



Australian children who have been affected by parental separation and divorce deserve a better child support system. Reforming child support would improve the effectiveness of Australia's family law system. It would also actually be easy.

Here's how to reform the child support system, along with a discussion of the rationale, policy context and political landscape.

Recommendation

We ask that the Committee include the following recommendation in the Inquiry's final report. These or similar words could be used.

Recommendation 1. That the Minister for Human Services and the Treasurer bring forward for consideration by the Cabinet a Joint Submission, *Options for Reforming Australia's Child Support System*.

The Joint Submission shall consider legislative options for reforming the child support system, including a formula option whereby regular child support:

- a) would only be payable with respect to care provided by a parent or carer above a fifty percent care level;
- b) payments would depend on the payer's income while being independent of the payee's income; and
- c) payments would rise with the income of the payer but at a low or zero incremental rate once income passes an average level.

The Joint Submission shall also present legislative options for:

- a) establishing benchmark levels of income that can be applied at the discretion of child support case officers where there is evidence that a child support participant is hiding or under-reporting income or is failing to submit tax returns in a timely fashion; and
- b) disallowing variations in the accepted care arrangements from those prescribed by a current court order where a person seeking an increased care level has failed to demonstrate that the other party is unwilling or unable to meet their court-ordered parenting responsibilities.

The Joint Cabinet Submission shall have regard to the economic incentive effects of the policy options. In particular, scenario analysis shall be presented on the financial incentives for child support participants to (i) withhold parental access to children or otherwise increase their care percentage and (ii) earn less than their potential.

Principled Approach

The Recommendation above is how the Committee could apply a set of principles expressed in many submissions to this Inquiry:

No child support if care is equally shared.

Child support should be based on realistic costs.

Illegal activity should not be rewarded.

These three principles seem reasonable to most people. And they are a good way to explain what reform is about. Implementing the principles as per the Recommendation would be a highly effective way to improve the financial and care circumstances of Australian children.

1. No child support if care is equally shared

The “No child support if care is equally shared” principle allows child support to be simplified and incentives improved. It means child support would be defined as financial compensation for one parent providing more care than the other.

The principle would allow child support payments to be entirely based on the income of the parent with less than 50 percent care time. The income of the main carer could, therefore, be removed from the payment formula. That simplification would mean the main carer would no longer be discouraged from working. And it would end disputes related to the work habits and earnings of the main carer.

Such clarity and emphasis on productivity are presently lacking. At the moment, large amounts of child support are often paid by parents, including single mothers, who provide 50 percent or more care. This is widely viewed as unfair and improper. And it is just one symptom of a formula that routinely delivers unfair outcomes and which creates incentives for parents to work less and fight over care time.

2. Child support should be based on realistic costs

Basing child support on realistic costs can be achieved by having child support payments level off as payer income rises.

The approach means that high-income payers would still pay more than the typical costs of children. But they wouldn't pay so much as to greatly encourage the other parent to withhold access to children. And they would be given more personal financial incentives to earn more.

Currently, payments vary wildly according to the incomes of the parents. It is not unusual for payments to run into hundreds of dollars for each extra night of care a parent provides. And you also get situations where payment rates are

negative because, due to a higher income, the main carer has to pay the other parent.

3. Illegal activity should not be rewarded

As detailed in the Recommendation, some fairly simple fixes are available to stop parents doing things like hiding income and breaking court orders for parenting time.

It is essential that child support be made consistent with family law. Currently, parents who illegally withhold access to children are generally able to get away with it. That's because the only available recourse is for the other parent to initiate further court proceedings, which is time consuming and often prohibitively expensive.

Through child support reform, the incidence of parenting orders being broken could be greatly reduced. Offending parents would have to cover the costs of illegal extra care themselves instead of being financially rewarded with more child support.

Welcome, Uncontested Reform

Child Support Australia has been publicly advocating for reform of the child support system and formula for a number of years. We are grateful to have received significant support and also relieved to have yet to meet any significant opposition!

There are perhaps three main reasons why reform in this area appears uncontested.

- A. The current scheme and formula have no supporters. Very few people even understand how the current scheme works. So, how can people support the status quo or even voice opposition to reform? Realistically, they can't.
- B. At the same time, as a result of lived experience, many thousands of people literally loathe the current scheme. At an individual level, it is

obvious when you are being treated unfairly. And that is something a great many child support participants know about all too well.

- C. Any losers from reform appear to lack a strong cause to stand behind. Reforming the system would act to reward parents for doing the right things instead of the wrong things. Opposition could, in theory, come from parents who are doing things like hiding income, deliberately not working, and alienating the other parent. Any opposition is, therefore, likely to be weak.

Principle-based reform would be welcomed by a great many parents. But, ultimately, it is about better serving children.

By adopting the Recommendation, the Committee would start the process of introducing a simpler, more streamlined child support system; one that is fairer and encourages parents to cooperate with one another and work harder for the benefit of their children.

From the Team at Child Support Australia.

Questions or comments may be directed to Andrew Lancaster.

We thank our supporters and the many Mums, Dads, partners and others who have contributed through our online forums. More information about reforming child support is available at childsupportaustralia.com.