

The Parliament of the Commonwealth
of Australia

'Thanks for Listening'

A report on the
Child Support Inquiry Hotline

Joint Select Committee
on Certain Family Law Issues

August 1993

Canberra

.....

MEMBERSHIP OF THE COMMITTEE

Chairman: Hon Roger Price, MP

Deputy Chair: Senator Margaret Reid

Senator David Brownhill
Senator Kim Carr
Senator Jim McKiernan
Senator Sid Spindler
Mr Kevin Andrews, MP
Ms Marjorie Henzell, MP
Mr Les Scott, MP
Mr Daryl Williams, AM, QC, MP

Secretariat

Robina Mills, Secretary
Julie Cronin, Inquiry Secretary
Lesley Cowan, Secretariat Support

The Committee would also like to thank the following staff who assisted the Committee with the hotline:

Malcolm Aldons
Tracey Ambrose
Suzanne Burmann
Desley Dawes
Lynn Eveston
Bev Forbes
Dianne Fraser
Lindsay Jones
Gervaise Moran
June Murphy
Karen Phillips
Graham Reid
Joanne Towner
Bernard Wright

Bronwyn Allan
Tanya Baker
Susan Cardell
Marina Ellis
Chris Faulks
Cynthia Forgie
Sarah Hnatiuk
Brian Mitchell
Sue Morton
Chris Paterson
Denise Picker
Pam Sorohan
Kerry Warner

TERMS OF REFERENCE

The operation and effectiveness of the Child Support Scheme

THE HOTLINE

Introduction

- 1 The Joint Select Committee on Certain Family Law Issues has just embarked on an inquiry into the Child Support Scheme and the operations of the Child Support Agency. As part of its inquiry the Committee decided to conduct a Hotline via an 008 number in order that those people who might not have been inclined or felt comfortable putting in a written submission to the Joint Select Committee were able to put a verbal submission. However, given the overwhelming response to the Hotline and the number of submissions already received by the Committee, the Committee feels that it should report to the Parliament on the Hotline.

Background to the Hotline

- 2 At a meeting of the Committee on Friday 25 June 1993, it was decided that the Committee set up a Hotline telephone number so that people who would normally be reluctant to make a written submission or otherwise feel uncomfortable putting pen to paper could have their views taken into account. The Committee wishes to acknowledge the assistance of the Speaker, the Clerk of the House of Representatives, Telecom and the Parliamentary Information Systems Office in the organisation of the Hotline.
- 3 The Hotline was held on 21 and 22 July 1993, from 9.00 am until 6.00 pm each day. Five lines were established initially, then expanded to eight, operating in one hour shifts by staff drawn from the Committee office, the House of Representatives generally and from committee members' offices. In addition, five members of the Committee assisted with answering telephones during the Hotline. These members were Mr Kevin Andrews MP, Senator Kim Carr, Ms Marjorie Henzell MP, the Hon Roger Price MP (Chairman) and Senator Margaret Reid (Deputy Chair).

Hotline response

- 4 The response to the Hotline was overwhelming. It is estimated that over 150,000 calls were attempted over the two day period. Telecom estimates that somewhere in the order of 80,000 calls were logged for Wednesday, 21 July. On Thursday, 22 July, Telecom logged a low of 6,100 calls between 12.30 pm and 1.30 pm and a high of 9,477 between 5.00 pm and 6.00 pm. In order to have their say, callers attempted to contact the Hotline continually throughout the two days, and when

they were able to be placed in a queue waited for periods of up to an hour in order to speak to the Committee. However, because of technical limitations on lines, answering positions and staff, only 698 calls were able to be answered. 352 were taken on 21 July and 346 on 22 July. The average duration of the calls was between 15 and 20 minutes. Callers who were unable to get through on the Hotline found many ways of contacting the committee secretariat, and these callers were contacted during the following week.

Submissions

- 5 During the week following the Hotline over 1100 letters (submissions) were received in the secretariat about the Inquiry. The level of response is enormous compared with almost any other inquiry held by a committee in the Parliament. The Family Law committee received a total of just over 1,000 submissions for its inquiry into the Family Law Act last year. Submissions have not yet closed for the Child Support Inquiry and they already stand at over 3,000.

Outcome of the Hotline

- 6 The Committee is concerned at the level of dissatisfaction in relation to the Child Support Scheme in particular, as evidenced by the response to the Hotline and the number of written submissions received to date. It is obvious that there are serious problems with the Scheme, as people were prepared to persist in attempting to contact a Hotline over two days. When they were finally placed in the Hotline queue, they held on for one hour in order to have an opportunity to discuss the issue and say at the end of the call 'Thank you for giving me this opportunity. I'm so glad someone is prepared to listen to me'.
- 7 The Hotline served to make the Committee process of the Parliament accessible and available and relevant to a whole new range of people. Clearly the Hotline was less intimidating for many people than the more traditional committee process. The Hotline was a litmus test of community opinion about the CSS and the Agency. It is incumbent on this Parliament to recognise that there is considerable dissatisfaction, distress and hardship within the community about the program and the operation of the Child Support Agency. That dissatisfaction cannot be dismissed as merely a disgruntled minority.
- 8 This dissatisfaction is felt by both custodial parents and non-custodial parents. Both parents were equally vocal in their dissatisfaction with either the Scheme or the Agency or both. Although the two groups, the custodial parents and the non-

custodial parents, for the most part had different complaints, there were some significant similarities, particularly about the operations of the Agency.

Overview

- 9 The major issues drawn from the Hotline are - the structure of the Child Support Scheme, and particularly the rigidity of the formula, and the operations of the Child Support Agency. It was mainly non-custodial parents who were concerned about the Scheme itself, however, some custodial parents, relatives and new spouses also expressed concern at the Scheme. Both custodial and non-custodial parents were critical of the Child Support Agency. The Committee emphasises that the following issues were among those specifically raised by callers to the Hotline. The Committee has not yet had time to consider these issues in detail.

The Structure of the Scheme

- 10 The major cause for concern for non-custodial parents was the structure of the Scheme and the operation of the formula. Generally speaking, non-custodials or people speaking on their behalf, were concerned that the scheme as it currently operates:
- . is unjust;
 - . does not allow the non-custodial parent the opportunity to re-establish themselves after a separation;
 - . is generally inflexible; and
 - . is unable to accommodate individual circumstances.
- 11 Specific concerns were:
- 11.1 the operation of the formula, in particular:
 - 11.1.1 the percentage approach to the support of a child;
 - 11.1.2 the application of this percentage to gross wages and not net;
 - 11.1.3 the inclusion of overtime in the calculations, particularly if overtime is no longer applicable;

- 11.1.4 the application of an indexing factor of 3.4%, when inflation is not that high, as measured by the Consumer Price Index;
- 11.1.5 the assessment being based on income earned two years previously, when circumstances had changed and current income was considerably less;
- 11.1.6 the limited grounds of review under the legislation;
- 11.2 the inability of property settlements and the relative amounts which are received by the custodial and the non-custodial parents to be considered under the formula;
- 11.3 the inability to claim those children for whom the non-custodial parent had a child support liability as dependents for taxation purposes;
- 11.4 the apparent injustice where the amount of exempt income applied to the non-custodial parent is approximately \$8,000 per annum before child support is levied, while the disregarded income threshold of the custodial parent is currently more than \$30,000 per annum;
- 11.5 the necessity for a new spouse of a non-custodial parent to subsidise that parent;
- 11.6 the decreased ability of the non-custodial parent to re-establish themselves following marriage breakdown as a result of their child support liability, particularly where there has been a property settlement largely in favour of the custodial parent;
- 11.7 the position of non-custodial parents when they re-partner and the lack of consideration given to subsequent family responsibilities following from that re-partnering;
- 11.8 the anomaly between the allowance made for the child/ren for whom a non-custodial parent has custody and the amount determined under the formula for the non-custodial child/ren;
- 11.9 the inability of the formula to take into account the full costs of access, including the provision of suitable accommodation for the children by the non-custodial parent, the costs of transporting the children and the costs of establishing in effect two households where the children can feel at home;

- 11.10 the inability to suspend child support payments to the custodial parent when children were on extended access visits;
- 11.11 the extent to which non-custodial parents' child support liabilities are enforced, yet their access to their children is restricted or denied and court orders in relation to access in particular are unenforced. There was an expressed view that where there was no access permitted the liability for child support should be reduced or waived completely;
- 11.12 the lack of accountability in relation to how the custodial parent spends the child support monies. There was significant concern that the money was being expended to enhance the lifestyle of the custodial parent and possibly a new partner and was not being directed towards the children;
- 11.13 following on from the previous issue, non-custodial parents wanted more acknowledgment of direct payments in the form of school fees, equipment for the children and other such payments. Such direct payments were seen as having the added advantage of giving to the non-custodial parent a more direct say in some areas of their children's lives;
- 11.14 the difficulty that arises where parenthood is unplanned or disputed, or where the relationship has been short term and a pregnancy has resulted and the lack of recognition and the duress on the non-custodial parent, who may have had no say in the existence of the child but have acquired a long term financial liability for that child, even where the custodial parent, in this case the mother, wants nothing to do with the non-custodial father;
- 11.15 the capacity of the custodial parent to use the Scheme and the Agency as a weapon against the non-custodial parent;
- 11.16 a preference expressed by people who can make their own arrangements to be able to do so without CSA involvement. This affects those parties where the custodial parent is in receipt of a pension or benefit and the payee is required by DSS to register with the Agency irrespective of whether the payer has been regularly paying;
- 11.17 the automatic garnisheeing of wages when the non-custodial parent is paying already;
- 11.18 the embarrassment and the loss of privacy caused by the Agency to the non-custodial parent when requesting garnisheeing of wages;
- 11.19 the abrupt notification of assessment.

- 12 Non-custodial parents were primarily of the opinion that they were merely there to provide financial support for the children in the eyes of the Child Support Agency, that through the operation of the Scheme they were responsible for 100% of the financial support of the child and that often they did not get to see their child or children, particularly if the custodial parent had moved interstate.
- 13 A further issue of great concern to non-custodial parents is where their incomes either rise or fall dramatically within a financial year. The fact that an assessment is made on earnings within a financial year and the time taken to complete a review means that non-custodial parents can be severely disadvantaged, eg if a considerable amount of overtime has been worked in one year, which was not available during the next.
- 14 Custodial parents were also critical of the Scheme, particularly so far as the self-employed or those operating within a company structure were concerned. They felt that it was too easy for the self-employed to hide or minimise their income, and that the asset rich, but income poor could easily evade their obligations under the Scheme. Some custodial parents also expressed their concern at the formula, in that they felt the financial burden on the non-custodial parent was too high.

Administration by the Child Support Agency and the Department of Social Security

- 15 There was very strong criticism by both custodial parents and non-custodial parents of the Child Support Agency during the Hotline. It should be remembered that the Agency has a caseload of 205,962. The magnitude of their administrative task is considerable. However, overwhelmingly, Hotline callers claimed that the Agency was not serving either custodial parents or non-custodial parents sufficiently well.
- 16 The major complaints of custodial parents were:
 - 16.1 the ineffectiveness of the Agency in locating and obtaining payments from the non-custodial parent, even when the custodial parent had supplied details of location and place of employment;
 - 16.2 the long delay before the first payment is credited to the custodial parent's account, the irregularity of payments, monthly disbursement and the uncertainty in relation to the amount credited;
 - 16.3 the difficulty caused to the custodial parent if the Agency is late with a payment and pays a double payment in one month. When that occurs the sole parent pension amount is usually affected;

- 16.4 the lack of enforcement action by the Agency;
 - 16.5 the inability of the Agency to recover payments/assets from those who are self-employed;
 - 16.6 the inability of the Agency to recover child support payments where the non-custodial parent has moved overseas.
- 17 Non-custodial parents made the following complaints:
- 17.1 the degree of bias apparent when dealing with the Agency, in particular the fact that they were made to feel like criminals, they were the guilty party and deserved their 'punishment';
 - 17.2 the lengthy delay from the time a review is applied for and before the review is actually undertaken and the length of time before parties were notified of the outcome of a review;
 - 17.3 the extent to which new partners were asked to provide details of their financial situation, usually at a review interview;
 - 17.4 sometimes the first indication that a non-custodial parent had of being registered with the Agency was the initial letter of demand usually showing a high level of arrears, as the assessment is backdated to the date of separation, irrespective of interim arrangements between the parties;
 - 17.5 the difficulty in getting the Agency to respond quickly enough to changes in custody arrangements.
- 18 Both groups made the following criticisms:
- 18.1 the difficulty of communicating with the Agency, including not being able to contact the Agency by telephone, specifically on the 131 number, the lack of response to written correspondence;
 - 18.2 the enormous difficulty getting the Agency where a caller's file was held once the 131 number had been answered, and then being able to talk with an officer who was familiar with the caller's case;
 - 18.3 inaction by the Agency in relation to information provided to it by their clients;

- 18.4 the rudeness encountered when dealing with some Agency personnel;
- 18.5 the tone of correspondence emanating from the Agency;
- 18.6 the insensitivity of Agency staff to the situation of their clients;
- 18.7 where there had previously been an agreement between the two parties and where, for whatever reason, an application had been made to the Agency, the increased tension between the parties attributed to actions of the Agency;
- 18.8 the apparent lack of training given to staff and their lack of knowledge regarding the scheme;
- 18.9 the propensity of the Agency to 'lose' payments;
- 18.10 the perceived harassment by the Agency constantly sending letters of demand for payment of child support payments, when these had been paid and the imposition of fines for alleged late payment;
- 18.11 the potential for breaches of privacy and the concern expressed by many clients that their privacy had actually been breached.

Other issues

- 19 Many non-custodial and custodial parents involved in Stage one of the Scheme have complained to the Committee about the inability to access the administrative assessment mechanism available to Stage two clients for an adjustment to their maintenance payments. They regard this situation as discriminatory and unfair that they are required to go to court to have a review of the level of payment, whereas the Stage two clients are administratively assessed.
- 20 Invariably, non-custodial parents who have contacted the committee acknowledge their responsibility to pay for their children and advise that they are happy to do so. However, those people are also saying that the burden is too great, that they would be better off on unemployment benefit or that they had already been forced to leave their jobs and register for unemployment benefit, as a result of the onerous child support burden placed on them. Such an outcome benefits no-one, especially the children for whom we are told the Scheme has been established.
- 21 Some anomalies are also becoming apparent, where there are Stage one and Stage two families involved. One caller to the Hotline commented that he was paying child support for two families, a Stage one court ordered determination

and a Stage two, CSA assessment. However, the CSA assessment was significantly higher than that for the first family. The father commented that he wanted to pay for each of his children equally, but that this was not able to be considered within the bounds of the current Scheme.

- 22 A further anomaly occurs where a custodial parent, formerly in receipt of a pension, re-partners with a non-custodial parent, who is paying child support. For the purposes of the pension the custodial parent is considered to be supported by the non-custodial parent and is therefore ineligible for the pension. However, the non-custodial partner is not considered to be supporting the step-children so far as his own child support liability is concerned, despite being deemed by DSS to be supporting the family.
- 23 A further issue of concern relates to employers who have the responsibility for garnisheeing an employee's wages for the Agency. Employers have advised the Committee that they too have difficulty contacting the Agency and that the additional administrative burden placed on them by the legislation could make them reluctant to employ a person known to be paying child support.

Objectives of the Child Support Scheme

- 24 In setting up the Child Support Scheme, the Government's broad aims were as follows:
 - 24.1 that non-custodial parents should share the cost of supporting their children according to their capacity to pay;
 - 24.2 that adequate support be available for all children of separated parents;
 - 24.3 that Commonwealth expenditure be limited to what is necessary to ensure that those needs are met;
 - 24.4 to ensure that neither parent is discouraged from participating in the workforce; and
 - 24.5 that the overall arrangements should be simple, flexible, efficient and respect personal privacy.¹

1 Child Support Evaluation Advisory Group, **The Child Support Scheme - Adequacy of child support and coverage of the sole parent pensioner population**, AGPS, 1990, p 7

25 The Committee also notes s 66A(2) of the *Family Law Act 1975* which states:

Particular objects of this division include:

- (a) that children have their proper needs met from reasonable and adequate shares in the income, earning capacity, property and financial resources of both of their parents; and
- (b) that parents share equitably in the support of their children.

26 The Committee acknowledges and applauds the objectives of the Child Support Scheme, that is to increase the number of sole parent families receiving child support to provide an effective enforcement mechanism, to ensure the regular payment of child support and to relieve taxpayers of the financial burden of subsidising single parent families. However, it appears that there are areas where substantial hardship is being experienced in relation to the formula and where the operations of the Child Support Agency are less effective and efficient than they should be.

27 In the light of the expressed objectives of the Child Support Scheme and the response to the Hotline, the Committee would assert that the extent to which the objectives are being met is questionable. In tabling this report today, the Committee seeks to put the issues raised during the Hotline before the Parliament.

28 The Hotline and subsequent response to the Committee's inquiry confirm the importance of the Child Support Inquiry and the Committee will be doing everything possible to bring down a comprehensive report to this Parliament next year.

Hon Roger Price, MP
Chairman

18 August 1993