



WIRE WOMEN'S INFORMATION SUBMISSION

THE PARLIAMENTARY INQUIRY INTO THE CHILD SUPPORT PROGRAM

Prepared by Prue Cameron



Women's Information

ABOUT WIRE WOMEN'S INFORMATION

WIRE Women's Information is one of Victoria's oldest and most respected women's organisation servicing Victorian women for 30 years. Our vision is for a society where women are safe, respected, valued and empowered and free to make genuine choices in their lives. WIRE Women's Information provides a telephone support and referral service as well as an onsite service to providing generalist support and advice. We also run a range of training programs for women.

Our focus:

- Providing support and information to all women on any issue of concern to them
- Taking the time to listen to women's individual stories
- Improving economic outcomes for women through employment, education and financial literacy.

WIRE Women's Information

372 Spencer St

West Melbourne VIC 3003

Ph 03 9348 9416

www.wire.org.au

Introduction

Thank you for the opportunity to contribute to this Parliamentary Inquiry. This submission focuses on the experiences of women who have a history of family violence, and specifically financial abuse, and their interactions with the Child Support system. Every year more than 12,000 women contact WIRE for information, support and referrals on a wide range of issues. One in three women who contacted WIRE sought support in dealing with family violence, including financial abuse. WIRE's first-hand experience with women experiencing family violence and financial abuse has given us great insight into women's information needs. This has also made us acutely aware of the lack of information for women on how to manage after experiencing financial abuse in the context of family violence.

In response to this identified need WIRE has recently conducted a research project, funded by the Department of Social Services, to examine the nature and impact on women who have experienced financial abuse in their intimate relationship and particularly how it affects their short and long-term financial security. The report, *Relationship problems and Money: Women talk about financial abuse*, will be published in the coming weeks. The findings of this research form the basis of WIRE Women's Information's submission to this Inquiry. The research shows that the managing child support payments and the consequent ongoing interactions with their former partner is a significant barrier to many women overcoming economic hardship and securing a stable financial future. Specifically, the majority of research participants experience of the child support system as a mechanism for their former partner to continue their financial abuse long after separation.

1. Background to the research

The research project on which this submission is based involved over two hundred women who participated through focus groups, individual interviews and via an online survey. The research is driven by the need to better understand and address the serious and ongoing consequences of financial abuse on the lives of women and their children.¹ Financial abuse in a family violence context involves behaviours that 'control a woman's ability to acquire, use and maintain economic resources, threatening her economic security and potential for self-sufficiency'.² This use of financial assets and money to exert power and control can include a wide range of behaviours from highly controlling actions such as taking over all the household resources and monitoring every dollar spent, supervising grocery shopping and excluding their partner from all financial decision-making to highly exploitive actions such as preventing a women from working or studying, refusing to contribute to household expenses and coercing a women to sign contracts or accrue debts in her name (Adams et al, 2008). Financial abuse in intimate relationships is a complex issue, deeply embedded in social, gendered and personal norms and values. This makes it difficult to identify and for this reason historically it has been invisible in family law and family violence policy. More recently, financial abuse in the context of family violence has been explicitly recognized as a form of intimate partner abuse in most state legislation and in commonwealth family law since 2012. Yet financial abuse remains poorly understood and often unacknowledged in Australia and importantly, this includes by the many women who experience it.

Although there is no exact measure, research indicates that financial abuse in intimate relationships is widespread and common. It is known that overwhelming majority (between 80 and 90 per cent) of women seeking support for domestic and family violence have experienced financial abuse (McDonald,

¹ Financial abuse is a gendered issue – in an overwhelming majority of cases, men perpetrate financial abuse on their female partners (McDonald, 2012)

² Financial abuse is defined in a number of ways. This definition by Adams et al (2008) cited by McDonald (2012) and Corrie & McGuire (2013) is adopted as it succinctly outlines of some of the specific behaviours.

2012:12). Given that one in three Australian women experience domestic or family violence in their lifetime, it has been conservatively estimated that around 2 million women will be financially abused in their intimate relationship (Corrie & McGuire, 2013:i). As many women who are financially abused do not access these support services, or indeed, even recognize it as a form of family violence, it is reasonable to conclude that it is a significant but hidden problem across the community, affecting women from all socio-economic, cultural and geographical groups. This research specifically included women from across the social and income spectrum who had not been in contact with domestic violence support services.

Australian women are more likely to experience financial insecurity and hardship over their lifetime than men and this feminization of poverty is a growing concern for governments and policy makers. Single parent families, predominantly headed by women, continue to be among the most financially disadvantaged groups in Australia (ACOSS, 2013; Branigan & Keebaugh, 2005). Family violence is a major cause of financial hardship for women (Braaf & Barrett Mayering, 2011,), as most women leave abusive relationships with few or no financial resources due to financial abuse which can result in economic disadvantage throughout their lives. For a variety of reasons women in this situation may be reluctant to pursue their entitlements through the legal system (Fehlberg & Millward, 2013) and even when they do, they more likely to get worse outcomes through the courts than those who have not had that history (Fehlberg & Millward, 2014). Additionally the long-term effects of structural disadvantage experienced by women such as lower pay, fragmented employment patterns and minimal superannuation funds result in 'accumulated poverty', and increasingly homelessness, for women in later life (Australian Human Rights Commission, 2009, Cameron, 2013; McFerran, 2010). This makes identifying and preventing financial abuse at every opportunity essential for women's financial well-being.

The findings of this research provide further evidence of the detrimental impact of financial abuse on women's lives. All the participants experienced a significant drop in their household income post-separation and most continue to experience financial hardship and insecurity. Almost half (44 per cent) the survey respondents reported a current household income of less than \$40,000, with 20 per cent earning less than \$20,000. By comparison, approximately one in three reported a household income of over \$100,000 in their former relationship, and only one in twenty had an income of less than \$20,000. Asked to rate their experience of the child support system from 'excellent' to 'very bad', 14 per cent of survey respondents said their experience was 'satisfactory' and almost 40 per cent found it to be 'not very good' or 'very bad'. Most notably, the overwhelming majority of women in the focus groups described their experience of ongoing financial abuse perpetrated by their former partner though the legal, child and income support systems post-separation. As they are compelled to engage with these systems for their financial security, the powerlessness and uncertainty they experience replicates the loss of control and vulnerability they experienced in their abusive relationship.

ADDRESSING THE TERMS OF REFERENCE

The submission addresses the terms of reference in three broad themes: the issues confronting high conflict families in the child support system; the adequacy of payment calculations, compliance and enforcement powers and the impact on women who experience financial abuse through the linkages between child support and family assistance frameworks and with the Family Courts.

2. *How the scheme could provide better outcomes for high conflict families – the issues confronting women who have experienced financial abuse in the context of family violence*

The ongoing impact of financial abuse

The Australian Law Reform Commission (2012) made a number of recommendations about the Child Support and Centrelink staff routinely screening for family violence. While these recommendations are focused on the safety issues facing those with a history of family violence, the findings of the WIRE

research suggest there is a need for specific screening for and identification of financial abuse by these two agencies. There are two important reasons why financial abuse should be expressly identified: one is that men, particularly those with a history of financial abuse, will commonly use the system to continue the financial abuse of their former partner. This is a critical factor to be taken into account in the assessment and compliance process, particularly where there are repeated applications for changes to assessment and non-compliance. The second reason is that, as this research has highlighted, many women who experience financial abuse do not identify it as family violence and would therefore not consider or raise it as a relevant factor in their case. Because financial abuse can often occur in association with other non-physical forms of family violence, psychological and emotional abuse, many women do not recognize their situation as family violence because there is no physical abuse. An understanding of the impact of financial abuse on women and their families should be a key consideration in the process of maximizing their income security.

While the Australian Law Reform Commission (2012) also noted that it was important that women who have experienced family violence be advised of their eligibility for an exemption from the maintenance action test, there are financial consequences for them in doing so. For women to receive more than the base rate of the Family Tax Benefit Part A (FTB Part A) for a child they are required to 'take reasonable action to obtain maintenance'. Failure to do so means their family assistance support is reduced to the base rate. It is worth noting that while this exemption removes the need for contact with their abusive former partner and protects their safety, it also means they are financially disadvantaged and their former partner is allowed to escape his financial responsibilities (Patrick, Cook & Taket, 2007). With the exception of a small minority of women in the study who were exempted due to their history of physical family violence, the majority sought child support payments to maximize their limited income but this did not ensure their financial security.

Women who have experienced financial abuse in the context of family violence are likely to be living on a low income and most are heavily reliant on child support payments to ensure their budget covers the essentials, housing costs, utilities, food, clothes and school and activities costs of their children. For a majority of the women in this research their former partner's failure to pay, avoid or challenge child support arrangements is an ongoing problem.

Using the child support system to continue the financial abuse

The WIRE research has found that non-payment or minimization of child support is a principal cause of financial hardship for many women and a mechanism through which the financial abuse they have experienced at the hands of their intimate partner can be perpetuated post-separation. Additionally, women report that it is a constant source of stress and anxiety. This finding replicates previous research (Branigan, 2004; 2007; Patrick, Cook & Taket, 2007) that also found that the system allows men to use child support to continue to financially abuse their former partner. As identified in those studies, this research found that men with a history of family violence commonly employ a variety of strategies to reduce or avoid child support payments including "quitting their job, declaring bankruptcy, working cash-in-hand, minimizing their income under their own or their family business, failing to complete returns, hiding income and assets in bank accounts and investments, filing for exemptions on the basis of inability to pay, for example drug and alcohol or health issues or being uncontactable" (Patrick, Cook & Taket, 2007:23). Many women described how their former partners routinely left jobs, were paid cash in hand, transferred income to their new partner or hid income in family trusts or businesses or applied for changes of assessment based on dubious claims of parenting arrangements.

While some women in the study reported that Child Support were 'absolutely fantastic' and provided '100 per cent support' and there was a general recognition that the child support staff were following legislated rules and protocols, the majority felt that their ex-partners were able to 'game' the system with

apparent ease. Changes to the legislation introduced between 2006 and 2008 since the previous studies were conducted do not appear to have improved the reliability of child support payments. The majority of focus group participants expressed frustration with agency's lack of power to compel their recalcitrant ex-partners to consistently pay their child support at the assessed amount. A particular point of frustration is the apparent lack of recognition of financial abuse in the context of family violence and its ongoing consequences, as described by this woman:

"Child Support don't recognize [financial abuse]. They rang me, when he put in his claim to have his income reduced at the beginning of the year, they rang me the very next day to discuss it with me and I said, 'Look, I have left this relationship because it was abusive and I believe that he is doing this to abuse me further and control me' and they did not take any word of my conversation on board... [H]e provided no evidence of needing to take that reduction and when he put in the claim they didn't ask for anything; they just took his word for it. They didn't even listen to what I said. I think that was the worst thing, they didn't even listen." (Loren, 36, two children aged 4 and 2, Melbourne)

The strain of the ongoing battles with their former partner through Child Support forces many women to simply give up the pursuit of child support altogether. For example, Jessie's ex-husband paid no child support for their four children for the six months when they separated. His payments have continued to be intermittent and minimal. Jessie says she finds it easier not to ask him to help out with money for school excursions or clothes because it is always a battle. Before his current job as a school chaplain, Jessie's ex-husband worked for Centrelink so, as she says, "he knows the ins and outs of the system". As a result Jessie also says she is now afraid to return to work as an occupational therapist and try to accumulate some assets because she fears her former partner will just 'take it back'.

"So we have been through the child support issues. He initially said very clearly to my Dad that his aim was to pay the least child support as possible and he also dropped his work hours as well. At this stage it's me with one hundred per cent care of the children. They have for various reasons they have been refusing to go [to their father]. [So I am] living on Centrelink payments with Mum and Dad and he has now re-partnered." (Jessie, 41, four children under 12, Melbourne)

Personal disclosure of information

The disclosure of personal information in relation to child support was raised as an issue by a number of women in this study. It was also raised by the Australian Law Reform Commission review of family violence and commonwealth laws (ALRC, 2011). The ALRC identified the increased vulnerability of 'victims of family violence' when their personal details, including income, are provided to the other party in the initial assessment and any subsequent changes, objections or reviews. While this requirement is based on the need for procedural fairness, the impact can be detrimental in situation of family violence particularly in regard to safety. This research highlights the impacts on the emotional, psychological and financial vulnerability of women who have experienced family violence and are now forced to have ongoing interactions with their abusive former partner. As these comments illustrate the effects of this process on women who are already vulnerable is significant. Karen, who has five children with her former partner who left the family a year ago, said she felt suicidal after reading documents submitted by him.

"So I came down to [the Child Support office in] Flemington with all my receipts and I said here are all the receipts for everything I have paid and they photocopy everything. And it's open disclosure, which means that if I wanted to tell them that he'd been to the moon and back, he actually gets a copy every document and they record it, which is really dangerous, I feel. Because if I tell them that he's working cash in hand, he actually gets a copy that I've told them that whereas Centrelink protects my privacy... So when I did that [disputed the child support he was paying] he disputed the children's paternity, you see and I found this out in all these documents, which is great! That's the sort of information that they'll reveal to you. Yep, he disputed all the

children's paternity because he didn't want to pay child support, that's right! And it's very confronting. Yeah, so off I go and of course I've read that he's questioning their paternity so of course I'm angry and I'm upset and I can't believe this man. (Karen, aged 44, five children aged from 16 to 3 years, Melbourne)

"[And] with the Child Support when you do a change of assessment I had to do full financial disclosure and then they don't have to reciprocate...and you feel vulnerable and laid out, absolutely raped you really do. And then you get questioned over everything. I had a Child Support person say 'you shouldn't have a cat. You shouldn't in your budget be spending money on cat food...' (Serena, 50, one son living with her, her daughter lives with her father, regional Victoria)

3. Child Support collection of payments in arrears, calculating payments and the compliance and enforcement powers for the management of child support payments

Calculation of payments

Given the financial hardship experienced by the majority of women in this study, the recent changes to child support particularly the calculation of payments, which lowers the cap on income to be assessed and adjusts for age of children and both parents' income has an immediate detrimental impact on their lives. The calculation of parental incomes based on the premise of wage equality fundamentally disadvantages women in general given the significant and persistent gender pay gap of around 17 per cent in Australia (WGEA, 2014). Many women who have experienced financial abuse have been prevented from working or studying during their relationship which means that post-separation, they no longer have relevant qualifications and skills and have to retrain or opt for low paying, low skilled work. Although the majority of women (58 per cent) who participated in this research were in paid work, close to half (22.5 per cent) were in part-time or casual employment, and most were in relatively low paid positions. Their income generally was substantially lower, less reliable and more susceptible to fluctuations in the labour market than their former partners, particularly in cases where their former partner is on a very high income. Further, the increase in the prescribed purposes amount of the payer's contribution to be spent directly on children, has reduced the amount of discretion women have their family budget. As argued by Cook and Natalier (2013) these changes have the demonstrable effect of financially disadvantaging women while protecting the financial interests and increasing the control of the men.

Compliance and non-payment debt collection

The system fails to take account of the extremely limited budgets of many women that makes them reliant on every dollar, including those payments to cover the essentials for their children in regard to compliance and non-payment debt collection. This is most particularly the case for women who are solely reliant on Centrelink payments. The current policy that allows Child Support to collect debts only after 3 months of non-payment (and 9 months in special circumstances) creates significant additional financial hardship for women who are forced to wait out the three months without any child support payment before they can be reimbursed.

The general view shared amongst the focus group participants that the Child Support is under-resourced and under-staffed to properly fulfill their role. Their key concerns focused on the agency's lack of power to enforce compliance combined and the lack of evidentiary rigor applied to their former partner's claims for reassessment. This inability of the Child Support Agency to enforce payment results in frustration and despair as well as financial hardship for the women and children who suffer as a result. It is a serious concern that an extension of the agency's enforcement powers was recommended by the House of Representatives inquiry in 2003, over a decade ago and yet no changes have been legislated.

As a result of the Child Support agency's apparent lack of resources some women are compelled to provide evidence themselves to disprove their former partner's claims about his financial status and capacity to pay. Gina has two children, aged 4 and 7. She has lived with her elderly parents since her separation because she was left with no money or assets and cannot afford to rent her own home. Her former partner has a history of financially abusing her, including leaving her with substantial debts. He has only rarely made any financial contribution to his family through child support payments. As Gina describes, there is an expectation from Child Support that she does the groundwork to track down her former partner, a recidivist non-payer, to provide the evidence that he is working, in an effort to get any child support payment at all from him.

"I feel like I'm constantly following child support – 'look I've found out that he's working here and he's not totally getting cash in hand'. [Child Support say] 'Could you follow it up?' I feel like I'm stalking him. But the second I get him, he's off to another job and it's cash in hand and they have to start all over again and I have to start all over again. Now I have to suss out where he's working. I have to literally get the photos for Child Support. It might take him a couple of months, I might get a couple of payments but then he's out. So you know he's out and then it's gone again. I find Child Support are fine and they're very professional and they are following a guideline but the guideline is not good enough, it's just not good enough. You know, he can work two jobs. I'm sure he has to be paying tax somewhere but the Tax Office doesn't communicate with Child Support. So you're doing your own legwork; you're chasing him like some kind of stalker – that's what I do, I chase him like some kind of stalker, to get some financial help from him. Then to be verbally abused by him and have my children verbally abused. He was telling them 'your mum is selfish; your mum is greedy'. To me that is abuse." (Gina, 42, two children aged 7 and 4, Melbourne)

Changes to assessment and the burden of proof

Many women in the study expressed frustration that there appeared to be no effective mechanism to accurately assess or validate their former partner's actual income and the system simply accepted their account. The process by which payers can apply for a change of assessment appears to support the perceptions of the study participants. In particular Reason 8, of the 10 reasons listed for applying for a change of assessment due to special circumstances is regarded as overly broad and non-specific leaving it open to exploitation. It also includes the additional clause:

Alternative option if your income has reduced

If your current income has reduced by at least 15%, you may be able to lodge an estimate of your income instead of a Change of Assessment application. This can easily be done online or over the phone and might mean you don't need to make a Change of Assessment application. An estimate can only be applied from the date you lodge it. For more information go to our website humanservices.gov.au or call us on 131 272.

According to many of the research participants, their former partner uses this option to alter his payments, leaving them with little choice other than to challenge it or adjust to the changes. Here Vicky outlines the strategy employed by her former partner, a lawyer, with whom she shares parenting of their three children.

"My ex, currently, he contacts Child Support, it must be every week. I get a letter from them every week where he's reviewing and reviewing and arguing. I just don't open them anymore. First of all he's a lawyer and he quit his job – he says he's quit. He told my lawyer, 'I'm not working because I'm not going to pay child support. He'd say [to Child Support] 'I don't have that this month, can I make an arrangement with you to make the payment?' But they're not required to follow up for 3 months or something, so I would get nothing for 3 months. So then I'd ring up and say 'so how's it going?' and they'd say 'yes, your ex-husband has contacted us about that. He's made a new arrangement'. And he did that for 4 years." (Vicky 54, three

children, Melbourne. The costs prevent Vicky from taking her ex-husband to court to recoup the unpaid child support money)

A number of participants felt the Australian Tax Office should play a greater role in policing the assessable income of their former partner. The recent attempts by government to address this issue and increase payment compliance through the lodgement of tax returns is unlikely to impact on the non-compliant payers. Under the new legislation, if tax returns are not lodged, the ATO makes estimates the annual income based on previous tax returns. However, as Cook (2013) points out this is likely to be ineffective because non-compliant men would only be compelled to submit a tax return if the ATO estimate of their income was more than their actual income. Many of the women in this research describe their former partner as wealthy, financially astute and adept at using the system to avoid tax or minimize their taxable income. The women do not have the resources necessary to prove that this happening.

"My counsellor said 'why don't you subpoena him?' [to get proof of his actual income]. I said, 'do you know how much it costs just to get a barrister for the day is a thousand dollars, to prepare for that day is another thousand, so it's going to end up costing me nearly five thousand dollars.'" (Margie, 35, mother of two girls aged 3 and 5, Melbourne)

Cathie's story highlights the inadequacy of the current child support system to investigate or validate the payer's income assessment. She points out one mechanism to ascertain a realistic assessment through eligibility to access to bank loans. Cathie, 52 has been engaged in a decade of legal battles with her wealthy ex-husband from whom she separated when their son was one year old. Her former husband, a property developer, has used a variety of strategies to avoid paying child support, including minimizing his income while apparently borrowing substantial sums for lucrative building projects. As Cathie explains:

"Why aren't we looking at the amount of debt, not the income but the amount of debt they can service? Because you know, when you take out a loan with the bank, generally the bank won't allow no more than 30 to 40 per cent of your monthly income can go towards loan repayments. So how is it that someone who is supposedly earning \$60,000 can service a debt of millions? So one day I got really angry, because yet again he was taking me to court. He's not paying a decent amount of child support but he can come up with \$8,000 to \$12,000 for a legal team, take me to court when that's money that could be going to his son. So I got angry one day and did a bit of research – I don't know why the child support can't do the research – it was outsourced to an investigator. The outcome of this was that they said he had to be earning a minimum, a minimum of \$250,000 a year to service the loan. So you know, the child support went up, but he got angry and we ended up back in court. So he's been taking me to court to try and get more and more custody so he doesn't have to pay child support. I couldn't afford to put my son through private school so he was trying for full custody." (Cathie, 52, one son aged 11, Melbourne)

4. The alignment of the child support and family assistance frameworks

Centrelink is often the first port of call for women leaving a family violence situation with no money and few resources to live. The information about income support options, family assistance and child support provided at this time and, importantly, before this when a woman is thinking about leaving an abusive relationship is critical. Notwithstanding the recommendations from the 2003 child support inquiry addressing this issue, the findings of this research show that women find the system to be complex and difficult to navigate, that information is hard to find and often inconsistent and that the co-ordination and communication between Child Support and Centrelink frustratingly inadequate. This was most often noted by women who had left middle or high income households and had no previous contact with the agency.

Inadequate access to information

Many women in financially abusive relationships have little or no access to cash, even those in paid employment. Knowing what income support they are eligible for and can access immediately when they leave is essential to supporting that choice. A number of women reported that their failure to get information about their financial options if they left their relationships meant that they remained in abusive situations for far longer than they should have. This is supported by the survey results. Asked to rate the reasons for not leaving their abusive relationships from 'extremely important' to 'not important at all', the majority rated 'not having enough money to manage on my own' (59 percent) and 'being overwhelmed by the whole process (legal, child custody, support and Centrelink)' (53 per cent) as 'extremely important'.

The lack of consistency of information from and between Child Support and Centrelink was a common problem for the women in the research, as was the ability to work through the details of their situation to provide them with reliable and accurate estimates of their income options.

"Unfortunately with Centrelink I found you can go three separate times and speak to three different people with the same question and you will get three different answers. It is the same with child support." (Marie, two children aged 11 and 14, Melbourne)

"A really practical thing that would help me at the moment is knowing how much I could earn before everything changes in terms of child support, my Centrelink benefit because there is value in doing work but at the moment I think if I earn anything I am going to lose this and that. I did ask but they gave me in terms of just them but didn't think about the child support aspect." (Penny, three children, aged 5, 7, 10, Melbourne)

Vicky's story highlights the barriers she faced when seeking information from Centrelink about income support and child support payments when she was contemplating leaving her abusive relationship. She had not worked throughout her marriage and her former partner, a lawyer, had controlled all the finances.

And when I went to them and said 'well what would happen if I did this, if I was separated, if I was divorced, what would happen?' And they'd say, 'oh we can't say there are too many variables'. And I didn't know; I had no idea. So I'd say 'what's the Centrelink allowance? Like how much money would I get? So could I go and rent an apartment?' 'Oh we can't tell you that because there are too many variables.' So I said 'here are a few variables' and they said, 'oh we can't tell you that.' So I had no information. (Vicky, 54, three children, Melbourne. She ended up moving in with her brother with \$15 in her pocket)

Balancing the budget

Changes to any aspect of the complicated financial arrangements involving child and income support as well as earned income can have a significant impact on small and tightly managed family budgets. Persistent patterns of non-payment or minimization of child support and contested parenting arrangements make maintaining a stable income impossible for many women in this study, and even more so for the women who have part-time or casual work. As Cook (2013: 55) points out "men are afforded autonomy over their finances and obligations, whereas women's lives are increasingly regulated as they are required either to comply with increased Centrelink surveillance or forego their FBT(A) entitlements." The women in the focus group explained the effect on their lives as they constantly tried to balance interactions between Centrelink and Child Support, worrying that changes would lead to further reductions to their income.

"The other thing is the way people always have to balance the child support, the income and the Centrelink. For example, if I ever earn more than him, because he's not working, but if I do then the less I get in the other payments. And if I earn more than him because I'm trying to get ahead, then I will have to pay him child support. So it's a balancing act." (Karen, 44, nurse, 5 children aged from 16 to 3, Melbourne)

They are also acutely aware, as Anne's story illustrates, that the current system allows their former partners' to continue to exert power and control over their lives. When Anne's private arrangement with her ex-husband expired after seven years, it took six months to sort out his child support payments. Her ex-husband is a plasterer who works as a sub-contractor and, 'hasn't done his tax for a number of years'. He refused to talk to Child Support, and subsequently his income was over-estimated, causing Anne's Family Tax Benefit A, on which she depended to drop. As a result of her former partner's failure to comply, Anne's already limited income was substantially reduced for more than six months.

"It took six months to sort out, going round and round in circles to find out there was this disbursement method through Centrelink. I had to ask the child support agency to collect, knowing that they wouldn't ... hold on, I had to wait 3 months of non-payment then I had to ask CSA to collect. Learn the right words. So then they had to try to collect for 3 months when they couldn't contact him, so 6 months now. Then they informed Centrelink that, 'No, they are not collecting' and then I had to request this disbursement method from Centrelink...that I am not receiving that child support. So I had this recalculation eventually by August last year where all the systems do their calculations and catch up and I finally got back paid for all the family tax benefit. How can what he does or doesn't do still affect me? That pisses me off. I had nothing. The only thing I had was the house, no furniture, nothing in the bank account but it was only after I did a bit of counselling that I realized I am still being financially controlled by my ex because what he still does or doesn't do affect Centrelink, child support and everything else." (Anne, 52 two sons aged 16 and 13, regional Victoria)

The impact of the regime of surveillance and regulation on women who have experienced financial abuse

When this complex balance of payments is challenged, the consequences can be severe for the woman affected. Although Centrelink offers limited information about potential income support options to women contemplating leaving their relationships or the circumstances in which FBT (A) can be increased, the agency is very diligent in providing information about the risks of over-payments due to income under-estimation, including repayment and possible fraud charges (Cook, 2013). The complexity of the system means that the women reliant on it are constantly in fear of inadvertent overpayment and the implications on their budget of the consequent repayment of the debt. In Natalie's case, her former partner's decision to challenge their parenting arrangements means she is potentially facing a substantial repayment to Centrelink. She reflects the views expressed by a number of women in the focus groups, that the onus is on her to prove her case that she has been the primary carer, whereas her former partner's claim has no such requirements.

Natalie, 37, has 2 children and works casually as a nurse. She has recently taken a restraining order out on her ex-husband and Natalie believes he is now deliberately using the child support system to financially abuse her. Natalie is frightened that his untrue and unsubstantiated claims that he has had 50 per cent care of the children for the past three years will result in her owing Centrelink a large amount in overpayment.

"He has paid a minimum and there have been issues of collection. I haven't been paid anything since December. They say they're chasing it. Same old story. So now he has made clear threats that he is going to make sure that I can't get any money. So he is going to ruin me financially. So he has now gone to Centrelink claiming that he has always had 50-50 care of the children when he hasn't obviously ... I was the majority carer, you know paid for everything. So since the restraining order he has gone to Centrelink and is claiming

that it is shared care. So I have to prove that I am the primary carer which I have a lot of documentation about but what they are saying is that because the child support says it is 50-50 care I am probably going to be in debt quite a lot of money Yeah, for three years of half the payments and again I will be cut... So I am now in a battle for that. I am quite frightened that I [will] have a big debt and I am not going to get support if he gets half of family payments. I can only work so much and I am going to be financially in trouble. So that's where I am at the moment.”(Natalie, 37, two children, regional Victoria)

Natalie's view is that this situation has arisen as a result of contradictory and inaccurate information provided by Child Support and Centrelink in the initial phase of her separation. She believes that if the two agencies were better integrated this would be less likely to occur.

“And they link up like Child Support has different criteria to the care than Centrelink but they will go by Child Support although it is not a proper assessment where you have to go through proper assessment with Centrelink but they will still connect with one another but there are different assessments.”

5. Linkages between Family Court decisions and Child Support's policies and processes

In a number of instances the research participants' former partners repeatedly challenged court order and child support assessments through the legal system, exhausting the financial and emotional resources of their former partner. In one case, Serena has been battling with her wealthy ex-husband over parenting arrangements and child support since their separation twelve years ago. She is about to go to court for the eighth time. She has to represent herself because she can't afford to pay for legal representation. Currently Serena's son lives with her and her daughter lives with her father. As she says:

“It's all to do with money and it's about child support. It's ridiculous; it shouldn't even be in the court system... And I would get abused by him and questioned by everyone and it just wasn't worth it. So I was like, “Well, OK don't pay child support because I can't cope with the workload of doing all these applications and getting nothing out of it and just getting abused and questioned from all sides...” (Serena, 50, two children, 15-year-old son lives with her, regional Victoria)

All the participants who had interactions with the child support system told stories of non-compliance, avoidance and manipulation of the system by their former partner. The financial hardship this caused was evident and the emotional cost was profound. Sophie's ex-partner is a financial advisor with a very wealthy family. According to Sophie, he has quit his \$250,000 plus job to avoid paying child support and appealed his assessments through the courts and the Social Security Administrative Tribunal. Child Support estimates that he owes Sophie over \$20,000 in child support payments. Sophie and her two daughters, aged 6 and 8, have been living in a bungalow at the back of her mother's home for the last four years. She lives on a single parenting payment and is unable to work as a teacher because of the demands of caring for two young children and the continual stress of dealing with her ex-partner. He continually moves around Australia without notifying her or Child Support or Centrelink of his changed address, despite being ordered by the Court to provide the information. This creates an intolerable situation for Sophie when she is required to send her daughters for their court ordered visits with their father. Last year Sophie suggested she would not send her daughters for their visit, as she was not certain of his most recent residential address in Far North Queensland. The fear of not complying with the court order and losing with children and her natural anxieties about the welfare and safety of her children are overwhelming for Sophie:

“This is what happened a year ago and his lawyer threatened that I would go to jail and lose my children, causing more extreme anxiety. It is the same when you see it written down and you know it's not true but the anxiety and the stress it causes you. When you don't have Legal Aid, you don't have Women's Legal Service,

when they have barristers you don't know what they can do. Maybe it is his address but I don't know. I don't know where he is."

In the context of family violence situations, payment of child support, like other post-separation processes, needs special consideration. The costs entailed in pursuing non-payment through the legal system are significant, and, as this respondent's comment highlights, mediation in these circumstances is also costly, pointless and unfair.

"Giving CSA/Centrelink greater power to investigate into the child support which hasn't been paid to receiving parents by the ex-spouses (especially by those who are self-employed and dummy the system). I could have taken my ex to court regarding unpaid monies but was advised that even after a ruling in my favour, they could not enforce the payment of the monies and I would have to go back to court to fight his non-payments. At over \$5K for each appearance, and I would have had to represent myself (hence time taken off work for each hearing) and hold down a fulltime job and care for three of my four children and support them, I decided it would be a worthless exercise for \$2000. Mediation is a joke. They do not account for parents working full time, and although some mediation would have benefited our situation, finding someone to look after my children, take time off work to travel 50km, plus pay for 3 compulsory sessions at \$70 an hour each (most sessions taking 90 mins) while my ex could pay nothing was utterly incomprehensible."
(Survey respondent)

6. Conclusion and Recommendations

As these case studies from WIRE's research have illustrated, the child payment and income support systems work in a way that replicates the financially abusive relationship that the women have courageously left. The overwhelming majority of women who took part in this research expressed the view that the child support system appears to enable their continued financial abuse by their former partner, giving him the ability to continue to exert control over their lives through his actions around child support payments. As the recipient in almost all cases, their common perspective is that under the existing child support system their former partners appear to have the freedom to choose whether or how much child support is paid without any sanction due to the system's lack of power to enforce compliance. As a result, they are left to deal with financial uncertainty and impact that has on the management of their limited budgets. On the other hand, the women reported that they are required to meet stringent documentary evidence standards to justify the changes to their income as a consequence of their former partner's actions. The women in this research feel that their financial affairs are constantly under surveillance and regulated by Centrelink and they live with the constant anxiety of having their income reduced or having to repay substantial debts through unintentional overpayments. This situation shares stark similarities to their experiences of financial abuse in their relationship.

Recommendations

- 6.1 That professional development training on the nature and impact of financial abuse be provided for all Child Support and Centrelink staff to ensure that there is an increased understanding and recognition of the behaviours associated with financial abuse and the effect it has on the those who experience it in the context of the child support system.
- 6.2 That Child Support and Centrelink diagnostic screening for family violence include specific reference to financial abuse and that protocols and guidelines be developed to identify, support and prevent ongoing financial abuse of women through these systems.
- 6.3 That appropriate resourcing and increased enforcement powers for Child Support be legislated to ensure payment compliance.

- 6.4 That the Changes to Assessment – Special Circumstances Reason 8 is reviewed to ensure it is made more rigorous and stringent as a deterrent to deliberate (and repeated) child support payment minimization. Consideration should be given to the inclusion of the alternative option in the context of financial abuse in the context of family violence.
- 6.5 That legislative changes are adopted to prevent the use of family trusts, businesses, and other income minimization strategies in order to avoid child support payments.
- 6.6 That Centrelink and Child Support undertake steps to improve co-ordination and communication, including where possible, co-location.
- 6.7 That in situations of financial hardship (especially in cases where there has been a history of financial abuse) the three-month delay in pursuing non-payment of child support is reduced to one month in the case of repeat offenders to limit the impact on low-income families.
- 6.8 That a history of financial abuse is taken into consideration when there is a change of assessment application or challenge to parenting arrangements to determine if these changes are a deliberate perpetuation of the abuse.
- 6.9 That the Family Courts, Child Support and Centrelink make a history of financial abuse a key consideration in their policies and practices to minimize the opportunities for ongoing abuse and further financial and psychological suffering for women post-separation.

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