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## Background Paper

### Introduction

The purpose of this paper is to provide additional background information to the House of Representatives Standing Committee on Family and Community Affairs Inquiry into Child Custody Arrangements in the Event of Family Separation.

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## 1. Concession Cards

Centrelink issues the following concession cards:

1. **Pensioner Concession Card** (for pensioners and certain long-term social security allowees);
2. **Health Care Card** (generally for social security allowees and low paid workers); and
3. **Commonwealth Seniors Health Card** (for eligible self-funded retirees of Age Pension age).

All three cards entitle the cardholders to Commonwealth health concessions, such as low-cost medicines under the Pharmaceutical Benefits Scheme. Table 1 illustrates some differences in entitlements between the concession cards.

**Table 1: Concession Cards**

Example of some entitlements as reductions in the cost of:	Pensioner Concession Card	Health Care Card	Commonwealth Seniors Health Card
Pharmaceutical concessions	Yes	Yes	Yes
Fares on public transport	Yes	In some instances	In some instances
Council rates including water and sewerage	Yes	In some instances	In some instances
Other utilities (eg electricity)	Yes	In some instances	In some instances
Motor vehicle registration	Yes	In some instances	In some instances
Fares on rail travel	Yes	No	Yes
Mail re-direction	Yes	No	No

Lone parents in receipt of Parenting Payment (Single) qualify for the Pensioner Concession Card, which entitles them to:

- pharmaceuticals listed under the Pharmaceutical Benefits Scheme (PBS) at the concessional rate, and assistance with certain hearing services;
- reductions in fares on public transport; council/municipal rates, including water and sewerage; electricity bills and motor vehicle registration;
- free mail redirection through Australia Post, for a maximum period of 12 months;
- discounted rail travel on Great Southern Rail services, and at least one free rail journey a year within the state of residence (apart from Tasmania and the Northern Territory, which do not have rail services); and
- in some instances, additional health, household, transport, education and recreation concessions may be offered by some state/territory and local governments and private

providers. However these providers offer the concessions at their own discretion, and the availability of the concession may vary from state to state.

It is difficult to estimate a precise dollar value for particular concession cards. This is because the provision of concessions varies from state to state, and the 'dollar value of concessions' also varies greatly depending on the cardholder's personal circumstances. For example, non-home owners cannot benefit from concessions on council rates, and non-car owners cannot benefit from car registration concessions.

In October 1997 the House of Representatives Standing Committee on Family and Community Affairs released a report on concession card availability and eligibility for concessions entitled "Concessions – Who Benefits"? In Chapter 4 "Costs of Concessions" at 4.18 the report mentioned an Australian Pensioners & Superannuants' Federation (AP&SF) report of 1992 that outlined that a pensioner who owned a home and a car could save around \$1000 per year (Commonwealth and state concessions) as a result of holding a Pensioner Concession Card. Pensioners without a home and car saved around \$600 per year. The AP&SF report did not evaluate savings achieved through holding a Health Care Card, but concluded they would be less than those mentioned above.

The Pensioner Concession Card is the most highly valued of the Commonwealth concession cards as it provides a larger and wider range of possible concessions for the holder. Anecdotal evidence suggests that many income support recipients highly value their concession cards, which may influence their decision about workforce participation.

However, the Commonwealth provides a number of 'extension' cards across a range of customer groups, as additional incentive to transfer from welfare to paid employment. The general operation of these 'extension' cards is that they provide continued access to concessions, usually for the first six months after a person's payments are cancelled on their return to work. For instance, lone parents who had been in receipt of Parenting Payment (Single) continuously for 12 months prior to cancellation of their payment due to earnings, will receive an extension Health Care Card for a period of 26 weeks, that is not means tested.

## **2. Interaction between Child Support Agency and Centrelink**

This section provides three case scenarios and flowcharts illustrating customer's interaction with Centrelink/Family Assistance Office (FAO) and the Child Support Agency (CSA), when accessing assistance for families, such as Family Tax Benefit (FTB), Child Care Benefit (CCB), Parenting Payment and child support. Case scenario one (Vicky and Ken) represents the situation where one parent has sole care of the children and is working. Case scenario two (Don and Kate) is a more complex case where one parent has sole care of the children, is reluctant to pursue maintenance and is not working. Case scenario three (Antonia and Thomas) represents a situation where one parent has primary care of their children, and the other parent has some contact. All three case scenarios use Centrelink rates current at 1 July 2003.

The two flowcharts following the case scenarios illustrate the possible outcomes when the customer contacts Centrelink/FAO and CSA.

### **Case Scenario 1: Vicky and Ken**

Vicky phones the FAO call centre on 30 July 2003 to advise that she separated from her husband Ken on 25 July 2003. She has sole care of their two children, Harry aged seven and Sharon aged three. Vicky and Ken used a family day care service to care for Harry and Sharon during the week. They had been claiming CCB as reduced child care fees. Vicky is currently earning \$35 000 per annum and Ken is earning \$55 000 per annum. Vicky is also receiving FTB.

The FAO call centre officer:

- records Vicky's notification of her separation;
- sends out a claim form for Parenting Payment (single) and information to help her apply for child support;
- books an appointment for Vicky on 8 August 2003 at her local Centrelink/FAO Customer Service Centre (CSC); and
- advises Vicky to phone the Child Support Agency (CSA) and apply for child support.

Vicky phones the CSA to apply for a formula assessment for child support. Since Vicky and Ken are on good terms, Vicky advises CSA that she will collect the maintenance directly from Ken (ie. private collection). CSA determines that Vicky is eligible for child support and will contact Ken (by phone or through sending an information kit) to confirm the information and advise him of his rights and responsibilities. CSA calculates that Ken is liable to pay \$960.41 per month (\$11 525 annually) and sends an assessment notice to both Vicky and Ken to advise them of this. CSA electronically transmits the maintenance amount and method of collection to Centrelink.

Vicky attends her interview on 8 August 2003. The Centrelink officer checks the forms, and advises that she does not qualify for Parenting Payment (single) due to her personal income. The Centrelink officer further advises Vicky that she is entitled to a fortnightly FTB payment of \$196.00 (consisting of \$84.00 FTB Part A and \$112.00 FTB Part B). This takes into account that she will be receiving \$960.41 each month in child support. Vicky automatically receives the maximum rate of FTB Part B as she is a lone parent. The Centrelink officer also reassesses Vicky's CCB entitlement. Letters are sent to Vicky to confirm this and to advise her new FTB

and CCB assessments. At the same time, Vicky's child care service is also advised of the new CCB assessment.

## **Case Scenario 2: Don and Kate**

Don and Kate separated on 1 August 2003. Kate phones the FAO call centre on 4 August 2003. She has sole care of their two children; Alan aged nine and Monica aged six. Kate does not work and Don currently earns around \$40 000 per annum. Kate has moved out of the family home and has found a rental house for \$250 per week. Kate is also receiving FTB.

The FAO call centre officer:

- records Kate's notification of her separation;
- sends out a claim form for Parenting Payment (single) and information to help her apply for child support;
- books an appointment for Kate on 6 August 2003 at her local Centrelink Customer Service Centre (CSC); and
- advises Kate to phone the Child Support Agency (CSA) and apply for child support.

Kate attends her interview on 6 August 2003. The Centrelink officer checks the forms, gives Kate a brief description of the payments and what obligations Kate has to Centrelink. Kate advises the officer that she does not want any involvement with the non-resident parent in relation to child support. The Centrelink officer explains the advantage of the Child Support Scheme, the requirements about taking reasonable action for child support and tries to obtain the reasons for her reluctance to seek maintenance. As Kate is reluctant to talk about the reasons, the officer books a social worker interview for Kate on 11 August 2003.

The Centrelink officer assesses Kate's claims and advises her that she is entitled to be paid Parenting Payment (single) of \$446.10 per fortnight and FTB of \$448.56 (consisting of \$370.44 FTB Part A [\$109.48 of this amount is the rent assistance component] and \$78.12 FTB Part B) for a period of 28 days until a decision is made on whether she needs to apply for child support. The Centrelink officer explains to Kate how assistance for families is paid and her responsibilities to continue receiving this assistance. Letters are sent to Kate to confirm this.

Kate attends her social worker interview on 11 August 2003 and tells the social worker about her concerns that Don may become angry if she pursues the maintenance. The social worker assesses Kate's situation and advises that she will be required to seek maintenance as her circumstances do not entitle her to an exemption from seeking maintenance. Generally, an exemption is provided when there is a history of family violence or the customer and her family are in immediate threat of violence. The social worker also advises in writing that the customer has 28 days (from the date of the separation) to take initial maintenance action. If the customer fails to complete initial maintenance action, FTB Part A will automatically be limited to the base rate of \$84 per fortnight (\$42 per fortnight per child) from the end of the 28 day period.

Kate phones the CSA and applies for a child support assessment. She advises that she would like CSA to also collect the child support because she doesn't want to deal directly with Don about the money. The CSA officer determines that she is eligible to receive child support from Don. CSA contacts Don, confirms the information and explains his rights, responsibilities and different methods for making payments. CSA send an assessment notice to both Kate and Don advising that \$622.91 per month (\$7474.95 annually) maintenance is payable by Don to CSA for Alan and Monica. CSA electronically transmits this information to Centrelink.

The FAO reassess Kate's FTB and advises her that she is entitled to FTB of \$334.04 per fortnight (consisting of \$255.92 FTB Part A [\$65.66 of this amount is the rent assistance component] and \$78.12 FTB Part B). This takes into account that Kate will receive \$622.91 each month in child support collected by CSA. If the child support is not received regularly, Kate can elect to have the fortnightly FTB adjusted based on the amount of child support she actually receives each month. Kate automatically receives the maximum rate of FTB Part B as she is a lone parent. A letter is sent to Kate to confirm the change to her FTB.

### **Case Scenario 3: Antonia and Thomas**

Antonia and Thomas separate on 15 July 2003. Antonia moves out of the family house with their daughter Emma aged four and son Michael aged four. Antonia and Thomas use a long day care service 2 days a week for Emma and Michael. After some discussion, Antonia and Thomas decide that the children will have contact with Thomas every second weekend and half the school holidays. This equates to Thomas having 22 per cent care of the children and Antonia having 78 per cent care of the children. Antonia is working part-time earning \$20 000 per annum and Thomas is employed full-time earning \$60 000 per annum. Antonia is also receiving FTB and CCB.

Antonia phones the FAO Call Centre on 20 August 2003.

The FAO officer:

- records Antonia's notification of her separation;
- sends out a claim form for Parenting Payment (single) and information to help her apply for child support;
- books an appointment for Antonia on 1 September 2003 at her local Centrelink Customer Service Centre (CSC); and
- advises Antonia to phone the Child Support Agency (CSA) and apply for child support.

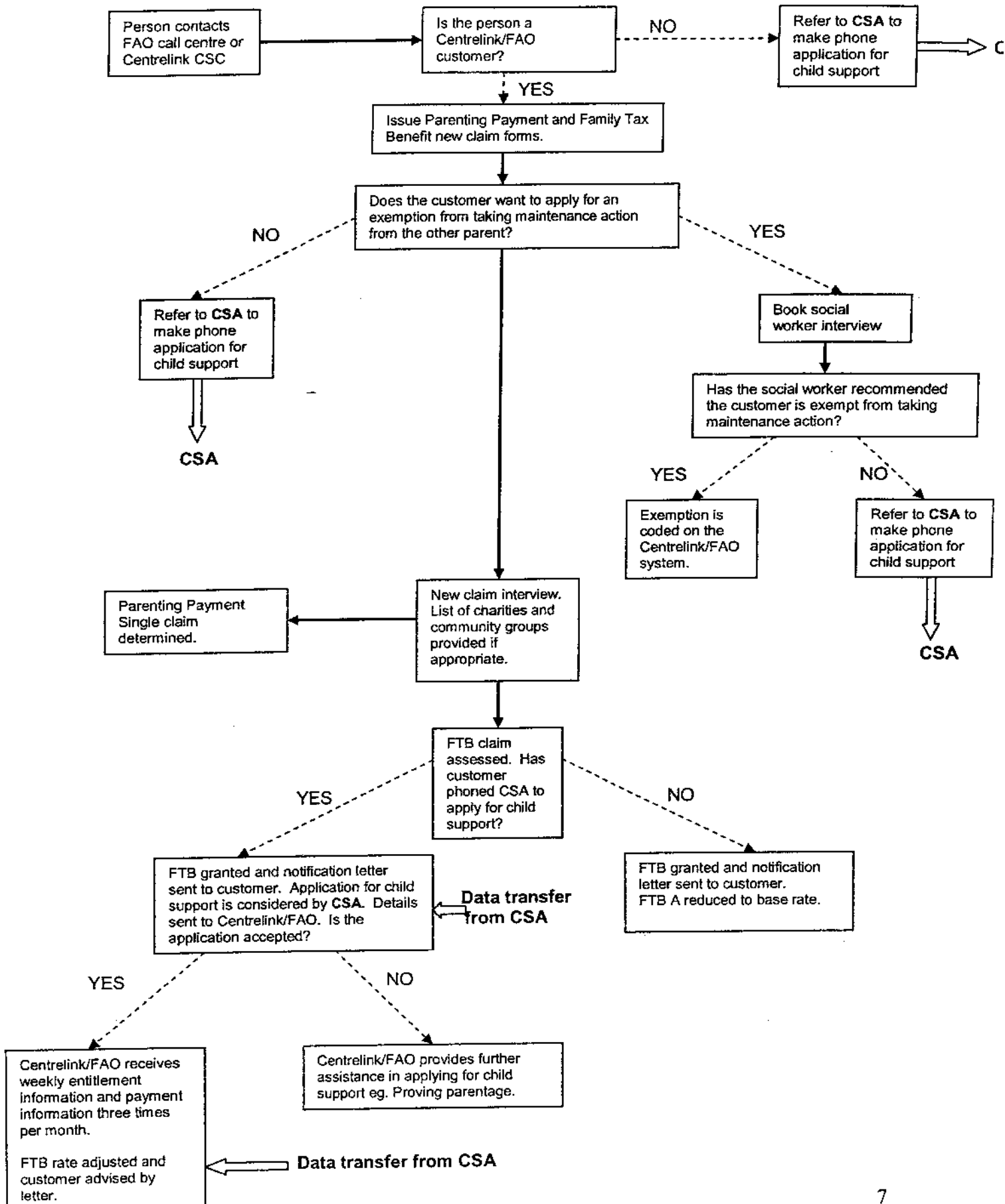
Antonia then phones the CSA to apply for a child support assessment which she intends to collect privately from Thomas. After contacting Thomas, CSA sends both parents an assessment notice advising that \$1072.91 per month (\$12 874.95 annually) maintenance is payable by Thomas. CSA transmits this information to Centrelink.

Antonia attends her interview on 1 September 2003 and the Centrelink officer checks her forms, and explains to Antonia that she is entitled to Parenting Payment (single) of \$206.09 per fortnight and FTB of \$152.88 per fortnight (based on 78 per cent care, and consisting of \$65.52 FTB Part A and \$87.36 per fortnight FTB Part B). The Centrelink officer explains to Antonia how assistance for families is paid and her responsibilities to continue receiving this assistance. Letters are sent to Antonia to confirm this.

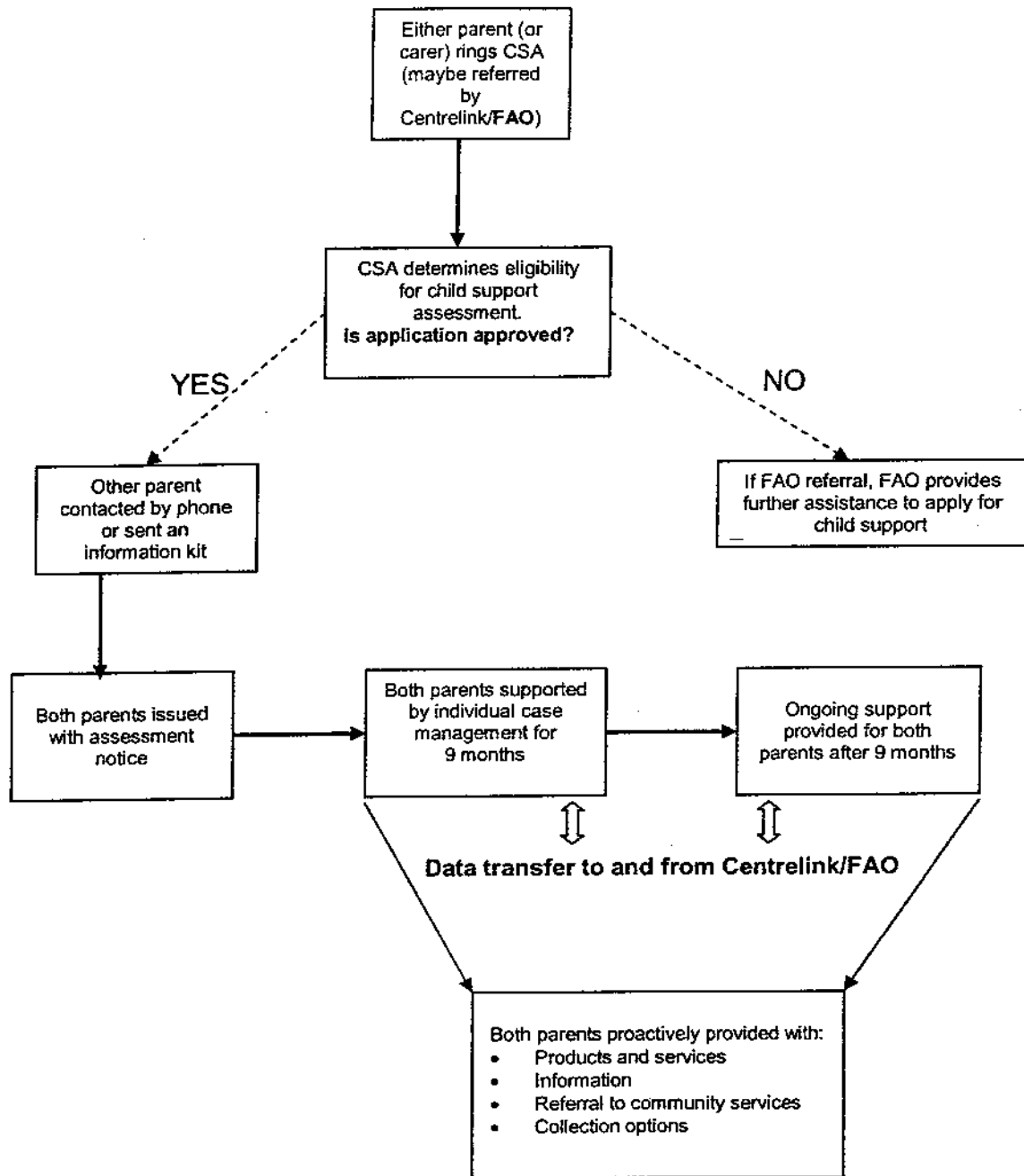
Thomas will need to make a separate claim for FTB to qualify for FTB of \$43.12 per fortnight (based on 22 per cent care, and consisting of \$18.48 FTB Part A and \$24.64 per fortnight FTB Part B). Thomas does not have sufficient care to be entitled to receive child support from Antonia.

Antonia and Thomas are assessed individually for CCB eligibility. They are each entitled to up to 50 hours of CCB for any week that they use approved or registered child care for the children.

**Chart 1: Centrelink and/or Family Assistance Office (FAO)**



**Chart 2: Child Support Agency (CSA)**





### **3. Pre-Tax vs Post-Tax Income**

The issue of pre and post taxable income in the child support formula was considered by the Child Support Consultative Group (CSCG) in 1988, the Child Support Evaluation Advisory Group (CSEAG) in 1991 and the Joint Select Committee on Certain Family Law Issues (JSC) in 1994. The reports of all three reviews in relation to the issue were very similar and can be summarised as follows:

- The use of taxable income is the most appropriate;
- Using post-tax income would be regressive in practice, with lower income earners paying a higher percentage of their income compared to middle and high-income earners; and
- There are also issues regarding the ease of establishing income, ease of administration and the difficulty in manipulating or falsifying income.

The following is a summary of the various positions taken by the respective reviews.

#### **The CSCG Position**

The CSCG recommended that the formula should apply to “income” without deduction for income tax. Their reasons for doing so included:

- This approach would be consistent with the objectives of the Scheme of ensuring that non-custodial parents share the cost of supporting their children according to their capacity to pay, as it places child support obligations as a primary responsibility equivalent to paying taxes;
- Before tax income is readily identifiable during the year; after-tax income, however, is not certain until completion of tax assessment. A before tax formula therefore allows non-custodial parents to more easily predict their liability; and
- Given a need for a higher percentage to be applied to an after-tax base than a before tax base, a before-tax base is more progressive than the after-tax base because lower marginal tax rates apply at lower income levels. This means the before tax base impacts less heavily on low income earners. (Child Support Consultative Group, *Child Support: Formula for Australia*, page 90, Commonwealth of Australia 1988)

#### **The CSEAG Position**

The Committee reported receiving a number of submissions commenting adversely on the fact that taxable income is used as the income base as opposed to net income. The CSEAG had regard to the rationale of the CSCG, particularly the regressive effects that a post-tax income base would have on low-income payers. They concluded that:

“Clearly there are some presentational arguments in favour of using after tax income. Correspondence has indicated that some people would perceive such an approach as fairer. However, proponents do not seem to understand that if after tax income were used the percentages in the formula would need to be increased to ensure that appropriate levels of maintenance liability were set. The Advisory group concludes

there is no reason to change from taxable income to after tax income as a base for the formula.” (Child Support Evaluation Advisory Group, *Child Support In Australia – Final report of the evaluation of the Child Support Scheme Volume 1* pages 200-201, Commonwealth of Australia 1991).

## The JSC Position

The JSC reported receiving some 742 submissions (12 per cent of all submissions) stating that the approach of applying the formula percentage to taxable income rather than net income was inequitable. They noted that the primary justification for preferring post tax income was that it is considered to represent the capacity to pay more closely since it constitutes the amount of income actually available to the liable parent for the payment of personal obligations and living expenses.

The Committee however, also noted submissions it received from the then Department of Social Security (DSS) and the Family Law Section of the Law Council of Australia. The DSS submission stated:

“The formula percentages could be applied to either gross or net income. If they were based on net income they would be higher.

However, a shift to net income would introduce a regressive effect, that is, low income earners would pay proportionally more of their income in child support than high income earners. This arises because tax and Medicare charges represent a smaller component of a low income than a high income. Given the current information on the income distribution of NCP’s registered for collection with the CSA such a move would see the majority of NCP’s pay proportionally more of their income in child support.”

The Family Law Section of the Law Council of Australia submitted:

“On balance, FLS (Family Law Section) proposes no change from using the NCP’s taxable income as the basis for assessment of child support. There are two basic reasons for our attitude:

- a. Taxable income is the simplest approach and is the information most readily available as to income;
- b. there is little point in changing the current situation because to do so would simply result in a change of formula percentage.”

The JSC concluded that they were:

“....sympathetic to the view that the use of after tax income rather than before tax income would result in a more realistic reflection of the actual amount of income available to a liable parent to meet a child support liability. However, the adoption of after-tax income would mean the abandonment of ‘taxable income’ as the child support income base thereby requiring a reassessment of the formula percentages and the relative outcomes they produce. This simply would not be possible without the results of the study into the costs of children recommended in Chapter 15. The Joint Committee is also concerned that any move away from using taxable income as the child support income base would significantly increase the complexity and

administrative cost of the Scheme. Accordingly, the Joint Committee endorses the use of before tax income as the basis for determining the income base for Child Support purposes.” (Joint Select Committee on Certain Family Law Issues, *An examination of the operation and effectiveness of the scheme* pages 350-352, Commonwealth of Australia 1994)

## **Summary**

Payers have criticised the formula for being based on taxable income, rather than after tax income. In their view, after tax income more realistically reflects the resources available to payers from which to pay child support, and other parents support their children from after tax income. In addition, some payers have complained that a payee on social security is financially better off than a low earning payer, considering the net value of disposable income available to them.

If after-tax income were used, the formula percentages would need to be higher to provide an appropriate amount of support for the children. This may disadvantage paying parents earning lower incomes, as they pay lower levels of tax, and would therefore pay a higher proportion of their after-tax income in child support. This may be solved through using different percentages at different income levels to deliver more equitable outcomes for most payers. However, the complexity of the Scheme would increase considerably. This would increase the cost of administration.

#### 4. Effect of Separation and the Children of other Relationships on Household Income

Table 2: Unemployed, nil private income, one child aged 5 to 12 years<sup>1</sup>

Disposable Income	Pre-separation	Payee		Post-separation		
	Intact Family	Payer no relevant dependants	Payer with one relevant dependant	Single and no relevant dependants	Partner and one relevant dependant	Partner and one step child
Newstart Allowance	8 912	n/a	n/a	9 882	8 912	8 912
Parenting Payment <sup>3</sup>	8 912	11 598	11 598	n/a	8 912	8 912
FTB Part A	3 401	3 401	3 401	n/a	3 401	3 401
FTB Part B	0	2 036	2 036	n/a	0	0
Child Support	n/a	\$260	\$260	(\$260)	(\$260)	(\$260)
<b>Total household income</b>	<b>21 225</b>	<b>17 295</b>	<b>17 295</b>	<b>9 622</b>	<b>20 965</b>	<b>20 965</b>
Total government payments	21 225	17 035	17 035	9 882	21 225	21 225

<sup>1</sup> Rates effective 1 July 2003

<sup>2</sup> For the purpose of calculating child support a dependant is a natural or adopted child that a parent has a legal duty to support other than the child/ren for whom they are required to pay child support.

<sup>3</sup> The Parenting Payment for couples does not include Pharmaceutical Allowance

**Table 3: Single income earner taxable income \$35 000 one child aged 5 to 12 years<sup>4</sup>**

Disposable Income	Pre-separation	Post-separation				
	Intact Family	Payee		Payer		
		Payer no relevant dependants	Payer with one relevant dependant	Single and no relevant dependants	Partner and one relevant dependant	Partner and one step child
After Tax Earnings	\$27 803	n/a	n/a	\$27 803	\$27 803	\$27 803
Parenting Payment <sup>6</sup>	n/a	\$11 599	\$11 599	n/a	n/a	n/a
FTB Part A	\$2 429	\$1 925	\$2 868	n/a	\$3 088	\$3 402
FTB Part B	\$2 037	\$2 037	\$2 037	n/a	\$2 037	\$2 037
Child Support	n/a	\$4 083	\$2 197	(\$4 083)	(\$2 197)	(\$4 083)
<b>Total household income</b>	<b>\$32 269</b>	<b>\$19 644</b>	<b>\$18 701</b>	<b>\$23 720</b>	<b>\$30 731</b>	<b>\$29 159</b>
Total government payments	\$4 466	\$15 561	\$16 504	n/a	\$5 125	\$5 439

<sup>4</sup> Rates effective 1 July 2003

<sup>5</sup> For the purpose of calculating child support a dependant is a natural or adopted child that a parent has a legal duty to support other than the child/ren for whom they are required to pay child support.

<sup>6</sup> The Parenting Payment for couples does not include Pharmaceutical Allowance