



21st April 2011

The Executive Director
Australian Law Reform Commission
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Dear Executive Director,

**The Australian Law Reform Commission - Family Violence and Commonwealth Laws
Issues Paper: Child Support and Family Assistance**

The National Council of Single Mothers and Their Children Inc (NCSMC) are proud to present our submission. The submission is in two-fold. The first part are the key recommendations (3) that NCSMC considers as progressive, has merit and a capacity to positively respond to the matter of family violence and child support. The second part is the response to the individual questions as presented by the Australian Law Reform commission.

About us

The National Council of Single Mothers and their Children has played a pivotal role since its conception in the early 1970`s. The council has become a platform whereby both community and government can communicate; it has lead the way in obtaining a range of beneficial outcomes for families; has actively sought to reduce systemic prejudice; continually challenges existing norms, and over many years has achieved improved opportunities and outcomes for single mothers and their children.

One of our greatest strengths is our expertise and commitment in working with and for the advancement of women and children due to poverty, violence, exclusion and gender inequality. NCSMC has advocated for equality of opportunity, financial security and access to justice, legal and human rights.

NCSMC would be available to provide oral evidence or offer any other information as requested.

Kind Regards,

Terese Edwards
Chief Executive Officer

Background

The Child Support Reforms (2006) were a reaction to a range of political and social circumstances. NCSMC is disturbed when opinions and assumptions are used to seek and promote change. This is particularly concerning when voices of differing population groups may exert greater or less influence. It is the prevailing view that the child support reforms were in response to the men's voices and in particular; high income non-resident fathers. The Australian Institute of Urban Research stated that in 2003, reacting to continuing discontent with child support arrangements, particularly from fathers' groups, the House of Representatives Standing Committee on Family and Community Affairs (HRSCFA) conducted a national inquiry¹.

It is NCSMC's position that overt influence and domination of this group has unfairly influenced the reforms as evidenced by the significant financial gains for non-resident high income fathers and a reduction of income to the child's primary residence. Furthermore, matters of debt, violence and poverty which are often interrelated, and have now spanned the lifetime of the scheme, were not addressed. NCSMC contends that we must look for, and seek different policy solutions and it is this proposition which has influenced the submission.

Child Support Scheme - Founding Principle: *In the Best Interest of the Child.*

Every Picture Tells a Story report states, the starting point for the committee's inquiry was that the best interests of the child are the paramount consideration. NCSMC supports this principle and that the *Best Interest of the Child* should be elevated, included and central in the child support legislation. This would signal a clear expectation which would influence and shape policy, culture and processes.

Furthermore, the enforceable child support liability is determined by a formula which takes into account the cost of children, the income of parents, family structure and circumstances of both the payer and payee. Notwithstanding that NCSMC views the current formula as gendered bias; giving greater weight to the cost of contact when compared to the cost of care. The requirement to pay child support on time and in full should be primary to the scheme and that child support is not a mechanism to continue or commence abusive practices.

¹ Natalier K, Walter M, Wulff M, Reynolds M, Baxter J and Hewitt B, March 2007, *Child Support and Housing Outcomes*, Australian Housing and Urban Research Institute

It is within this context that three (3) key recommendations are presented for consideration. The recommendations are a response to combat the impact of (a) child support debt, (b) domestic violence and (c) poverty within the context of child support and violence.

Recommendations:

(1) The Child Support Agency should ensure that the enforceable child support liability is paid to the payee whilst the Agency collects the payments from the payer. This would immediately remove the financial impact of no, late or sporadic payments upon the resident mother and her child. Furthermore, it would sever the use of child support as an avenue to practice abusive and controlling behaviour.

(2) That the government invest in a specialist Domestic Violence Team. This team would respond and interact with a range of government services including the Child Support Agency the Family Assistance Office and possibly the government agencies which are soon to form one major Human Service organisation. This team would be the first point of contact for victims and or survivors of domestic violence. This team would assume a range of responsibilities that could include, but are not limited to, the following:

- Provide information regarding the support and services that are available within the nominated government agency and how to obtain them.
- Act as a conduit between the victim / survivor and the government agency.
- Organise exemptions and reviews.
- Provide information regarding other support services such as legal and non-government organisations.
- Be the contact and referral service for the government agencies.
- Oversee information that is provided to the women from and to all government agencies.

This team would be specialist team with best practice screening tools and a professional background and expertise in domestic violence. The team would have complaint mechanism and processes of review which are consistent with current government agencies.

(3) To develop a Domestic Violence Payment and Transfer Scheme.

This scheme would be premised upon the notion that perpetrators of violence should not be financially rewarded for their criminal conduct whilst ensuring that agencies protect victims. Under this proposal, perpetrators of violence would be required to make a financial contribution to this scheme. The payment would not be child support but a domestic violence penalty and it would be collected by a government department other than the Child Support Agency.

This proposal would remove the financial incentive for perpetrators as well as providing a revenue stream that would be used to provide greater assistance to women and children. In support of this proposition, NCSMC suggests that economic modelling should occur that takes into consideration the economic cost of domestic violence for victims. The frequency of compensation / payments could be elected by the victim / survivor of domestic violence.

Reasons for the recommendations

Child Support Debt and Poverty

The financial circumstances of single mother led households and the increased risk of poverty and deprivation is well documented. The Social Policy Research Centre identified certain population groups that consistently face higher than average risk of poverty and stated that among family types, single people and lone parents were at the highest risk. ACOSS who completed research into deprivation and multiple deprivation stated that whilst 19% of the Australian population experienced multiple deprivation, sole parents face a much higher risk of multiple deprivation with 49% of all sole parents experiencing multiple deprivation. This level of deprivation was significantly higher for sole parents than any other family type.²

McInnes in her research reviewed the impact of the introduction of child support scheme, along with improvements in the social security system 10 years after the CSS had commenced. The research found that when child support was paid it was effective in reducing poverty levels in single mother households. McInnes noted the Australian Divorce Transitions Project which found that child support payments reduced the rates of poverty amongst single mothers in the paid workforce from

² The Australian Council of Social Services, 8th December 2008, *Who is missing out? - Hardship among low income Australians*

24% to 10%. For single mothers on income support, child support reduced the poverty rate from 78% percent to 50%.³

In research undertaken by the Australian Housing and Urban Research Institute (AHURI) they found a correlation between housing outcomes and child support payments. AHURI identified that there were differences between resident parents and non-resident parents in their housing outcomes. A prominent finding was the receipt of \$75 per week in child support assisted resident parents living apart to secure better quality housing for themselves and their children. Conversely, for non-resident parents living apart, the payment of child support appeared to have no measurable effect upon the standard of their housing.⁴

Despite decades of formal audits, subsequent recommendations and additional funding such as the recent Compliance Program (\$165.1 million), child support debt continues to grow and by 2008-09 it had increased by 11.9. The most recent figures availed to NCSMC confirm that:

- As at December 2010 the total Child support debt was \$1.178 billion representing an increase from 30 June 2010 which was \$1.170 billion
- As at December 2010 active domestic child support debt was \$643.7 million which is a reduction from 30th June 2010 which was \$204.7 million⁵.

The current system has a long history of failure in its duty to collect and transfer child support to the child's primary place of residence.

³ McInnes, E., (2001), 'Public Policy and Private Lives: Single Mothers, Social Policy and Gendered Violence', Thesis Collection, Flinders University of SA.

⁴ Australian Housing and Urban Research Institute, March 2007 AHURI Positioning Paper No. 96, *Child support and housing outcomes*, Southern Research Centre Swinburne-Monash Research Centre Queensland Research Centre

⁵ Child Support National Stakeholder Engagement Group, February 2011, *Child Support Debt*, Child Support Agency

Child Support and Domestic Violence Exemptions

A specialist domestic violence team has the potential to overcome a range of identified structural, cultural and systemic issues which currently exists. It is NCSMC opinion that such a team could have the potential to address long-term universal issues relating to domestic violence. Contemporary research which explored the matter of exemptions and child support, completed by Cook et al, is consistent with the voices of women who contact NCSMC. Below are some of the findings of that research which identifies concerns and inadequate practices regarding *Exemptions*:

- An inconsistent approach which is controlled by agency staff that do not have the expertise to respond to domestic violence.
- Wilkins (2002) argues that the degree of help that women receive from welfare service providers is affected by the attitudes and values of public bureaucrats as they exercise discretion in policy implementation.
- Thompson's research which focused upon violence and power relationship stated that the non-payment of child support by violent ex-partners and the poverty of single-parent victims of abuse are also socially condoned through the enactment of the current policy.
- In addition to the financial penalty, for some women the exemption also failed to protect them from ongoing forms of harassment and abuse.
- The qualitative research highlighted a women experience, which despite the success for an exemption, the process of seeking an exemption was a personal and intrusive one and was a reason as to why she decided not to proceed.
- A key factor in deciding to seek an exemption was the support and trust of agency staff.(A specialist team would have the capacity to be the one point of contact and engender higher levels of trust):
- Empirical research suggests that the marital status of parents prior to separation can be a deciding factor in the likelihood of obtaining child support for single parents.

- Single parents are required to abide by these processes and systems in order to be eligible to receive assistance and support; however, they are limited in terms of the amount of Information divulged to them, for example regarding the exemption option.
- Many of the participants spoke of getting differing information from not only the Child Support Agency but also Centrelink. This included the need to ask the 'right' questions in order to get the desired information.
- Some of the women felt that the frequent reassessments were barriers to applying, as it was not worth the time involved.
- Concerns that the process was not guaranteed; that one could go through the entire application process and the exemption may still be declined⁶

Supporting victims and not perpetrators of Violence

A *Domestic Violence Payment and Transfer Scheme* would be premised upon the notion that perpetrators of violence should not be financially rewarded for their criminal conduct whilst protecting victims. Under this proposal perpetrators of violence would be required to make a financial contribution to this scheme. The payment would not be child support but a domestic violence penalty and that it would be collected by a government department other than the Child Support Agency.

This proposal would remove the financial incentive for perpetrators while providing a revenue stream for the purpose of providing greater assistance to women and children. In support of this proposition, NCSMC suggests that modelling should take place to realise the economic cost of domestic violence and that payments are made accordingly. The frequency of compensation could be elected by the victim / survivor of domestic violence similar to Family Tax Benefit options.

McInnes in her research found that single mothers' access to non-market income and assets after separation was extremely limited, however survivors of violence were likely to experience deeper, longer-term economic disadvantage than other single mothers and that the income support system was single mothers' primary source of non-market income. This in itself produces poverty and

⁶ Patrick R, Cook K, and McKenzie H, Vol. 42, No. 7, December 2008, *Domestic Violence and the Exemption from Seeking Child Support: Providing Safety or Legitimizing Ongoing Poverty and Fear*, Social Policy

deprivation, and that single mother families face higher than average risks and contend with multiply deprivation. Furthermore, children residing in a households headed up by a mother are 25% to 30% more at risk of child poverty⁷. This paints a concern picture as it is predicted that these figures will rise due as more single parent families are transitioned from Parent Payment Single (PPS) to Newstart allowance. It is estimated that 20,000 to 30,000 Australian families are now claimants of Newstart allowance which is the equivalent to \$34 per day.

McInnes also noted that child support; assets from the partnership and repartnering were the other non-market avenues for single mothers to gain access to financial resources. However, the data indicates that survivors of violence were less likely than other single mothers to access each of these avenues, thereby increasing their risks of financial disadvantage and that violent men were reluctant to divide assets and survivors were threatened out of making any claims. A perverse policy outcome is that the use of violence is an effective approach to avoid child support obligations and property division. Given that violence was the most common reason for separation amongst mothers in the sample (McInnes), single mothers' poverty after separation, can be attributed in part to the widespread successful use of violence by men to maintain ownership of property and income assets.

Violence was an effective strategy for men to gain economic advantages after separation by:

- Dissuading women from making claims for Child Support or seeking increased amounts;
- Dissuading women from making claims on property or to accept a reduced amount;
- Forcing women to accept debts in their name⁸.

NCSMC contends that a *Domestic Violence Payment and Transfer Scheme* has merit and great capacity to readdress the financial disadvantage experienced by victims of domestic violence whilst reducing the financial incentive for perpetrators.

⁷ The Australian Council of social Services, December 2008. *Who is missing out? Hardship among low income Australians*.

⁸ McInnes, E., (2001), '*Public Policy and Private Lives: Single Mothers, Social Policy and Gendered Violence*', Thesis Collection, Flinders University of SA.

Part- Two

Response to the Australian Law Reform Commission Family Violence and Commonwealth Laws Issues Paper: Child Support and Family Assistance

Question 1 Should the Child Support (Assessment) Act 1989 (Cth) and the Child Support (Registration and Collection) Act 1988 (Cth) be amended to insert a definition of family violence consistent with that recommended by the Australian Law Reform Commission and NSW Law Reform Commission in Family Violence—A National Legal Response (ALRC Report 114)?

It is imperative that information and definitions of family violence are clearly articulated in legislation which would provide clarity and transparency. Furthermore the legislation is a foundation from which policy, practices, processes and culture are formed and implemented.

NCMSC supports the definition as recommended by the *the Australian Law Reform Commission and NSW Law Reform Commission in Family Violence—A National Legal Response* and that this definition is available on all modes of communication including the Child Support Agency website and that it is then consistently used for all government agencies.

Question 4 In relation to the legislative requirement that a person take reasonable maintenance action, in order to receive more than the base rate of Family Tax Benefit Part A, what changes, if any, are needed to family assistance and child support legislation and policy to:

- (a) ensure that exemptions are accessible to victims of family violence;*
- (b) ensure that exemption periods are of an appropriate duration; and*
- (c) address any financial disadvantage of victims of family violence who are exempted?*

Response to (a) and (b)

The child support agency commences from a deficiency of knowledge, practice and culture when responding family violence as illustrated by the absence of definition and accessible information. NCSMC also questions the amount of domestic violence exemptions

as it does not appear to reflect the level of women who are both victims of domestic violence and clients of the child support agency with estimates that only 3% of parents with care are currently exempt from taking action under the child support scheme⁹

NCSMC seeks the development of a specialist domestic violence team and that this team would be required to screen, support and address issues of exemptions and other domestic violence matters. This team would be the one 'point of contact' for victims removing the requirement for them to continue to re-tell their situation and the capacity to build trust.

Single Mothers who are survivors or victims of domestic violence should not face the additional barrier of financial disadvantage whilst perpetrators of violence should not be financially rewarded which current exists. A domestic violence scheme such as our recommendation 3 (page 5) should be explored as a possibility to address the coexistence of violence and poverty.

Question 5 *Should Child Support Agency staff be required to provide information about family violence exemptions when dealing with applications for child support assessment?*

Firstly, staff should be aware of the existence of exemptions and provide verbal and written information as well as pointing out where the information can be readily obtained from the website and other documents. Secondly, it would be preferable and an efficient model if the Domestic Violence Team was external to the agency and could transact a range of government agencies. Applicants could then receive an individualised and personalised service to their unique and often complex circumstances.

Question 6 *What reforms, if any, are needed to ensure that persons who use family violence are not relieved from financial responsibility when victims obtain exemptions from the requirement to take reasonable maintenance action?*

⁹ Wikeley, 2006: 275 choose between safety or receiving public assistance'.

This is a significant problem with the current system, whereby those who use violence, in effect, receive financial incentive for their criminal behavior. Conversely, children are denied the financial support for which they would otherwise be entitled to. The current system that enables or forces women to negotiate directly with violent fathers needs to cease, and that the CSA to have the power of reconciling the actual child support amount paid for all agreements. NCSMC questions the validity of the CSA having targets or desired amounts of customers that are private collect. NCSMC was recently contacted by a woman who after several years of sporadic payment was told to 'give him a chance' as 'he is trying'. She was not aware that she readily opt out of a private agreement and seek an agency collect.

Perpetrators of violence should make a payment / fine to a domestic violence scheme such as recommendation (3) as page 5.

Question 7 *Should a person who has been granted an exemption from the requirement to take reasonable maintenance action due to family violence, also be exempt from paying child support to the person who has used family violence?*

Absolutely - perpetrators of family violence frequently use the child support system as a means to continue their control over an ex-partner. Most often this is in the form of withholding child support amounts, sporadic payments, using the need to follow up payments as an opportunity to continue intimidation and violence. People who use violence should not be rewarded for this behavior by being eligible to receive child support payments.

An outcome of the Child Support Reforms was the 24% discount for one night contact per week; a significant financial incentive and perused irrespective of the presence of violence. The AIFS stated that over 68% of lawyers interviewed as part of the evaluation agreed that some potential child support payers are trying to get more care time with their children in order to reduce their child support liability and that some payees are trying to prevent their ex partner from exercising more care to avoid a reduction in child support¹⁰. If the 24% was

¹⁰ Kaspiew, R, Gray M, Weston R, Moloney L, Hand K, Qu L, December 2009, *Evaluation of the 2006 family law reforms*, The Australian Institute of Families Studies

rectified, and reflective of the pre-reforms amount, NCSMC suggest that the need to pay child support to a violent father would also diminish.

Question 8 *Exemption policy in relation to the requirement to take reasonable maintenance action is currently provided for in the Family Assistance Guide and the Child Support Guide. Should legislation provide that a person who receives more than the base rate of Family Tax Benefit Part A may be exempted from the requirement to take reasonable maintenance action on grounds of family violence?*

Yes – in complete support.

Question 9 *Do any other issues arise for victims of family violence in obtaining exemptions from the requirement to take reasonable maintenance action?*

There are two key issues, the financial impact and the intersection of Family Law.

The interactions of the Family Law and Child Support systems have had unintended consequences for women experiencing violence. Changes to the Family Law Act introduced in 2006 (particularly misinterpretation of shared parental responsibility provisions) have led to the Family Law system awarding increased levels of care for children to violent parents. Research confirmed that violence fathers were more likely to seek and receive equal care when compared to non-violence fathers¹¹

Question 10. *Should application forms for a child support assessment, or other Child Support Agency forms—including electronic forms—seek information about family violence? If so, how?*

Application forms for child support, including electronic versions, should seek information about family violence. As outlined in the Issues Paper, this information may not be volunteered as women: may not identify their experience as violence; may not be aware of the relevance of raising the matter of violence; may be concerned about the response they will receive and so not disclose. Furthermore, women who have disclosed domestic violence are

¹¹ Maypole Women, 2011, *Why an emphasis on children's wishes and feeling could fail to protect* www.maypole.org.au

often not believed or their experience trivialized. It was found that only 40% of women disclosed family violence within the Family Relationship services¹².

Question 11 *Should Child Support Agency staff be required to inquire about family violence when a person makes a telephone application for a child support assessment? In what other circumstances, if any, should Child Support Agency staff be required to inquire about family violence when dealing with customers?*

Inquiry should take place upon first contact with the agency and then at periods of change such as opting out for a private collect agreement.

Question 12 *Should Centrelink staff be required to inquire about family violence when referring a person to the Child Support Agency?*

Both Child Support Agency and Centrelink staff should be required to inquire about family violence to ensure that applicants are aware that provisions exist; but also to inform women that these services are willing to discuss these matters and to deal with them. The development of a specialist Domestic Violence Team would be well positioned to respond to this matter

Question 13 *Are Centrelink social workers, Indigenous Service Officers and Child Support Agency staff able to access information about persons who have identified themselves as victims of family violence as to whether they have obtained a protection order or similar? Should Centrelink social workers, Indigenous Service Officers and Child Support Agency staff be able to access the national register recommended in Family Violence—A National Legal Response, Report 114 (2010)?*

¹² Family Violence and Family Law in Australia (The experience and views of Children and Adults from families who separated post-1995 and Post -2006), April 2010 p181, Bagshaw D; Wendt S; Campbell A; McInnes E; Tinning B; Batagol B; Sifris A; Tyson D; Baker J; Fernandez Aria P. Family

Yes, but it should not be the only piece of information that informs and grants an exemption.

Question 14 *In what circumstances, if any, should information about family violence be shared between the Child Support Agency and other government agencies, such as Centrelink?*

NCSMC supports in principle the ‘sharing of information’ as it would allow women to only have to tell their story to one agency; and allow both agencies to have similar information. Furthermore, the sharing of information must be done with the permission of the woman concerned, and protections must be developed to ensure that this information is not further relayed to the perpetrator. However, until there is a professional and well developed knowledge of Domestic violence and the gendered nature of violence (once again illustrating the benefits of a specialist Domestic Violence Team) NCSMC would be cautious about providing full support for this proposition.

Question 15 *In what ways, if any, can the legislative basis for Child Support Agency determinations about the percentage of care, be improved for victims of family violence?*

Overstating levels of care is one way that perpetrators of violence continue to abuse their ex-partner. The 2006 changes to the Family Law Act have allowed this to increase in recent years. Not only do mothers live in fear about their children’s safety, but reduced child support payments exacerbate their level of poverty. A recurring theme is that ex-partners fail to meet their care obligations, leading them to conclude that these ex-partners have claimed increased care primarily to avoid the payment of child support. Likewise, there are parents who claim that as they are paying child support, they do not have to provide for their children even when they are in their care.

Women who have been victims of violence report that they are unable to correct these care determinations due to fear of exacerbated violence or lack of resources to return to court to get parenting orders changed.

Legislation needs to acknowledge this level of fear that can prevent accurate care determinations, and the use of care determinations to continue intimidation. Where there is disagreement regarding level of care, and family violence is present, the legislation should allow for decision makers to err on the side of the victim.

Question 16 In what ways, if any, can the rules, as stated in the *Child Support Guide*, for the Child Support Agency to verify actual care when parents dispute the care that is occurring, be improved for victims of family violence?

Remove the responsibility for the victim of violence to have to do much of the work in verifying levels of care. This once again illustrates the benefits of a specialist team who could take on the role of gathering and establishing information.

Question 17 *Is family violence adequately taken into account in the grounds for a departure determination?*

No, the departure determination or the change of assessment is a mechanism that provides control and abuse. The reasons for a COA are predominately used to reduce child support. The forms are lengthy and intrusive with a requirement to have contemporary and comprehensive financial knowledge of an ex-partner.

Question 18 *What reforms, if any, are needed to ensure that victims of family violence obtain a departure determination where appropriate?*

The CSA has capacity to self initiate COA – this capacity should be used where there are matters of Domestic violence.

Question 19 *Should the Child Support Agency be required to ask payees if they have concerns about family violence before it initiates departure determinations?*

Yes. Questions should be asked about family violence at all stages of CSA involvement.

Question 20 *Should the Child Support Agency be required to ask customers about family violence prior to initiating other proceedings or actions? If so, which proceedings or actions should this requirement apply to?*

Yes. Questions should be asked about family violence at all stages of CSA involvement.

Question 21 What reforms, if any, are needed to protect victims of family violence who, due to fear of persons who have used violence:

- (a) elect to collect child support privately, or elect to end collection by the Child Support Agency; and
- (b) privately collect less than the assessed amount of child support, or no child support?

The current scheme makes women choose between the financial advantage of child support or the safety of them and their child. Significant changes need to occur and NCSMC has suggested an alternative which is our recommendation as page 4 and 5.

Question 22 In practice, how does the requirement to take reasonable maintenance action affect victims of family violence who collect less than the full amount of child support? What reforms, if any, are needed to ensure that victims of family violence in these circumstances are not financially disadvantaged by receiving less Family Tax Benefit Part A?

Remove this as a requirement for victims of Domestic violence

Question 23 What reforms, if any, are needed to ensure that victims of family violence are not required by Child Support Agency to privately collect child support?

The requirement to take reasonable maintenance action can result in exacerbated poverty for families leaving violent relationships. Women frequently elect not to pursue child support to ensure there is less contact with the violent ex-partner. However, in receiving no child support and only the base rate of Family Tax Benefit they are severely financially disadvantaged.

Where family violence is disclosed, the child support system should not allow for private collection of child support to occur.

As described above (in response to Question 6) when violence has been present and the correct amount of child support is not being paid, the CSA should initiate an active and immediate role. A financial penalty, in the form of a penalty rate or interest rate, should be applied to unpaid child support amounts and gifted to the payee. However, if NCSMC recommendation (1) one was adopted this matter would not arise

Question 24 What reforms, if any, are needed to protect victims of family violence who, due to fear of persons who have used violence, elect to:

(a) end Child Support Agency collection of child support debt?

(b) request that Child Support Agency revoke a Departure Prohibition Order?

The safety of women and children must always be the main priority, and the woman is in the best position to judge this. Her wishes must be the basis on which decisions are made, even if this means the non collection of debt. Highly skilled and experienced advocates should be available in both Child Support Agency and Centrelink to work with women on the implications of any decision about child support debt or revocation of DPO. Women who, due to fear of violence, are unable to pursue collection of child support debt, should receive a payment from the government to make up for this loss of income.

Child Support debt in itself can be intended abusive practice and that the CSA should install a culture that the collection and transfer of money should take primacy which would reduce the magnitude of this matter.

Payers who have a child support liability should not be granted an extension for the lodgment of taxation as non-lodgment debt and or a family tax debt can be incurred by the payee, who had no control over the debt and its collection. This adds an additional layer of distress on top of poverty and violence.

Question 25 In cases where victims of family violence are subject to pressure to enter into child support agreements, are the provisions in the *Child Support (Assessment) Act 1989* (Cth) providing that:

(a) independent legal advice must be provided; or

(b) annual child support assessments may not be decreased sufficient to protect victims from entering into disadvantageous agreements, and if not, what reforms are needed?

Victims of family violence should not be pressured into support agreements as they are well place to predict the response of a violence ex-partner. NCSMC confirms that recommendation (3) would again provide merit in addressing this circumstance.



Question 26 What reforms, if any, are necessary to protect the safety of victims of family violence, where the Child Support Agency discloses information about one party to another in accordance with child support legislation? Are changes to the legislation required, and if so, what changes?

The CSA has a duty of care and that this should be elevated and take precedent over the requirement to disclose information.

Furthermore, the provision of information between parties during the various child support processes is an area of concern for victims of violence. An enormous amount of information is required to be provided (particularly in Change of Assessment applications) including about their own circumstances. Women report being asked, for example, to provide copies of bank statements, which are then shared with the other party. Bank statements include a person's address details, along with the names of the places they shop. Pay slips include, at minimum, the name of the employer.

The CSA may block out address and bank account numbers on these documents when they have been informed that violence is present. However, women are rightly concerned that other information that may identify their location (eg where they shop, work, children's activities) is still evident on these documents. As a result many choose not to continue with the process.

Regarding the COA, the CSA will remove abusive language (mostly through white ink and then forward a copy of the COA with words or phrases removed). NCSMC contends that a form which has already been identified as 'abusive or offensive' and then modified (by CSA) should not be accepted by the agency and that any delay should not impact upon the other parent.

Question 27 Are victims of family violence adequately protected by the Child Support Agency's procedures to deal with threats made to the Child Support Agency against them by family members? What reforms, if any, are needed to protect victims where family members make threats against them to the Child Support Agency?

NCSMC is not aware of the procedures and have not had any contact with women who have been protected by such procedures. It is interesting to note that the CSA has a 'write only' as a way of protecting agency staff, from abusive clients. NCSMC questions how this

identification then translates into protection for CSA clients. The CSA response to violence and abuse appears disjointed and problematic.

Question 28 Is the personal information of persons at risk of family violence adequately protected by Child Support Agency practices, such as the Restricted Access Customer System? In what ways, if any, can the protection of personal information be improved?

No, disclosure of personal information is problematic as identified in response to question 26. Victims of violence should not be in fear that information will be provided to the other person. To this end, where forms go between clients should not be contained personal and identifying information.

Question 29 Are there any other concerns about the interaction of child support law and practice and the protection of safety of victims of family violence? What reforms, if any, are necessary to improve the safety of victims of family violence?

Please see our three recommendations on page 4 and 5.

Additionally, having resources greatly supports all women but in particular women who have born an additional economic cost due to domestic violence. NCSMC would like to highlight two additional recommendations that would aide women.

(a) Maintenance Income Amount

The Ministerial Taskforce Report, *Every Picture Tells a Story* made a raft of recommendations including recommendation (9.3). This recommendation had identified the anomalies of ‘claw back’ amounts which are known as the Maintenance Income Test. These arrangements are unfavourable for single parent household when compared to that for two parent families. Currently, when child support is received the Family Tax Benefit A is reduced by 50 cents in the dollar for low threshold amounts commencing at \$1,368.75 per financial year, (as illustrated in the table below) until the payment reaches the base rate of Family Tax Benefit A¹³.

¹³ Centrelink, Maintenance Income Test,
www.centrelink.gov.au/internet/internet.nsf/factors/maint_inc_test.htm



Table Three

Maintenance Income Amounts

Status	Child support received (per year)
Single parent or member of a couple receiving maintenance	\$1,368.75
Couple, both receiving maintenance	\$2,737.50
For each additional child add	\$ 456.25

However, a two parent family may receive income of up to \$45,114 for the financial year which will then gradually reduce by 20 cents for each dollar above \$45,114 until the payment reaches the base rate of Family Tax Benefit Part A. As affirmed throughout this submission financial disadvantage is compounded with and through domestic violence. All avenues that can reduce the coexistence of violence and poverty should be implemented.¹⁴

(b) The self-support amount;

The equalising of the self-support amount is the amount that parents can earn before it is taken into account for the calculation of the child support formula. The equalising was adopted irrespective of the level of care that a resident mother maybe providing and how the role of principle carer impacts upon the capacity to engage with the labour market. Women who are surviving domestic violence are less likely to be engagement with the labour market and although there are some domestic violence clauses the labour market has not implemented a national standard to respond to this matter. This disadvantage of assuming the principle carer and contending with violence is then compounded with this reduction.

- Resident parents had their self support amount reduced from \$45,505 to \$18,252 per annum.
- Non- resident parents had an increase from \$15,378 to \$18,252

NCSMC views this as a signal of undervaluing the cost, contribution and impacts of being the principal carer and notes that in Germany the principal carer have all of their income disregarded. A progressive and appropriate outcome would be to reinstate the disregarded income amount for resident parents at the pre-reform level of \$45,000 in recognition of the

¹⁴ Centrelink, Family Tax Benefit A

http://www.centrelink.gov.au/internet/internet.nsf/payments/ftb_a_iat.htm (Accessed 4/4/2010)



direct and indirect costs associated with providing a home and all or the majority of care. It is of particular importance for women who are victims and or survivors of domestic violence¹⁵.

¹⁵ <http://www.fahcsia.gov.au/sa/childsupport/pubs/CostsofChildrenUsingAusStandards/Pages/Introduction.aspx>