)*, p. 12.

⁴⁸⁵ *Ibid.*

⁴⁸⁶ *Ibid.*, p. 13.

⁴⁸⁷ *Uncovering private family law: adult vulnerabilities, Nuffield Family Justice Observatory* (Blog Post, 2021).

⁴⁸⁸ Richard Partington, *Half of all children in lone-parent families are in relative poverty, The Guardian* (Online, 4 July 2022) <<https://www.theguardian.com/business/2022/jul/04/half-of-all-children-in-lone-parent-families-are-in-relative-poverty>>.

Enforcement is slow for arrangements that are monitored by CMS. Parents surveyed as part of the NAO's 2022 report had on average £2,200 of arrears due before CMS took-up their case.⁴⁸⁹ Unsurprisingly, the NAO receive more correspondence on child support than any other single issue, and most of these complaints relate to non-compliance with the system or poor customer service when interacting with CMS.⁴⁹⁰ Customer satisfaction was as low as 46% in the quarter ending September 2020.⁴⁹¹

In 2021, the Department for Works and Pensions commissioned the 'Independent Review of the Child Maintenance Service Response to Domestic Abuse' (**UK Independent Review**) after the murder of Emma Day in 2017.⁴⁹² The UK Independent Review was published in 2023. Ms Day was killed by her ex-partner in May 2017 after a making a claim for £2,000 a year in child support. It was reported that in the days leading up to her murder, Ms Day had disclosed a history of domestic abuse to CMS. The inquest into Ms Day's murder heard that CMS caseworks failed to raise the alarm about her ex-partner and appeared "blasé" when she told them about ongoing threats.⁴⁹³ Moreover, that CMS processes were "insufficient, potentially risky for parents who had been subject to domestic abuse, and indicative of wider systems failure within CMS."⁴⁹⁴

The UK Independent Review was not the first time the operation of the system had been considered with regards to domestic abuse. In 2017, a Work and Pensions Select Committee revealed how many resident mothers were forced to re-engage with their perpetrators in the system and recommended that CMS move victim-survivors to the Collect & Pay service without charge.⁴⁹⁵ The Government rejected this.⁴⁹⁶ Similarly, Kathryn Royal's (2022) study on COVID-19 and child support shows how the pandemic exacerbated the non-payment of child support for resident mothers.⁴⁹⁷ Over 84% of the resident mothers surveyed reported that they were worried about current access to their payments, 22% reported that the perpetrator had stopped paying child support during the pandemic and 18% reported that they had paid unreliably.⁴⁹⁸ This left women unable to rely on payments and struggling to afford essentials for themselves and their children, including food. Women described difficulty in contacting CMS, while perpetrators stopped or reduced payments without providing evidence for a change in circumstance.⁴⁹⁹ There is a resemblance between the lack of support from CMS and mothers' subsequent experience of non-payment in the United Kingdom, and the concept of 'State-facilitated' economic abuse as described by Natalier (2018). Royal notes that, "...some participants shared that they had been told by CMS to not rely on the payments (which itself highlights the flaws of the system) and resonates with Cook et. al's participants, who were told that they should feel grateful for receiving any payment, despite fewer than 5% describing it as a reliable part of their budget."⁵⁰⁰

In the few years between Ms Day's death and the UK Independent Review, CMS did make several operational improvements to enhance its capacity to help domestic abuse victim-survivors set-up child support arrangements more safely. These included: introduction of direct questioning concerning abuse (replacing a previous reliance on self-disclosure) where a customer is in immediate danger, CMS will offer advice on contacting the police or call the police on their behalf, creation of a Complex Needs

⁴⁸⁹ National Audit Office (2022) (as above n 466), p. 13.

⁴⁹⁰ *Ibid*, p. 8.

⁴⁹¹ *Ibid*, p. 15.

⁴⁹² Dr. Samantha Callan (2023) (as above n 477), p. 6.

⁴⁹³ Phil Shepka, *Emma Day: Murdered woman told child support of threats from ex*, BBC News (Online, 19 May 2019) <[Emma Day: Murdered woman told child support of threats from ex - BBC News](#)> and Tristan Kirk, *Call for action after mother is murdered by abusive ex*, Evening Standard (Online, 11 August 2021) <[Call for action after mother is murdered by abusive ex | Evening Standard](#)>.

⁴⁹⁴ Dr. Samantha Callan (2023) (as above n 477), p. 3.

⁴⁹⁵ House of Commons Work and Pensions Select Committee (2017), *Child Maintenance Service: Fourteenth Report of Session 2016-17*, HC 587 <<https://dera.ioe.ac.uk/id/eprint/28971/1/587.pdf>>.

⁴⁹⁶ House of Commons Work and Pensions Select Committee (2017), *Child Maintenance Service: Government Response* <<https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/354/35402.htm>>.

⁴⁹⁷ Kathryn Royal (2022), *Coronavirus has been the perfect excuse for him to just stop paying: child maintenance and economic abuse in the UK during the COVID-19 outbreak*, *Journal of Gender-Based Violence*, Vol. 6(2), 261.

⁴⁹⁸ *Ibid*, p. 267.

⁴⁹⁹ *Ibid*, pp. 270-271.

⁵⁰⁰ *Ibid*, p. 273 citing Kay Cook, Zoë Goodall, Juanita McLaren and Terese Edwards (2019) (as above n 9), p. 21.

Toolkit and Domestic Abuse Plan to guide frontline CMS staff on steps to take if a customer discloses abuse, updating signposting material where victim-survivors may be directed to specialist support, as well as the introduction of direct interventions such as calling the emergency services on a customer's behalf if necessary and there are indications that someone is in immediate danger.⁵⁰¹ When asked if they had experienced domestic abuse, 60% of new resident parents (who applied between May 2018 and December 2021) answered 'yes'.⁵⁰²

The UK Independent Review was conducted by Dr Samantha Callan, a policy expert at the Centre for Social Justice in the field of family relationships and work-life integration. The objectives were to improve CMS response and best practice procedure when clients reported a history (or current) of domestic abuse and to prevent future deaths. Notably, the UK Independent Review was carried out against the backdrop of the Domestic Abuse Act 2021 (**Domestic Abuse Act**) which, among other things, emphasises that domestic abuse is not just defined by physical violence but can also include emotional, controlling, coercive, economic and financial abuse.⁵⁰³ It also recognises post-separation abuse. Dr Callan makes note of how the Domestic Abuse Act created the impetus for CMS to improve its response to economic abuse in the system. She writes, "A key rationale for the absence of any legislative framework around domestic abuse stems from a recognition that CMS is not in a position to decide who is an abuser and who is telling the truth about conflict and/or abuse in a relationship. Furthermore, an intention underpinning the establishment of the 2012 child maintenance scheme was the introduction of measures to simplify the statutory system coupled with an acknowledgement that CMS does not have expertise within the area of domestic abuse. However, this lack of any legislative drivers concerning domestic abuse is now being challenged, particularly with regards to CMS caseworker decisions on service types for customers."⁵⁰⁴ It is also of note that in the United Kingdom, CMS does not have a statutory duty of care and cannot provide safeguarding for victim-survivors. Instead, CMS does have a responsibility to reduce risks that those who use its services may face and to help domestic abuse survivors find appropriate support.⁵⁰⁵

The UK Independent Review makes explicit reference to Direct Pay as a tool of coercive control when used by perpetrators of domestic abuse to withhold or underpay child support.⁵⁰⁶ The NAO's review of the child support system between 2021–2022, found around half of new Direct Pay arrangements are either not sustained or are ineffective. But that resident mothers often fail to report non-payment to avoid causing an issue with the paying father.⁵⁰⁷

Many victim-survivors experienced economic abuse as a distinctive form of coercive control during their relationships, which acted as a barrier to them leaving their perpetrator.⁵⁰⁸ Common tactics of post-separation economic abuse evidenced by Dr Callan includes: lack of compliance with child support arrangements, refusal to disentangle joint assets and getting victim-survivor benefits put in the perpetrator's name.⁵⁰⁹ To this end, Dr. Callan notes that ensuring that child support liabilities are enforced is integral to reducing the level of control and economic abuse a perpetrator holds.⁵¹⁰

The report notes that CMS is often complicit in facilitating post-separation domestic abuse as their processes can be "inconsistent" with regard to collection of payments and "ineffective" in their approach

⁵⁰¹ Dr. Samantha Callan (2023) (as above n 477), p. 5.

⁵⁰² *Ibid*, p. 16 citing Child Maintenance Service statistics (2022): data to March 2022 <[national-tables-child-maintenance-service-to-march-2022-revised.ods \(live.com\)](https://national-tables-child-maintenance-service-to-march-2022-revised.ods.live.com)>.

⁵⁰³ Domestic Abuse Act 2021 (UK), s 1(3).

⁵⁰⁴ Dr. Samantha Callan (2023) (as above n 477), p. 37.

⁵⁰⁵ Department of Work and Pensions (2023), *Government Response to the Independent Review of the Child Maintenance Service response to Domestic Abuse*, UK Government, p. 7 <[Government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf)>.

⁵⁰⁶ *Ibid*, p. 6.

⁵⁰⁷ Dr. Samantha Callan (2023) (as above n 477), p. 6 <[Independent review of the Child Maintenance Service \(CMS\) response to domestic abuse \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/independent-review-of-the-child-maintenance-service-cms-response-to-domestic-abuse)> citing National Audit Office (2022) (as above n 466), p. 12.

⁵⁰⁸ Dr. Samantha Callan (2023) (as above n 477), p. 6.

⁵⁰⁹ *Ibid*, p. 20.

⁵¹⁰ *Ibid*, p. 21.

to enforcement.⁵¹¹ And recommends as an imperative, the need to shut down as many avenues as possible for CMS to “enable, worsen or even provoke domestic abuse.”⁵¹²

Dr Callan makes the following recommendations: prevent use of Direct Pay where there has been evidence of domestic abuse;⁵¹³ that CMS explore how best to use new powers within the Domestic Abuse Act, and whether any additional legislation is necessary to support the prosecution of cases of coercive control (inclusive of economic abuse) committed in the context of a child support arrangement;⁵¹⁴ and adopting a dual income model to “increase fairness, reduce post-separation conflict and even diminish the potential for financial and emotional control.”⁵¹⁵ Indeed, a 2015 study by Caroline Bryson and Ira Ellman et. al. on Public Views on Child Support finds that most people in the United Kingdom support a dual income model, and even inclusion of the income of resident mothers’ new husbands (if applicable).⁵¹⁶

The UK Government has accepted eight out of ten recommendations made by Dr Callan in the UK Independent Review.⁵¹⁷ Notably, the Government has said that victim-survivors will be given the choice to allow CMS to collect and make payments on their behalf – without the consent of the perpetrator.⁵¹⁸ Moreover, that CMS will be given greater powers to report suspected cases of economic abuse and coercive control to the Crown Prosecution Service.⁵¹⁹ As of January 2023, the UK Home Office has been updating statutory guidance to support agencies in confronting the offence of controlling or coercive behaviour.

However, the UK Government said that it would not undertake a new review on the child support formula nor revise the formula to include the income of the resident parent. This is despite the UK Independent Review, the NAO and the literature more broadly acknowledging that affordability is a barrier to compliance with maintenance liabilities.⁵²⁰ The Government responded, “we do accept that current formulas used to determine maintenance liabilities were introduced in 2003 and are now quite dated [...] A key principle underpinning the establishment of both the 2003 and 2012 child maintenance schemes was to simplify the system and rationalise the number of factors used to calculate child maintenance. Progressing this recommendation would be a particularly far-reaching reform that would involve a substantial increase in the information required in the calculation. Therefore, the Government is mindful that calculating maintenance liabilities via an assessment of both parental incomes risks re-introducing far too much complexity into the system.”⁵²¹

5.2 The Nordic Model

In international comparative studies on child support, the Nordic countries are often grouped together as representative of the ‘Nordic welfare model’. And much of the literature is written by the same researchers and academics.

Family law policies are more or less similar across the Nordic region. Except for Denmark, both parents are responsible for child support (also known as child maintenance) in accordance with their abilities

⁵¹¹ *Ibid*, p. 23.

⁵¹² *Ibid*, p. 3.

⁵¹³ *Ibid*, p. 53.

⁵¹⁴ *Ibid*, p. 53.

⁵¹⁵ *Ibid*, p. 28.

⁵¹⁶ Caroline Bryson, Ira Mark Ellman, Stephen McKay and Joanna Miles (2015), *Child maintenance: how would the British public calculate what the State should require parents to pay?*, Nuffield Foundation, p. 32 <[Attitudes_maintenance_v_FINAL28229.pdf](#) (nuffieldfoundation.org)>.

⁵¹⁷ Department of Work and Pensions (2023), *Government Response to the Independent Review of the Child Maintenance Service response to Domestic Abuse*, UK Government, p. 5 <[Government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf](#) (publishing.service.gov.uk)>.

⁵¹⁸ See also: *Child Maintenance Service to clamp down on domestic abuse*, Department of Work and Pensions (Media Statement, 17 January 2023) <[Child Maintenance Service to clamp down on domestic abuse - GOV.UK](#) (www.gov.uk)>

⁵¹⁹ Department of Work and Pensions (2023), *Government Response to the Independent Review of the Child Maintenance Service response to Domestic Abuse*, UK Government, p. 9 <[Government-response-to-the-independent-review-of-the-child-maintenance-service-response-to-domestic-abuse.pdf](#) (publishing.service.gov.uk)>.

⁵²⁰ *Ibid*, p. 11.

⁵²¹ *Ibid*, pp. 11-12.

and regardless of custody and residence arrangements. Furthermore, supporting children is seen as a collective responsibility and this means that at least a portion of the child support is usually ensured by the Government if the non-resident parent does not pay or cannot pay (also known as guaranteed child support). Guaranteed child support schemes are aimed at poverty alleviation.⁵²²

Differences in the respective child support systems relate to the administration of child support (either by courts, agencies or a combination of both), the rules for determining the amount of child support and the extent to which guaranteed child support is available.⁵²³

Finland

In Finland, parents have a statutory responsibility to pay child support until the child turns 18 years and if the child still attends school, an extended allowance is paid until the child turns 20. Parents may negotiate private child support agreements which can be confirmed either by municipal Social Welfare Boards or by a court. If parents cannot reach an agreement, their municipal Social Welfare Board or the court will guide them.

The Child Maintenance Act (704/1975) of Finland stipulates that “A child has the right to sufficient maintenance. Maintenance consists of the satisfaction of the child’s material, spiritual, care and educational needs and the resulting costs.” This means that the amount of child support is determined on a case by case and not via a general formula, such as a percentage of income used in Australia. However, the Finnish Government has issued guidance on, amongst other factors, the standard family budget and costs of raising children in Finland.⁵²⁴

Child support is calculated using the child’s maintenance needs and the parents’ maintenance capacity. The child’s maintenance needs refer to the sum of money that is needed to support the child on a monthly basis (as child support is paid monthly). The child’s maintenance needs are divided between the parents in accordance with their maintenance capacity. Maintenance capacity is calculated by subtracting taxes and other obligatory costs from the parent’s income. When assessing the parents’ ability to pay, their age, ability to work, available funds and other legal maintenance duties are also taken into consideration.⁵²⁵ Where the mother is considered a low-income earner, in other words, she does not have the financial capacity to cover the children’s costs, the father is expected to pay €72 (AU\$116) more in child maintenance, over and above the previous scenario.⁵²⁶ In July 2023, over 950,000 Finnish children received an average of €117 (AU\$189) per month in child support.⁵²⁷ Child support policy in Finland does emphasise that fathers should be actively involved in their children’s lives. One effect of this adjustment has been that the time the child spends with the non-resident parent is recognised and reduces the child support they are liable to pay. Shared care means spending at least 40% of time with one parent.⁵²⁸ Iceland is the only Nordic country where there is no adjustment to child support in instances of shared care.

Since 2009, the Social Insurance Institution (**SII**) of Finland has been responsible for administering guaranteed child support and for the collection of overdue child support payments. In Finland, if parents have an agreement on shared care and no child support is paid, neither parent is eligible for guaranteed

⁵²² Christine Skinner and Mia Hakovirta, ‘Separated Families and Child Support Policies in Times of Social Change: A Comparative Analysis’ in Palgrave Macmillan (eds), *The Palgrave Handbook of Family Policy* (2020), 267 <[Separated Families and Child Support Policies in Times of Social Change: A Comparative Analysis | SpringerLink](#)>.

⁵²³ Mia Hakovirta and Guðny Björk Eydal (2020), *Shared Care and Child Maintenance Policies in Nordic Countries*, *International Journal of Law, Policy and The Family*, Vol. 34, 43, p. 48 and Mia Hakovirta and Heikki Hiilamo (2012), *Children’s rights and parents’ responsibilities: Child maintenance policies in Finland*, *European journal of social security*, Vol. 14 (4), 286, p. 288.

⁵²⁴ *Ibid*, p. 49.

⁵²⁵ *Single Parent Families*, Info Finland (Blog Post, 11 July 2023) <<https://www.infofinland.fi/en/family/what-is-a-family/single-parent-families>> and *Family Maintenance – Finland*, E-European Justice (Blog Post) https://e-justice.europa.eu/content_maintenance_claims-47-fi-en.do?member=1>.

⁵²⁶ Mia Hakovirta and Guðny Björk Eydal (2020) (as above n 523), p. 57.

⁵²⁷ Kela (the Social Insurance Institution), *Child benefit: Number of recipients and benefits paid out* (Web Page) <[Kelasto - Child benefit: Number of recipients and benefits paid out](#)>.

⁵²⁸ Mia Hakovirta and Guðny Björk Eydal (2020) (as above n 523), p. 55.

maintenance. Guaranteed child support is only paid in cases of default, low-income, unemployment or sickness of the non-resident paying parent. The amount of guaranteed child support per child per month was approximately €150 (AU\$247) in 2020.⁵²⁹ SII also paid a total of €1.46 billion in child benefits in 2022 (including guaranteed child support), up from €1.36 billion in 2021 to help with the rising cost of living.⁵³⁰ A notable disadvantage of the guaranteed child support scheme can be that rates of recovery from non-resident, paying parents are low. While there is a lack of recent data to confirm this, in 2007, only two countries, out of the surveyed eight that administered guaranteed child support had recovery rates greater than 50%.⁵³¹

Hakovirta and Jokela (2019) show that guaranteed child support reduced child poverty in low-income families in Finland by more than 30% based off 2013 data.⁵³² However, Hakovirta and Hiilamo (2012) previously argued that guaranteed child support might not necessarily improve the living standards of low-income parents and their children as it is regarded as income when assessing income support (or social assistance) in Finland.⁵³³ Resident mothers must apply for guaranteed child support, the amount of which is then deducted from their monthly income support. In this way, Hakovirta and Jokela also note that “Lone parents on social assistance benefits are therefore likely to be no better off financially irrespective of any maintenance paid by the other parent, unless it is paid at very high levels ... child maintenance is treated as a substitute for social assistance and acts as a cost recovery tool for the state, simultaneously minimizing its value to lone parents.”⁵³⁴ Similarly, Hakovirta and Cuesta et. al. (2022) suggest that “the potential of child support to alleviate poverty is not fully realized, especially if the families are also in receipt of last resort benefits.”⁵³⁵

Hakovirta and Hiilamo look at non-compliance with child support agreements in Finland.⁵³⁶ Their article was published in 2012, but we could not locate a more recent study on fathers' non-compliance. In Finland, like in Australia, there is no data on rates of non-compliance in private agreements and, where the resident parent does not apply for guaranteed support, non-compliance by fathers is essentially hidden. In Finland, if a non-resident withholds or underpays child support payments, the resident parent is entitled to file an application for guaranteed child support at their local office of the SII. In cases where the child support is already below the level of guaranteed support, the SII collects the unpaid child support to cover the expenses of the guaranteed scheme (when the paying parent is in a position to pay). If the confirmed child support is above the level of guaranteed support, the SII pays the amount above the guaranteed support to the resident parent. However, the paying parent must repay the overdue payments within five years unless they show that they have no ability to repay the debt.⁵³⁷ In 2011, there were 43,492 liable parents with overdue child support payments and most of these debts sat with fathers.⁵³⁸ In July 2023, over 91,000 children received some form of guaranteed child support (in addition to child support) with an average payment of €186 (AU\$300). Over 75% of these children were receiving the full allowance of guaranteed child support because of a failure by the paying parent to pay.⁵³⁹ In the calendar year 2022, 94,000 children received some form of guaranteed support and 94% of these children received the full allowance because of failure to pay by the paying parent. The

⁵²⁹ *Ibid*, p. 49.

⁵³⁰ Kela: Bonus child benefit payment cost Finland €100m, YLE (Online, 20 March 2023) <[Kela: Bonus child benefit payment cost Finland €100m | News | Yle Uutiset](#)>.

⁵³¹ Christine Skinner, Jonathan Bradshaw and Jacqueline Davidson (2007), *Child Support policy: An international perspective*, Research Summary for the Department of Work and Pensions, p. 3 <[185SUMM \(york.ac.uk\)](#)>.

⁵³² Mia Hakovirta and Merita Jokela (2019) (as above n 436).

⁵³³ Mia Hakovirta and Heikki Hiilamo (2012), *Children's rights and parents' responsibilities: Child maintenance policies in Finland*, *European journal of social security*, Vol. 14 (4), 286, p. 292.

⁵³⁴ Mia Hakovirta, Christine Skinner, Merita Jokela and Heikki Hiilamo (2020), *Child Poverty, Child Maintenance and Interactions with Social Assistance Benefits Among Lone Parent Families: a Comparative Analysis*, *Journal of Social Policy*, Vol. 49(1), 19, p. 25.

⁵³⁵ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447), p. 103.

⁵³⁶ Mia Hakovirta and Heikki Hiilamo (2012) (as above n 533).

⁵³⁷ *Ibid*, pp. 298-299.

⁵³⁸ *Ibid*, p. 299.

⁵³⁹ Kela (the Social Insurance Institution), *Child maintenance allowance: Number of recipients and average rates of allowance* (Web Page) <[Kela - Child maintenance allowance: Number of recipients and average rates of allowance](#)>.

average payment of guaranteed child support in 2022 was €171 (AU\$282) per month and €180 (AU\$297) for children who received the full allowance.⁵⁴⁰

Norway

In Norway, child support is paid from the non-resident parent (also known as the non-custodial parent) to the resident parent (the custodial parent) who is responsible for the child's everyday care. Child support is usually agreed to privately between the parents, but agreements can be determined by the Norwegian Labour and Welfare Administration (**NAV**)⁵⁴¹ who will use a fixed formula and charge a fee for their service.⁵⁴² After Finland, Norway appears to have the most discretion in allowing parents to negotiate child support privately.⁵⁴³

Norway also adopts a dual income model. As in Australia, there is a standard self-support amount assigned to both parents, after which the cost of the child (the child maintenance cost) is calculated, before being distributed according to each parent's capacity to pay child-related costs.⁵⁴⁴ The cost of the child usually comprises consumption expenses (food, clothing, extra-curricular, transportation costs), housing costs (interest on loans, rent and insurance, except mortgage repayments) and any childcare costs. The child maintenance cost increases as the child grows older, and there are four age groups for this: 0–5, 6–10, 11–14 and 15 years and older. The parents' incomes, the ability of the non-custodial parent to pay, visitation rights and shared care arrangements are also taken into account.⁵⁴⁵ The parent with the highest income must pay a larger share of the total child maintenance cost. In the case of shared permanent residence, the parents initially pay 50% each of the maintenance costs. When one earns more than the other, the person with the higher income must pay a net contribution for what exceeds 50%.

In Denmark and Sweden, child maintenance is not paid if parents share caring arrangements. In Finland and Norway, the amount is reduced, but more substantially reduced in Norway due to the increase in the father's care time.⁵⁴⁶ In Norway, the paying parent is entitled to a deduction in the contribution if they spend more than two days per month with their child. This deduction is called a visitation deduction. If contact is 14–15 nights per month, the paying parent can receive the maximum deduction amongst the Nordic countries to their liabilities – NOK 3,053 (AU\$426) per child in 2020.⁵⁴⁷ Courts can also rule in favour of shared care against the wish of either parent, if there are strong reasons to do so in the child's best interest.⁵⁴⁸

A paying parent may be ordered to pay extraordinary payments for special expenses as long as their obligation of child support exists (although 'special expenses' is not defined). It is a condition that the expenses are reasonable and necessary and are not part of the expenses that the regular maintenance payment is meant to cover. A claim for extraordinary payments must be filed within one year after the special expenses were incurred.⁵⁴⁹

Norway is the only Nordic country that means tests guaranteed child support, as it is only available for low-moderate-income earners.⁵⁵⁰ The guaranteed amount is usually paid in advance by NAV and then

⁵⁴⁰ *Ibid.*

⁵⁴¹ From 1 September 2023, the Norwegian Labour and Welfare Administration will come under the Swedish Taxation Agency.

⁵⁴² Mia Hakovirta and Guðny Björk Eydal (2020) (as above n 523), p. 48.

⁵⁴³ *Ibid.*, p. 49.

⁵⁴⁴ *Ibid.*, p. 47.

⁵⁴⁵ Child Support – Norway, Nordic E-Co-operation (Blog Post) < <https://www.norden.org/en/info-norden/child-support-child-maintenance-norway>> and Government of Canada, H – Norway, Review of International Child Support Models: Volume II – Jurisdictional Summaries (Web Page) < https://www.justice.gc.ca/eng/rp-pr/jr/ricsm_v2-emifpae_v2/p9.html>.

⁵⁴⁶ Mia Hakovirta and Guðny Björk Eydal (2020) (as above n 523), p. 56.

⁵⁴⁷ *Ibid.*, p. 55.

⁵⁴⁸ *Ibid.*, p. 53.

⁵⁴⁹ The Children Act, s 67 (available [here](#)).

⁵⁵⁰ Mia Hakovirta and Guðny Björk Eydal (2020) (as above n 523), p. 50.

claimed back later from the liable parent.⁵⁵¹ The average guaranteed payments in Norway were between €83–206 per month (AU\$124–307) in 2016. Hakovirta and Cuestsa (2022) calculate that the average guaranteed payment in 2017 was US\$115 per payment (AU\$150) for a child under 11 years.⁵⁵² In comparison, in 2016, guaranteed payments were €175 per month (AU\$261) in Denmark and as high as €235 (AU\$351) in Iceland.⁵⁵³ Norway and Sweden are also the only Nordic countries where guaranteed child support can be paid to both parents.⁵⁵⁴

We could not find any research that specifically examines the poverty rates within single mother households in Norway that also receive child support. Trends in poverty and deprivation among single adults with dependent children in the European Union have decreased in the last ten years.⁵⁵⁵ Writing for UN Women in 2020, Laura Cuesta noted that “Lone mothers in the Nordic countries cannot rely on child support alone to provide for their children. Nevertheless, the lower poverty rates observed among lone-parent families in the Nordic countries ... suggests public guaranteed child support is a key policy to improve the economic wellbeing of lone-mother families.”⁵⁵⁶ Similarly, Rense Nieuwenhuis, in a report commissioned by the European Union, wrote in 2020: “In many European countries, however, [child support policies] are not highly effective in reducing poverty among single parents and their children, among other reasons because of their high level of complexity in relation to family diversity, and an interplay with means-tested benefits. Guaranteed advances on child support payments improve the effectiveness in reducing poverty among single parents, and help avoid long delays in support payments.”⁵⁵⁷ Hakovirta and Cuesta et. al. (2022) have also said that “If an income test is thought to be necessary to increase political feasibility, the Norway scheme, which is more focused on limiting higher-income families from receiving it than it is ensuring that only low-income families can be eligible, has advantages.”⁵⁵⁸

One of the challenges of child support policy in Norway, as raised by Skinner and Hakovirta (2022), is the possible trade-off between poverty reduction and gender equality.⁵⁵⁹ This could for instance be the case if the child support payments form a disincentive for employment (or an incentive to opt out of employment) – interestingly, a similar argument raised by fathers’ groups in Australia.⁵⁶⁰ Gender ‘equality’ is a strong principle underpinning the child support system in Norway. Other than through the dual income model and the availability of guaranteed child support for both parents, Norway uses child support policy to “manipulate parental behaviours in the labour market.”⁵⁶¹ Skinner and Hakovirta note in their research, that if a mother is unemployed, an ‘imputed’ earnings figure is applied to the child support calculation to encourage her participation in employment. It is also done to protect fathers from having “undue” support costs being passed onto them as a result of mothers choosing to ‘opt out’ of the labour market.⁵⁶² So while this policy is an incentive for gender equal labour market participation, it might actually reduce the amount of income poverty that could potentially be reduced by the child support.⁵⁶³ The largely privatized system in Norway might also render any ‘equality’ moot as payments are not transparent. Skinner and Hakovirta suggest that agency-based systems, as in Australia, operate in more explicit and formal ways, and therefore, “decision-making is made more transparent potentially [making]

⁵⁵¹ Christine Skinner and Mia Hakovirta, ‘Separated Families and Child Support Policies in Times of Social Change: A Comparative Analysis’ in Palgrave Macmillan (eds), *The Palgrave Handbook of Family Policy* (2020), 267 <[Separated Families and Child Support Policies in Times of Social Change: A Comparative Analysis | SpringerLink](#)>.

⁵⁵² Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447), p. 103.

⁵⁵³ Mia Hakovirta and Guðny Björk Eydal (2020) (as above n 523), p. 50.

⁵⁵⁴ *Ibid.*, p. 54.

⁵⁵⁵ Rense Nieuwenhuis, Swedish Institute for Social Research (SOFI), Stockholm University (2020), *The situation of single parents in the EU, commissioned by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the European Parliament’s Committee on Women’s Rights and Gender Equality*, p. 14 <[The situation of single parents in the EU \(europa.eu\)](#)>.

⁵⁵⁶ Dr. Laura Cuesta (2020) (as above n 430), p. 4.

⁵⁵⁷ Rense Nieuwenhuis (as above n 555), p. 8.

⁵⁵⁸ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447), p. 107.

⁵⁵⁹ Christine Skinner and Mia Hakovirta (as above n 551).

⁵⁶⁰ Rense Nieuwenhuis (as above n 557), p. 38.

⁵⁶¹ Christine Skinner and Mia Hakovirta (as above n 551).

⁵⁶² *Ibid.*

⁵⁶³ Rense Nieuwenhuis (as above n 557), p. 39.

these systems more susceptible to greater scrutiny regarding the gender equal treatment of both parents' incomes" and compliance generally.⁵⁶⁴

When the paying parent does not pay their child support within the deadline, the Norwegian Tax Administration automatically follows-up the case. They send a reminder on the 10th of the following month with a 14-day payment deadline. If the reminder is also not paid, another reminder will be sent along with a notice of compulsory collection. This reminder also has a 14-day payment deadline. After the deadline for the notification of compulsory collection has passed, the Tax Administration actively checks whether the person liable to contribute has income, for example from salary or financial support from NAV. An expense deduction will then be established. This means that the employer must deduct the salary, or that NAV deducts the financial support.⁵⁶⁵ We were unable to find any literature or official statistics regarding the rates of non-compliance with child support obligations in Norway. Neither is there any information on whether guaranteed child support is still available when non-compliance occurs.⁵⁶⁶

5.3 United States

The child support scheme was introduced in the United States in 1975 with the aim of reducing public expenditure on single mothers and their children. Relatedly, the program also sought to secure financial support for children from their non-custodial parents on a consistent and continuing basis to further reduce any burden on the Government and taxpayer.⁵⁶⁷

In 2017, 19.5 million parents were raising children under 21 years old whose other parent did not live in the same household. Just over one-quarter of these parents (5.4 million) received at least some financial child support payments from the non-resident parent.⁵⁶⁸ The monthly average child support payment in 2017 was US\$604 (AU\$788) and monthly median was US\$396 (AU\$517).⁵⁶⁹ Hakovirta and Cuesta et. al. (2022) estimate that the average annual child support received by single mothers (who receive some payment) ranges from about US\$5,000 to US\$7,000 (AU\$7,210 to AU\$10,094).⁵⁷⁰ Receiving child support payments is essential for single mothers and their children, especially as an estimated 25% of single mothers in the United States live in poverty.⁵⁷¹ Child support is generally paid until the child is 18; however, in some States (e.g., New York), child support is paid until the child reaches 21 years. Other States require non-resident parents to also pay for stepchildren.⁵⁷²

Each State has its own rules for administering child support. This can complicate situations where one parent lives in a different State to the other. States generally use one of three models to calculate the base child support amount due: the Income Shares Model, the Percentage of Income Model and the Melson Formula.⁵⁷³ The Income Shares Model is a dual income model and is based on the idea that the child should receive the same proportion of parental income that they would have received if the parents lived together. As at July 2020, 41 States used this model. The Percentage of Income Model sets support as a percentage of the non-resident parent's income only; the resident parent's income is not considered. This is the same 'breadwinner' model used in the United Kingdom. The Melson Formula is a more complicated version of the Income Shares Model, which incorporates several public policy judgments designed to ensure that each parent's basic needs are met in addition to the child's. All these

⁵⁶⁴ Christine Skinner and Mia Hakovirta (as above n 551).

⁵⁶⁵ See: Norwegian Labour and Welfare Administration, *Child support (Web Page)* <[Child support – nav.no](#)>.

⁵⁶⁶ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447). p. 105.

⁵⁶⁷ Congressional Research Service (2023), *Child Support Enforcement: Program Basics*, CRS Report prepared for Members and Committees of Congress, p. 2 <[RS22380 \(congress.gov\)](#)>.

⁵⁶⁸ Timothy Grall and Liza C. Valle (2022), *The Regular Receipt of Child Support: 2017*, U.S. Census Bureau, *Current Population Reports*, p. 2 <[The Regular Receipt of Child Support: 2017 \(census.gov\)](#)>.

⁵⁶⁹ *Ibid.*

⁵⁷⁰ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447). p. 102.

⁵⁷¹ Timothy Grall (2020), *Custodial Mothers and Fathers and Their Child Support: 2017*, *Current Population Reports*, U.S. Census Bureau, p. 5 <[Custodial Mothers and Fathers and Their Child Support: 2017 \(census.gov\)](#)>.

⁵⁷² Legal Information Institute, *Child Support: An Overview*, Cornell Law School (Web Page) <[child support | Wex | US Law | LII / Legal Information Institute \(cornell.edu\)](#)>.

⁵⁷³ National Conference of State Legislatures, *Child Support Guideline Models (Web Page)* <[Child Support Guideline Models \(ncsl.org\)](#)>.

models share certain elements. Foremost, the child's circumstances including their age, health, educational and childcare needs are always accounted for. Indeed, one of the core services of the Child Support Enforcement Program (**CSE Program**) – the formal name of the child support system in the United States – is the establishment and enforcement of medical support.⁵⁷⁴

The presumptive amount of child support liabilities is adjusted for low-income earners, high-income earners, extraordinary visitation arrangements and prior and subsequent families. These 'adjustments' are known as deviations. There are more than 40 deviation factors used by States.⁵⁷⁵ States take three approaches to setting child support for very low-income parents: setting a minimum presumptive amount, often \$50 per month per child that can be rebutted downward, setting a mandatory minimum award that cannot be deviated downward, or leaving discretion to the court to determine ability to pay. The difficulties of paying child support are noted for low-income parents. This is one of the key advantages of the Melson model, as it is based on the recognition that parents need to be able to meet their basic needs first and establishes a self-support reserve based on the country's poverty guidelines.⁵⁷⁶

Child support may be formal and legal – such as the product of a divorce decree or State-ordered enforcement, or informal – such as an agreement negotiated privately between parents. Parents who receive income support from the Government must have a court-ordered or formal agreement.⁵⁷⁷ Child support is administered by each State's CSE Program which works in tandem with human services or resources departments or the attorneys-general office. The Federal Office of Child Support Services oversees CSE Programs.⁵⁷⁸ In FY2022, the CSE Program paid to families US\$26.3 billion in child support and served more than 12.3 million child support cases.⁵⁷⁹ The CSE Program is a Federal-State matching grant program under which States must spend money in order to receive Federal funding. For every dollar a State spends on child support expenditures, it generally is reimbursed US66 cents from the Federal Government.⁵⁸⁰ State CSE Programs are permitted to charge parents a fee of up to US\$25 (AU\$38) for their use of their services. Parents who are on Medicaid, Temporary Assistance for Needy Families (**TANF**) payments, are foster carers or on another form of income support do not have to pay States for child support services.

The rules for TANF⁵⁸¹ recipients are particularly complicated, as under Federal law, States are allowed to retain child support payments to reimburse themselves (and the Federal Government) for TANF payments to the family, up to the amount in the child support agreement. Families currently receiving TANF assistance are required to assign their rights to child support to the State in order to receive benefits. Accordingly, any child support collected on behalf of the family is shared between the State and Federal Governments. States have the option to pass through all or a portion of child support payments to the resident parent when receiving TANF.⁵⁸² According to the Office of Child Support Services, 96% of child support collected went to families and only 4% was used to reimburse public assistance dollars in 2021.⁵⁸³

⁵⁷⁴ Congressional Research Service (2023), *Child Support Enforcement: Program Basics*, CRS Report prepared for Members and Committees of Congress, p. 1 <[RS22380 \(congress.gov\)](https://www.congress.gov/RS22380)>.

⁵⁷⁵ National Conference of State Legislatures, Chapter 5: Establishing & Modifying Orders, *Child Support Tutorial (Web Page)* <[Child Support Tutorial \(ncsl.org\)](https://www.ncsl.org/child-support-tutorial)>.

⁵⁷⁶ *Ibid.*

⁵⁷⁷ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447). p. 99.

⁵⁷⁸ National Conference of State Legislatures, Chapter Two: State Administration, *Child Support Tutorial (Web Page)* <[Child Support Tutorial \(ncsl.org\)](https://www.ncsl.org/child-support-tutorial)>.

⁵⁷⁹ Congressional Research Service (2023), *Child Support Enforcement: Program Basics*, CRS Report prepared for Members and Committees of Congress, p. 1 <[RS22380 \(congress.gov\)](https://www.congress.gov/RS22380)>.

⁵⁸⁰ *Ibid.*

⁵⁸¹ **Temporary Assistance for Needy Families (TANF)** is a Federally funded, State-run program welfare program for families experiencing financial hardship. Recipients may qualify for help with food, housing, home energy, childcare. In July 2021, the maximum TANF benefit that a family of three could receive ranged from US\$204 in Arkansas to US\$1,098 in New Hampshire, with a median of US\$498.

⁵⁸² National Conference of State Legislatures, Chapter Six: Collecting and Distributing Support, *Child Support Tutorial (Web Page)* <[Child Support Tutorial \(ncsl.org\)](https://www.ncsl.org/child-support-tutorial)>.

⁵⁸³ Office of Child Support Enforcement (2021), *2021 Child Support: More Money for Families*, Department of Health and Human Services <[2021 Child Support: More Money for Families \(hhs.gov\)](https://www.hhs.gov/child-support/more-money-for-families)>.

Denial of visitation rights by the resident parent is not a valid reason for the non-resident parent to stop child support.⁵⁸⁴ And laws in the United States have almost universally treated child support and visitation as completely separate issues. However, in recognition of shared parental responsibility and visitation rights, the Federal CSE Program budget allocates US\$10 million each year in grants for States to fund access and visitation programs (collectively known as Parenting Time Opportunities for Children (PTOC)). A 2019 evaluation of these programs found, “parents appreciate the opportunity to address parenting time and feel that it increases the fairness of child support. Furthermore, PTOC appears to help some parents with improved relationships, more time with their children, and some small increases in child support compliance.”⁵⁸⁵

Over half of child support payments in the United States are made through income withholding. Parents who do not pay court-ordered child support are subject to enforcement measures to collect regular and overdue payments. States employ a variety of methods to encourage compliance and ensure payments are made, including income withholding, tax refund offsets, property liens, asset seizure, credit bureau reporting, licence suspension or revocation, passport revocation or departure prohibition orders and even civil or criminal contempt charges. Some enforcement measures – such as the Federal Income Tax Refund Offset Program – are mandatory for cases where parents are fully reliant on their State’s CSE Program, for example TANF cases. The Tax Refund Offset Program collects overdue child support payments from the tax refunds of parents who have been ordered to pay child support. States can also implement their own measures to encourage compliance such as intercepting lottery and gambling winnings or naming and shaming fathers who haven’t paid child support in the local newspaper (e.g., the Deadbeat Dad operation in Lee County, Mississippi).⁵⁸⁶ From early September, Texas will require drunk drivers convicted of intoxicated manslaughter to pay child support if they kill a child’s parent or guardian. Subject to a ruling in court, the convicted person must pay for child support until the child turns 18 or graduates from high school.⁵⁸⁷

The extent to which child support reduces poverty in single mother households in the United States is also contested. According to the United States Department of Health and Human Services Office of Child Support Enforcement (2021), child support nearly doubles the average income of recipients below the poverty line and lifts 750,000 people out of poverty every year.⁵⁸⁸ Hakovirta and Jokela (2019) similarly showed that in 2013, child support reduced child poverty by 21% in the United States.⁵⁸⁹ Although, single mothers in the lowest income quintile do not seem to benefit as much from child support compared with the highest income quintiles. This is due to a combination of already falling below the poverty line and being less likely to receive payments from their former partners. Therefore, in relative terms, child support is less effective at lifting single mothers and their children above the poverty line. The U.S. Census Bureau have said that parents who receive child support are not statistically more or less likely to be in poverty than those who do not.⁵⁹⁰

Child support arrears were estimated to be US\$118 billion in 2018.⁵⁹¹ Of the 5.4 million parents who received some child support in 2017, about two-thirds received regular payments every month while the remaining one-third could not rely on regular child support payments and received differing amounts of

⁵⁸⁴ Congressional Research Service (2023) (as above n 531), p. 15.

⁵⁸⁵ Office of Child Support Enforcement (2019), *Parenting Time Opportunities for Children Research Brief*, Department of Health and Human Services, p. 1 <https://www.acf.hhs.gov/sites/default/files/programs/css/ptoc_research_brief.pdf>.

⁵⁸⁶ Jim Clark, *Authorities Round Up Deadbeat Dads*, *The Lee County Courier* (Online, 31 January 2013) <[AUTHORITIES ROUND UP DEADBEAT DADS | News | leecountycourier.net](https://www.lee-county.com/news/authorities-round-up-deadbeat-dads)>.

⁵⁸⁷ Cameron Abrams, *Texas Drunk Drivers Now Have to Pay Child Support if Crash Results in Death of Child’s Parent or Guardian*, *The Texan* (Online, 7 September 2023) <[Texas Drunk Drivers Now Have to Pay Child Support if Crash Results in Death of Child’s Parent or Guardian | Criminal Justice | The Texan](https://www.thetexan.com/news/criminal-justice/texas-drunk-drivers-now-have-to-pay-child-support-if-crash-results-in-death-of-child-s-parent-or-guardian)>.

⁵⁸⁸ Office of Child Support Enforcement (2021), *2021 Child Support: More Money for Families*, Department of Health and Human Services <[2021 Child Support: More Money for Families \(hhs.gov\)](https://www.hhs.gov/ocse/child-support-more-money-for-families)>.

⁵⁸⁹ Mia Hakovirta and Merita Jokela (2019) (as above n 436).

⁵⁹⁰ Timothy Grall (2020) (as above n 571), pp. 11 and 13.

⁵⁹¹ Office of Child Support Enforcement (2021), *Annual report to Congress FY 2018*. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement <https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2018_annual_report.pdf>.

child support over the year, or received no support in some months of the year.⁵⁹² It should be noted that U.S. Census Bureau defines the 'regular receipt of child support' as either the resident parent having received the same amount every month of the calendar year or having received at least 90% of the initial monthly amount continuously throughout. Receipt of child support in 2017 was strongly associated with having a formal or court-ordered child support agreement, higher educational attainment by the paying parent and where the parents had been previously married.⁵⁹³ Hakovirta and Cuesta et. al. suggest that non-payment in the United States might be associated with the "relatively higher burden" placed on non-resident parents to meet their child support obligations compared to many other nations.⁵⁹⁴ "The country's focus on expecting high amounts and then trying to enforce them, rather than ensuring that amounts are not 'too high' and then trying to provide assistance to those who are unable to pay."⁵⁹⁵

Receipt of child support also varies between different racial groups. While Black children are more likely to be living in single parent households than white children (49% vs 23%) they are less likely to have a child support agreement – 40% of Black resident parents had child support agreement compared with 57% of white children.⁵⁹⁶ These numbers do not account for private agreements. One reason put forward for the higher rates of non-compliance amongst Black families is the disproportionately higher rates of Black men in prisons. Over half of all people incarcerated in the United States are parents, and about 33% of parents in prison were Black as of 2016. If a parent is incarcerated in a different State it may be difficult to locate them and establish paternity.⁵⁹⁷ However, for the many parents who enter the criminal justice system with existing child support agreements, their child support accrues in the form of debt. A report by the Office of Child Support Enforcement finding that incarcerated parents exit prison with between US\$10,000 and US\$20,000 in child support debt (AU\$14,970 and AU\$29,940).⁵⁹⁸

This is also a criticism raised in the literature of why some single mothers and their children are not being lifted out of poverty by the child support system in the United States.⁵⁹⁹ Cuesta (2020) argues that even as child support increases the resources available to the resident mother and their child, it can lower the economic status of the non-resident parent.⁶⁰⁰ For the most part, the law does not consider whether parents avoid paying child support because they do not want to or because they cannot afford to.⁶⁰¹ Previous studies, for example from California, found that 80% of non-resident parents with child support debts had annual incomes below US\$20,000 and 60% had annual incomes below US\$10,000.⁶⁰² But non-resident, paying fathers are never considered "worse-off" than single mothers and their children.⁶⁰³

The United States – like Australia – does not guarantee child support in instances of non-compliance. Much of the literature agrees that addressing poverty in single mother households requires a public guarantee that is higher than the amount of the child support order.⁶⁰⁴ This approach has the additional

⁵⁹² Timothy Grall and Liza C. Valle (2022) (as above n 568), p. 2.

⁵⁹³ *Ibid.*, pp. 2–3.

⁵⁹⁴ Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447). p. 109.

⁵⁹⁵ *Ibid.*

⁵⁹⁶ How much child support do parents actually receive? USA Facts (Blog Post, 12 July 2022) <[How much child support do parents actually receive? - USAFacts](#)>.

⁵⁹⁷ *Ibid.*

⁵⁹⁸ Office of Child Support Enforcement, *Modification for Incarcerated Parents, Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs* series for Department of Health and Human Services <[Final Rule - Modification for Incarcerated Parents \(hhs.gov\)](#)>.

⁵⁹⁹ Dr. Laura Cuesta (2020) (as above n 428), p. 2.

⁶⁰⁰ *Ibid.*

⁶⁰¹ Kyle Ross, *Learning from the United States' Painful History of Child Support*, American Progress (Online, 17 June 2022) <[Learning from the United States' Painful History of Child Support - Center for American Progress](#)>.

⁶⁰² Elaine Sorensen, Heather Koball, Kate Pomper, Chava Zibman (2009), *Examining Child Support Arrears in California: The Collectibility Study*, Urban Institute <[Examining Child Support Arrears in California: The Collectibility Study | Urban Institute](#)>.

⁶⁰³ Dr. Laura Cuesta (2020) (as above n 428), p. 2.

⁶⁰⁴ See: Mia Hakovirta, Laura Cuesta, Mari Haapanen and Daniel Meyer (2022) (as above n 447) and Mia Hakovirta, Christine Skinner, Merita Jokela and Heikki Hiilamo (2020) (as above n 434).

benefit of not requiring fathers to reimburse the amount of the top-up, only the amount that that they are required to pay under their agreement that is appropriate to their circumstances.



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