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Proof Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON SOCIAL POLICY AND LEGAL
AFFAIRS

Child support program

(Public)

THURSDAY, 21 AUGUST 2014

MELBOURNE

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON SOCIAL POLICY AND LEGAL AFFAIRS

Thursday, 21 August 2014

Members in attendance: Mr Christensen, Ms Claydon, Dr Stone.

Terms of Reference for the Inquiry:

To inquire into and report on:

- methods used by Child Support to collect payments in arrears and manage overpayments;
- whether the child support system is flexible enough to accommodate the changing circumstances of families;
- the alignment of the child support and family assistance frameworks;
- linkages between Family Court decisions and Child Support's policies and processes; and
- how the scheme could provide better outcomes for high conflict families.

As part of this inquiry, the Committee has a particular interest in:

- assessing the methodology for calculating payments and the adequacy of current compliance and enforcement powers for the management of child support payments;
- the effectiveness of mediation and counselling arrangements as part of family assistance frameworks; and
- ensuring that children in high conflict families are best provided for under the child support scheme.

In carrying out this review, the Committee should assess whether any problems experienced by payers or payees of child support impact on the majority of parents and other carers involved in the system, or a minority, and make recommendations accordingly (e.g. there may be a case for specialised processes and supports for some parents meeting certain criteria).

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HAYES, Prof. Alan, Director, Australian Institute of Family Studies

MOLONEY, Dr Lawrie, Senior Research Fellow, Australian Institute of Family Studies

WESTON, Ms Ruth, Assistant Director (Research), Australian Institute of Family Studies

Committee met at 10:11.

CHAIR (Mr Christensen): I will now declare open this public hearing of the House of Representatives Standing Committee on Social Policy and Legal Affairs. Firstly, I would like to acknowledge the traditional custodians of the land and pay our respects to elders past, present and future. The committee acknowledges the present Aboriginal and Torres Strait Islander peoples who now reside in this area and thanks them for their continuing stewardship of this land. Almighty God, we humbly beseech thee to vouchsafe thy blessing upon this committee, direct and prosper our deliberations to the advancement of thy glory and the true welfare of the people of Australia.

Please note that these meetings are formal proceedings of the parliament. Everything said should be factual and honest. It can be considered a serious matter to attempt to mislead the committee. The hearing is open to the public and is being broadcast live. A transcript of what is being said will be placed on the committee's website.

Before we commence—and I suppose this might be a statement more for the people in the audience who are here generally and I might repeat this throughout the day—the issues that we are discussing often trigger emotional or distressing responses. We have seen that in some people who have attended previous sessions that we have held. If you are distressed by any of today's evidence, we have got some information that we have so that you can find someone to talk to to help you through whatever it is that is distressing you on that front. I would encourage you to just go up to the secretariat table over there to get that information.

I also will inform everyone here that our questionnaire, which enables individuals to anonymously share their personal experiences with us as a committee of the parliament, has now received over 11,000 responses. I would encourage those who do not know about that to go online and fill that in. Fliers about that questionnaire are also available on the desk over there if you want to take some of them. I very much welcome the Australian Institute of Family Studies and the representatives from that organisation.

Prof. Hayes: May I beg your indulgence to make a short opening statement?

CHAIR: Please, go ahead.

Prof. Hayes: The area of child support has been one of great interest to the institute from the time of its establishment. In fact, the early work that the institute did in the two reports *Settling up* and *Settling down* arguably provided the evidence to inform the development on the child-support system and as such was a major driver of that initiative. The work continues and we are involved in the use of longitudinal data, such as *The household, income and labour dynamics in Australia survey*, to look at the economic and financial impacts of separation and divorce using that data set. I would just briefly acknowledge an absent colleague, Dr Lixia Qu, who has been heavily involved in the design and analysis of that work.

Our submission, as you would see, draws on two data sets. The first is *The longitudinal study of separated families*—the LSSF—and that is the first large-scale longitudinal study involving, at this stage, three waves of data collection that cover a five-year period after separation. I would acknowledge the support of the Attorney-General's Department and the then FaHCSIA—Families, Housing, Community Services and Indigenous Affairs. The second data source is the *Survey of recently separated parents*, which is again supported by the Attorney-General's Department. That involves, in terms of what has been reported in the submission, a single wave of data on those who separated prior to the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011.

I will try to be brief. I think that the submission highlights the value of both of these rich data resources, as well as the administrative data, to facilitate research in this area. We could not have undertaken either of those initiatives without the child-support administrative data set, which formed the basis for selecting the samples. As such, they are representative of all parents who had separated during particular periods, with the exception of the very small percentage who had not registered the child-support arrangements with the department. I must therefore acknowledge the cooperation of DHS staff in facilitating access to the information required to draw the samples. In the interests of brevity, I would also note the growing capacity to link administrative information and longitudinal datasets. This development will provide a rich resource for additional analysis.

The institute's submission provides background information about the circumstances of families that are of relevance to the inquiry, including relationship dynamics, child support liability and compliance, transfer methods

and parents' views about child-support payments, including their sense of fairness. The results outlined are particularly relevant to three of your topics of interest:

- ...better outcomes for high conflict families.
- the effectiveness of mediation and counselling arrangements...
- And best provisions for children in high-conflict families.

As you aware, I am accompanied by Ms Ruth Weston and Dr Lawrie Moloney, both of whom were extensively involved in the preparation of our submission and are well-equipped to speak to the detail as they were the lead authors. I will hand over to my colleagues to address the detail. We are delighted to be here and warmly welcome the initiative in starting this inquiry on the right foot.

CHAIR: Do either Ms Weston or Dr Moloney want to add anything further to that statement?

Prof. Hayes: I think we would like to address questions.

CHAIR: If I can kick off, you have said specifically that you do not believe there is a need to change away from the formula approach. Does that mean that the formula that calculates child support does not need to be changed? You have also said that the overall perceptions of affordability and compliance with the studies that you have done have been reasonably encouraging. With all of that, is there any way that you have seen that the system can be improved, despite the fact that the vast majority are saying that they have got some level of comfort with it?

Dr Moloney: I think it is important to distinguish this. I do not think we are saying that when we are making a comment on the formula one way or the another, except in the general sense that compliance rates and so on are not too bad. What we are really saying there is that you do need a formula and I think things are considerably better now, especially when you go back to the early days when there was no such arrangement. But in terms of what else needs to be done, the dynamic nature of this, just like the dynamic nature of parenting arrangements after separation, becomes very clear in this data. So many adjustments are being made. I guess one of the difficult balancing acts here is that, on the one hand, a formula tends to speak to an average kind of arrangement and, on the other hand, no particular family is precisely average. So there has to be some way in which people can negotiate those changes. It is not necessarily formulaic. Add to that the notion that many of these issues are highly emotional. One of our suggestions in relation to that was to think about using something like a family relationship centre to allow people to talk to each other to see what adjustments they may be able to make.

CHAIR: Just on that front, I recently paid a visit to one of my local family relationship centres to ask them about these sorts of issues. One thing that was expressed was something of a frustration that all the work that went into mediation and the coming out with some sort of set resolution regarding ongoing child maintenance was then simply cast to the wind as it entered into the child support system, which I suppose goes against the idea of sticking with the formula approach, though. But I wonder what view, if any, the AIFS has on that?

Ms Weston: People can make their own arrangements. Having gone to a FRC and having made the decision of what to do, there is no need to apply any formula, if they both agree.

CHAIR: What was indicated to me was that, as they walk away from there and then find out that they can get more or less, or something like that, even after a full understanding of and agreement on that, they think, 'I'm missing out on something or contributing too much,' or something like that and then are able to undo it with a stroke of a pen.

Dr Moloney: I am a little surprised. I do not doubt that that was the feedback you got. But I would not imagine that would be a very common experience for two reasons. Firstly, by and large, FRCs have not focused a lot on child support issues to date. It may be an unusual group where, if you like, child support is actually raised and negotiated. But as I think Ruth said, if you effectively go through a mediation process and come out with an arrangement, just like with your children if you go through a mediation process, you can always go back and have that more formally decided upon. I am just surprised at that feedback.

CHAIR: I might come back with more, but I will move on to the deputy chair, if you want to ask a few.

Ms CLAYDON: I have a few questions. Thank you for your presentation this morning. I will go to some of the evidence that has been presented to us in a little while, but one of the oft-expressed concerns is that we do not have enough research and data around the impact of the implementation of a child support policy and decisions on the ground. I believe people are yearning for some qualitative research.

My understanding of what they were calling for, having been trained as an anthropologist myself, was some fairly solid old-fashioned field work and that kind of data. I wonder, given that your institute is probably one of

the leaders in this area of research, what your view is in terms of whether there is a requirement for some more qualitative research to be done about the lived experience of the child support system?

Ms Weston: I think we need the combination. In a lot of our work we try to have the combination of qualitative and quantitative. The quantitative is extremely important—both are extremely important. The quantitative data, for instance, in the most recent research that the institute has been involved in that Professor Hayes referred to—this longitudinal study—highlighted the fact that, once women living with dependent children pre separation separated, they had not got back on track compared to similar women who had not separated. Six years later they were still financially worse off. That is the picture. We need that picture first and then we need the qualitative data to unpack that picture. We have looked at some qualitative data in our own study in terms of the links. Why were people feeling that child support was unfair, if they did feel that way? We compared it with the people who felt that property distribution was unfair. We had qualitative data on why they thought property distribution was unfair. That highlighted the fact that they were often linked. Some felt they gave a lot to their former partner and they had not realised that, on top of that, they would be paying child support. The women were saying, 'I thought that he would be supporting me or the children financially much more, so I did not get as much of the property as I would have asked for had I realised that he was not going to pay up.' Some of the comments also included the parenting arrangements. You cannot separate all three and that is highlighted in that qualitative data.

CHAIR: That is very interesting. As an outcome of that, do you think there should be some sort of correlation between settlements and the child support system?

Ms Weston: With respect to the full package of what happens after separation you have to consider the family as a whole. Property is fixed; that is the trouble. But parenting arrangements, care-time arrangements and child support can vary. Of course it needs to vary, according to your change in circumstances. The property being fixed can lead to a sense of unfairness according to changes that occur down the track or arrangements that you did not realise were going to be made in terms of child support and care time.

Prof. Hayes: One of the reasons that I highlighted the longitudinal aspect of a lot of this work is that you get a sense of the pathways and the dynamics. To reiterate: we do typically involve both quantitative and qualitative methods. Quantitative gives you a sense of the groups who are doing well and the proportions. But looking at the dynamic I think is important and the events that trigger changes in what seemed to be a solid arrangement are equally important to pick up. In terms of parenting arrangements in the work that was done on the evaluation of the 2012 family law reforms we essentially found that there are triggers where what seemed to be a stable and positive parenting arrangement suddenly changes and it is those trigger points that are the intervention points, for example. I think there is a sense that the formula is an inoculation or the mediation is an inoculation. Unfortunately, life is not like that. There are points of change, and knowing those transition points will give you a better indicator where you might intervene with supports and further counselling. As our submission shows, while there is the opportunity to discuss child support arrangements with an officer of the child support system, essentially very few people avail themselves of that. There is a sense that people think these things are fixed, but of course there are life events that are changing the way in which they are regarded.

Dr Moloney: I think this does go to the quality and sophistication in the efforts to coordinate within the services. What is becoming clearer and clearer as we look at our data is that the more difficult cases and the cases in which there are elements of family dysfunction and so on need a coordinated approach. It almost goes without saying, but it is so clear in the data. They need not just mediation, for example; they need the mediator to liaise with the advocate, whoever that might be—a lawyer or whoever. With the sophistication of that process, you have to make sure that you have ticked the boxes. For example, as a mediator—and I am a qualified mediator—you need to make sure that you have asked about issues like child support and property and so on and that you find a way through. In the ideal solution, the focus starts with the child, but the consequences of whatever decisions you are making about your children then need to be looked at. It becomes a sort of iterative process, so if you spend this much time with the children, what impact would that have on child support and property? I think you have to start with the child, but you cannot just deal with the child in total isolation.

Ms CLAYDON: Do you have research around that? I guess that is leading to a recommendation of sorts on a requirement for a more sophisticated, complex coordination of services and people's engagement with various services. Have you got some research around that area?

Dr Moloney: We have got some research looking at working with lawyers directly within FRCs. As you may know, when the FRCs began the idea was to keep them away from lawyers. Lawyers were seen as part of the problem. That has changed, and the Attorney-General's Department, some time ago, provided a certain amount of money for lawyers—legal aid lawyers largely—to be involved with FRCs. We have evaluated that, with very

positive results. Moving on, we have also looked at much more sophisticated coordination in cases where there are more dysfunctional behaviours and so on.

Ms CLAYDON: Complex cases. Could you point me in that direction or perhaps let the secretariat know? I would be very interested to look at that.

Dr Moloney: We would be happy to do that.

Ms CLAYDON: Specifically that last bit of research you were talking about, where you make that next step of looking at complex cases, because many of the people who are presenting to this inquiry have some entrenched difficulties and conflict and complexities in life. That would be very useful to have a look at.

My follow-up question is slightly unrelated. A number of groups to this inquiry have recommended a proposal for a Commonwealth guarantee of a payment system. I do not know if you have been following this, but the Commonwealth would make the child support payments so that there was a reliable, regular flow of child support payments and they would be the agent to recover that money from the payer.

Ms Weston: It is a bit like the New Zealand system?

Ms CLAYDON: Yes, people have pointed toward the New Zealand model, and some others, but primarily that one. I am just wondering if you have a view on that. One of the suggestions has been that this would take a lot of the emotion and heat out of some of these negotiations and people's experience of child support. I am wondering if the institute has a view on this or whether you have in fact done any research evaluating or examining that New Zealand model?

Prof. Hayes: It is not an area that we have done research in, and I think therefore that it would not be useful for us to speculate about it.

Ms CLAYDON: That is fine.

Prof. Hayes: But, returning to the issue of complex families, families with complex needs, there is a sense in which the consistent message—and I am sure you have heard this from lots—is the packaged nature of these problems. There are entrenched mental health problems, often. There are problems, of course, related to conflict and violence—and emotional abuse, particularly—and there are problems around substance misuse and other addictive sorts of characteristics such as gambling. So those things go together in a packaged way, and yet at times the services are rather siloed in the way they are thought about. So I think there is a sense in which the questions you have asked really do lead to trying new ways where you can get a more integrated approach and a better triage for those who really do have complex problems.

The other side of the coin in the data from the institute is that most people do manage to work things out. And they work them out reasonably effectively, and they work them out, in the majority of cases, without a lot of intervention. But, like all sorts of areas of social policy, there is a small group who have really entrenched needs, and those needs have considerable capacity to be sustained over time. And there are triggers, as I said before, that will make them far more dangerous, in a sense, at particular points in the relationship. My colleagues might like to talk about some of those triggers. Ruth, do you want to?

Ms Weston: Repartnering is one.

Prof. Hayes: Absolutely.

Ms Weston: Children growing older. Possibly one of the things that we have not looked at enough is the fact that we have seen that compliance goes down over time. Some of the reasons for that might be that people are moving on to new jobs, or they have lost their income and so forth, and it can take time to catch up, but there is also the fact that these children are growing up. And, as they grow up, their interests are not so much focused on their parents, but they are focused on their peers and going out and things. In some ways, I suspect that sometimes the fathers are saying, or the payers are saying: 'Well, why should I pay this? I'm not seeing my kids so much.' It is not always the payee that is preventing that; it can also be the children. They just have different interests these days—we find that, as a couple, we are spending less time with the children—but it can create resentment. The other thing I would like to point out is that most of the men thought the payments were fair, and that is quite different from what we saw prior to the changed formula, so I think that is valid. And most of the fathers said that they could afford to pay.

Dr Moloney: If we could just go back to the complex families issue, I think it is worth just acknowledging that, perhaps in the past 10 years or so, I think there has been a quiet revolution in family law through the family law pathways groups and through the regionalisation of services. I joined the Family Court as a court counsellor on the day it opened its doors, and I have seen the extraordinary change in the way services work together. There is still a long way to go, but you now have opportunities for different services to actually talk to each other

through the family law pathways and to coordinate their services in a much better way than they used to be able to.

Ms CLAYDON: I would like to just follow up on that. The family law pathways program enables multiple agencies to talk to each other?

Can you just talk me through that, because I am interested in a recommendation of sorts that might go to that issue of complex cases. People's lives are not lived in simple matters at all, and, if you have mental health issues, substance abuse, violence—it is a whole range of things that may be going on in life—a siloed approach falls short every time. So how do we address that in terms of public policy? Are you suggesting that the family law pathways show one avenue?

Dr Moloney: Family law pathways have been evaluated, and it is quite a positive evaluation. They are regionally based, and one of their main functions is to find ways of assisting the services in that region—basically talk to each other and work out how they are going to deal with especially these more complex families. I am not sure about this, but I have a suspicion that one of the areas that perhaps are not given sufficient attention in that coordination process is the question of money and child support. We have become very good at talking about children in relationships and so on, but I think that issue of the money—the emotional side of money, what impact not enough money has and so on—perhaps is a bit of a front that needs to have more attention paid to it.

Ms CLAYDON: Okay.

Prof. Hayes: We do make reference in our submission to the fact that surveys show that 50 per cent of couples generally report that they come into conflict over matters to do with money. So, if that is the case in the general population, in the population where you have this focus on equity and fairness and access, basically, to resources but also shared parental responsibility, of course it is a formula, I think, for exacerbating this. Yet there is not sufficient attention—as Professor Moloney said—to the role of that as a driver for a lot of the resentments that go on through time. I think it is an area where—as you would expect academics to say—more research is needed on this topic.

But also we have work that has been done in the past around how you coordinate information flows. Part of the thing that does surprise me is that, in an era where we have such technological sophistication around information, oftentimes these really high-risk, high-complex-needs cases show that information did not flow. Everybody had information in their silos, but it was not coordinated. If you leave one key element, such as property and money matters, out of the equation, then of course! You are missing—

Ms CLAYDON: There can be consequences.

Prof. Hayes: Yes. You are really creating an impression of the problem that does not accurately reflect the drivers.

Ms CLAYDON: Thanks so much. I have lots of questions, but I think I should pass across to my colleagues. It is very helpful.

Dr STONE: I am very concerned about the child in all of this. This is meant to be a child centred support system, bearing in mind of course that the adults have needs and rights as well. On our page 16—it is your chapter 4—I am quite saddened by the data that you found where 79 per cent, which is nearly 80 per cent, of the LSS Wave 1 were spending between 66 and 100 per cent of their nights with their mother, not with their father at all. Can you tease that out?

Ms Weston: They were very young.

Dr STONE: That is what I was asking. Are these the under fives?

Ms Weston: Most of them were under five. The vast majority were. I think it was about two-thirds, but I would have to look up that number, the proportion, again. The whole issue is that we focused on cohort, and we have looked at what happened when they were young and then what happens as they get older. One of the key changes—I think it is the biggest change—is the shift from fathers only seeing the child during the daytime to fathers having overnight stays, and that is related to the age of the children. That is why you are getting that. If you look at the broader study of all children under the age of 18, you do not find that.

Dr STONE: My concern is this. I do not appear to have the gender bias you do; I believe fathers are as capable as mothers of looking after children under five at night, and I see it as a very important part of the child's development, because often, especially with a child under five, the most intensive parenting times are mealtimes, bathing time, going to bed time—

Ms Weston: Yes, of course.

Dr STONE: and if we have in fact 79 per cent with no time at night with their father—these are children in that younger age group—I see that as a significant issue.

Ms Weston: You have also in this the fathers who never saw their children. A considerable proportion of those had had little relationship with their children. They were not with their children.

Dr STONE: That is my next question—

Ms Weston: At the time the child was born they were not with their partner. And they may never have been in a relationship. So you have those fathers. They are also more likely to live a long way away. There is also a host of other problems—conflict et cetera—amongst those fathers.

The other thing to note is that most arrangements were developed cooperatively between the parents. So some of the fathers may not have felt equipped to look after their little baby when they were quite young—

Dr STONE: We are talking up to five years old—

Ms Weston: but they have moved on and they are now having them to stay overnight.

Dr STONE: I still think—

Ms Weston: And daytime can be a very long time, too.

Dr STONE: Sure. I still think that it is a statistic that might help explain why a lot of fathers decline over time with thinking it is fair about their payments and would prefer not to pay if they are not seeing their children for a quality period of time. And I stress the emerging and greater cultural expectation in our Australian system that fathers are as able as mothers to parent a child—in some cases, more able, if the mother has mental health issues or whatever, and vice versa, of course. As to the surveys, can you help me with this? The first survey was what you call the SRSP 2012. They were the people who were surveyed prior to the changes in 2012—is that right?

Ms Weston: They were surveyed more recently, but their period of separation was very similar to those in the first wave—

Dr STONE: I am trying to get a sense of the age of the children, potentially, in that cohort.

Ms Weston: These children were a bit older, because they did not include the group who had separated before the child was born or who had never been in a relationship, whereas—

Dr STONE: So it is only—'only'! For heaven's sake; what a statistic! Seventy-three per cent of those children were not spending any nights with their mother. Then you have seven per cent of that same cohort, the SRSP group; seven per cent up to 11 per cent in the two surveys were not seeing their fathers at all; one per cent were not seeing their mothers. I wonder: did you tease that out and work out how many men perhaps were on intervention orders or—

Ms Weston: No, we did not.

Dr STONE: So we just do not know about that—up to 11 per cent not seeing their children at all? And were they aligned in any way with failing to pay or declining support being offered?

Ms Weston: Declining support?

Dr STONE: The proportion who were not seeing their children at all—were they the least satisfied with the fairness, or were they most likely not to be keeping up with their payment commitments and so forth?

Ms Weston: Care time is something that we could look at more. But we did look in the report at the care time arrangements and their links with compliance, and certainly where the father never saw the child the mother was more likely to indicate non-compliance. That is clear. These are often problematic families where the father never saw the child. There is often conflict. It is often, as I said before, that they live a long way away or they were in a situation where they had never really bonded with their child properly because they had not been together.

Dr STONE: Yes. Amongst my constituents there were a lot of issues with supervised access where the mother typically would not agree with the place for the supervised access or the individual who was being offered up to be the supervisor, and so there was often a lot of conflict around that access as well. Clearly, if it was supervised access there were some issues, obviously—high conflict issues. But, for many fathers seeking to see their children, that supervision access requirement was very problematic.

Ms Weston: On a positive note, the longitudinal part of our study suggested that, where there was a change, it was more likely to involve having more nights with the father—

Dr STONE: One would hope so. The trouble is—as I think you observed yourself, Professor Hayes—is that as the child gets older they get less interested in being with their parents overnight, particularly if they are 16 and 17. So it is that critical earlier age of life when the overnight—if it is a weekend, you can only slice or squeeze a

small number of hours in before you have to return home to be overnighted with mum. So it becomes a significant problem for real bonding and real father-child relationships, if that number, 79 per cent, are not having any overnight time with their children.

Ms Weston: We have also found that shared care—that is, 35 to 65 per cent of nights—is most likely to occur when the child is between six and 14 years of age. So some of these changes are related to the child's needs, and that is probably the best time for the children to have that shared care.

Dr STONE: I guess we would agree to differ, as I would say the younger child also needs the time with both parents—

Ms Weston: I am not disagreeing with that at all.

Dr STONE: especially overnight. We will leave it there.

Prof. Hayes: Could I correct an answer that I gave? I was referring to the evaluation of the family law reforms, and I think I said 'the 2012 reforms'. It was the 2006 reforms that we evaluated in the major evaluation of family law. I would also like to add, that the institute tries assiduously to not take a gendered perspective on these—

Dr STONE: I would have thought so, and that is why I was surprised when Ms Weston immediately—

Prof. Hayes: No, but the point is that we try to provide data about what is actually happening, but we do not opine about the sorts of drivers of some of that, in the wider sense. I think that oftentimes that debate is not driven by extensive research, and I think there is a sense in which we try to position ourselves as basing our statements on the data.

Dr STONE: Just the numbers.

Prof. Hayes: That is right—the numbers.

Ms Weston: In no way am I recommending what should happen and what should not. I am saying that often this may be the decision that the parents make because they believe that is in the best interests of their children. I am not suggesting that it is or it is not. But also in our major evaluation we asked the general population of parents what they thought according to the age of the children. And parents were more inclined to agree to shared care—the parents were more likely to think it was appropriate—where the children were older.

Dr STONE: The trouble, as you yourself have rightly observed, Ms Weston, is that, as the child gets older and the separation gets longer, the parents are more likely to repartner, so it becomes more complex—

Ms Weston: That is right, absolutely.

Dr STONE: with the child fitting into a blended family, and dad or mum is busy with a new baby, and so on. So, unless you capture real child-parent interaction very soon after separation, often that is an opportunity that is missed a few years down the track.

Let me also say that I think in our culture we have also heightened focus on alleged or real child abuse and made it a much more high risk in many people's minds to leave a male with even their own child, where that child is a very young baby, a toddler or in the four-, five- or six-year-old age group. I think that is a very sad thing, but I think that is also in the thinking of some people: 'You wouldn't want dad to be with his two-year old daughter.' I have heard that represented to me as a reason why someone has not allowed the father to see the younger child for a long period of time, even when there is no question—when even the mother was not questioning—that there was ever any inappropriate behaviour as a father towards the baby daughter or the young daughter. I think this is a problem we have to tackle with our policy. We must make sure we do not get captured by the media focus of interest at the expense of what could be, and probably is, a normal relationship.

Prof. Hayes: I think this is the real danger. We overcorrect, and it has implications. For example, in a previous life I was a dean of education, and I observed the diminishing number of men who moved towards early childhood teaching.

Dr STONE: Yes, exactly.

Prof. Hayes: And in primary school teaching the trend has been quite dramatic.

Dr STONE: Yes.

Prof. Hayes: And so there is a sense in which these overcorrections change the circumstances of children's lives and their experiences.

Dr STONE: Yes.

Prof. Hayes: So I think there is a sense in which we have got to be much more vigilant around the unanticipated impacts of what are well-intentioned policies to address the needs of a small group but which have spillover effects on the larger group.

Dr STONE: I could not agree with you more, Professor.

Dr Moloney: I think we are aware that one of the drivers of the 2006 reforms was of course absent dads. The idea was to have more fathers more involved. And I think that is partly why we set up the dataset in the way we did. As Professor Hayes has said, our job is to report what is happening. If I put my psychologist's hat on I have certain views about what should happen, but we have to actually report what is happening.

Dr STONE: Sure. I am aware of some of the issues to do with fly-in fly-out-type father arrangements, which are very prominent in Queensland and Western Australia, with mining. There are also men who must move or do night shift or whatever in their normal employment. Where there has been an agreed proportion of visitation during the year and they are suddenly called to a shift which takes out their contact period, they are not allowed what they call make-up time or catch-up time. It is very common that fathers are not allowed to make up that time. It is inflexible. This is a serious problem in trying to manage these relationships too.

Prof. Hayes: Previously, as a judge for what used to be the Work and Family Awards, I found that there were instances of workplaces that were highly supportive of fathers who had parental responsibility. But they were the exception, not the norm. I do not want to be flippant, but I am old enough to remember what came before the paperless office and to remember unbridled leisure time for us, and I think there are other examples where we have these views of the way the world ought to be, but the way the world actually runs is quite different to that. The work that we did in the evaluation of the 2006 reforms showed that distance, proximity, was important, but a key driver was whether parents had been jointly involved with their children—and whether fathers, particularly, had had a role. The other factor was their educational and social background. They tended to be better educated, they tended to be better off and they tended to have had high involvement and to have lived close together. Those seemed to be sustainable shared parental responsibility arrangements.

Dr STONE: I agree with you. And I think another problem with our current system is that there is not enough rigour attached to when a partner chooses to move a further distance away—maybe two hours or 10 hours instead of 20 minutes—and the other partner says: 'No, no, that is not fair, because we are meant to be having fifty-fifty access' or whatever. That is not upheld as a requirement of the agreement. I have seen that many, many times cause great grief, because basically one of the partners has cut off access to the other, in fact, even if they say, 'But, no, no. He's still got 50 per cent access.' But, sorry, it is a seven-hour trip or an airfare to Queensland. So I do not think we help. We are not really being flexible enough and saying: 'Hang on. What are the consequences for the children if you decide you prefer a warmer climate or if your new partner lives somewhere else?' As you have just said, there are significant long-term consequences not only for the amount of contact but also for the paying likelihoods—because less contact means less paying and more sense of grief and unfairness, and the whole thing goes to hell in a basket.

Ms CLAYDON: I just want to touch on the aspect of your submission in which you see a place for family relationship centres to offer more assistance. You have alluded to some of that, but I was wondering if you might give us some insight into your thinking there and what kind of assistance those family relationship might offer.

Dr Moloney: I suppose the thinking comes from the idea that there needs to be a place for parents to talk to each other more about the money issue. I think that is one of the things that has been lacking. I think family relationship centres—and again, they have been evaluated—have largely done pretty well in terms of offering a place for parents to come to talk about their children and arrangements for their children, but less so in relation to money matters. FRCs are moving more into, for example, property mediation. I think the Attorney-General's Department has contracted with Relationships Australia to look at that, and there is now some data on that.

It just seems to me a logical next step that a place for parents to go—there are 65 of these centres, as you know, all around the country—to talk about adjustments to their child support would be family relationship centres. As to the how: there are a lot of details there. I think a lot of family dispute resolution practitioners would probably say, 'We don't have enough expertise to know the ins and outs of what the formula would normally require.' It does not have to be precisely the formula, of course.

I think there is a bit of a tension here. The expertise that the family relationship/family dispute resolution practitioners have is in process, I think—how to help the couple talk to each other around these things. Child support has the expertise, of course, on what would normally be expected. I suppose the issue there is: do you train up the family dispute resolution practitioners to be more au fait with child support issues? Or do you train up your child support people to be more au fait with a more mediation-type process, if you like? I have had a lot to

do with FRCs and with mediation and so on, so I would be a bit biased in that direction. But that is my bias. I do not know enough about the child support people and how they work to know how much training they would need.

Prof. Hayes: Mindful of time, and knowing that it is probably a conversation for another time, I think there is a lot more to be done in the sorts of prevention and early intervention focus and the points at which supports for relationships can lead to more effective approaches to parenting with a child-centred focus. At our recent conference we had an excellent discussion around some data in Queensland—around midwives, and the role of midwives in helping parents to understand what is going to happen when they suddenly have this child in their lives and what will happen to the relationship dynamics.

There are these points of change and windows of opportunity to intervene. I think we have a lot more sophistication to develop around how we do this. Quite often, of course, the perennial capacity is to be wise after the fact and to intervene well after the horse has bolted and the door is completely shut! I think that—

Ms CLAYDON: I think I would be in furious agreement there, Professor!

CHAIR: I think that something you said as well, about needing longer time to talk, is probably right. Given that I think you have a lot to offer, I might see if we can tee up a time when we can meet again—perhaps in Canberra, if that is—

Prof. Hayes: We are there frequently.

CHAIR: Yes. I think there is a lot that we can get out of your submission to us. We will leave it there but I think we will meet again. Thank you very much.

Prof. Hayes: Thank you. We would be happy to supply reports or resources that you would require.

CHAIR: We will have a think about that.

Ms CLAYDON: Especially that one I asked for earlier.

Prof. Hayes: Yes. We will organise two of those.

Ms Weston: There are a lot of services, particularly in this area, given that data set too.

Dr STONE: The survey work you did—that was anonymous? People provided their information without identifying themselves?

Ms Weston: Oh, absolutely.

Dr STONE: Yes, it was anonymous.

Ms Weston: Yes. In fact, we did not have access to the sample. It was the DHS child support that selected the sample for us. They then sent a letter asking whether they would like to participate.

CHAIR: Thank you again.

FORD, Ms Jayne, Program Manager for Family Law Financial Support Services, Victoria Legal Aid

RICH, Ms Nicole, Director of Family, Youth and Children's Law Services, Victoria Legal Aid

[11:04]

CHAIR: Welcome. This meeting is a formal proceeding of the parliament so everything said should be factual and honest. It is a serious matter to attempt to mislead the committee. This is being broadcast live and the record placed on the Hansard transcript. If either, or perhaps both of you, want to make an opening statement to the committee and then we will ask some questions.

Ms Rich: Thank you, Chair, and thank you for the opportunity to appear at the inquiry today. Victoria Legal Aid is an independent statutory authority. We are set up under Victorian legislation, but with regard to the cooperative Commonwealth state arrangements, and we are funded by both the state and the Commonwealth governments. Under our legislation, we provide legal aid in the most effective economic and efficient manner. As part of doing that we are, in fact, ourselves the biggest legal service in Victoria as well. So we have significant experience in providing legal information, education, advice, duty lawyer and casework services to Victorians across the state. And of course our clients are often people who are socially and economically disadvantaged; often clients with a disability or a mental illness. We also prioritise children, in particular; the elderly people from culturally and linguistically diverse backgrounds; and people who live in regional and remote areas.

In terms of our Family, Youth and Children's Law Program, the aim of that program is to help people resolve family disputes and in particular achieve safe, workable and enduring care arrangements for children. So there is a very strong focus on the interests of children there. And the Child Support Legal Service that we run is a very important pillar in that program as a result. In the last financial year, we provided through just that program over 3,700 services to clients in child support matters. A lot of that work, almost all of the work that we do on an ongoing basis for clients, is done by our in-house legal practice in the child support area. Jayne Ford, who is here today, has significant practice experience leading that work and we draw on that practice experience in making our submissions. And it is important to note that we provide legal help to both payer and payee parents through that service. We provide advice services; again, duty law services; casework services; a daily telephone advice line; community legal education; and even information kits for parties that are self-representing.

Our enabling legislation actually expressly requires us to do more than just provide individual services, however. It requires us to look at achieving broader, good access to justice outcomes for the community. In fact, it specifically states that we need to look at ways to minimise the need for individual legal services in the community, and that is why we have made this submission to this inquiry and are appearing. It is part of that broader obligation on Victoria Legal Aid, and we believe it is fundamental to ensuring better outcomes for our clients in the end and also maximising the use of the finite legal aid fund, which is an important obligation under our statute as well. We believe it is beneficial and cost-effective to engage in this sort of work and that is why we are here. That is enough from me, I suspect, but I will hand over to Jayne, who will just make some short preliminary remarks about our submission on the child support system.

Ms Ford: I would just like to begin by saying that we fully support the current child support scheme, in the sense that it is such an improvement on the old system, and the principles underlying it are providing greater and fairer access to child support for families, and better certainty for them in arranging their child support payments. What we have noticed is a lot of our clients are finding the system very confusing and frustrating to deal with. We acknowledge that it is based on complex legislation and a mathematical formula, and this is often difficult for our clients to understand, particularly as the clients of Victoria Legal Aid are often suffering added disadvantage. They often have language and literacy problems; they may have mental health problems and other disabilities that make it even more complex for them to deal with the system. The bottom line is, if they find the system complex and have difficulties engaging with it, then this impacts on the financial wellbeing of the family. The family suffers hardship and ultimately it impacts negatively on the children of the family, and that is our greatest concern.

Our comments today are concerned with two main areas. The first is that we are looking at some modifications to make the system a little easier for parents to navigate. Secondly, we are concerned with those cases where there is family violence involved and ways we can protect the victims of that violence, while still ensuring that the perpetrator complies with his or her obligations to pay child support.

CHAIR: Could you go through your recommendations and the key ones that you want us to look at, and why?

Ms Ford: In terms of making the system simpler, one of our key recommendations concerns the change of assessment process. It is our experience that a lot of parents find this quite an onerous process. They have to fill out forms—some parents are not even aware that they may be able to apply, in special circumstances, to change

the child support assessment. If they are made aware that they can apply for a change of assessment, they find it difficult to know what sorts of questions they have to ask and what sort of research they have to undertake. If they come to see us, we can assist them with making some investigations. The sorts of things we are looking at are the capacity of the other parent to pay, particularly in cases where the other parent is self-employed, often parents do not realise that the formula which is based on the taxable income of that other parent is not really fair in these cases.

As you are well aware, a self-employed parent can legitimately minimise their income using current taxation legislation. The result is the child support that that parent is paying may not adequately reflect their capacity to pay. We are able to carry out searches—business name searches, ASIC searches—and perhaps even look at the overall lifestyle situation of that parent to show Child Support that he or she should be paying more child support in these circumstances. Parents do not often realise the sorts of steps they should be taking. This can make it particularly difficult and the families are the ones that suffer because they are not getting adequate child support.

We are recommending that where a parent is self-employed a flag is put on these cases, so that Child Support itself makes some investigations. They have more access. They have less privacy constrictions. They can look at things like bank accounts and make different searches that not even we as lawyers can make to get a fairer picture of what that parent can pay in child support. It takes the burden off the other parent of having always to initiate the action themselves.

Even when parents do initiate changes of assessment applications, often the decision only covers quite a short period of time, perhaps 15 months. Before they know it, the assessment is finished, they are back on a different assessment and they have to go through the whole process again. This may involve not only capacity to pay but things like the children's special needs—they may have medical or educational needs—that are remaining quite constant throughout the families lives. We say, 'If the situation has not changed very much, wouldn't it be better to have a longer period of time for that decision, to create more certainty for the families and allow both payee and payer parents to better plan their finances and have more secure arrangements for the children's future?'

In this area of change of assessment applications, we are looking at not only the length of time that the decision covers but when that decision has finished the parent could perhaps simply rely on their previous application and annex that to a simple form, rather than having to fill out their expenses, income and liabilities. Things that may be reasonably simple to the average person are often totally overwhelming to some of our clients. I just had a client last week who is a qualified nurse and is suffering severe post-traumatic stress syndrome from a violent parent. She could not fill out the simplest of forms. For her, it would have been so much easier if she could have said, 'I just simply want to rely on the previous information that was given to you,' to retain the assessment at a similar level.

CHAIR: Just on that 15-month time frame and wanting a longer period than that to depart from child support assessments, if it was extended, would you still be of the view that someone could put in a change of assessment request?

Ms Ford: Absolutely. There would always be the opportunity. Particularly, one parent may assume that the other parent's financial circumstances are the same and it perhaps may not be the case. The other parent should always have the opportunity to make a cross application for a change of assessment.

CHAIR: I suppose an immediate concern that I have if it was extended for much longer than a year and a half, is that not every party has access to the other parties' details. If circumstances have changed there could be a period of time where either someone is not paying enough, or someone is paying too much. If that is let go by, do we then turn back and say, 'For the last six months you were at a higher income level and we hadn't reassessed you, and so now you've got a debt'? Or the opposite, 'You paid too much, and now we have to recoup that money from someone.'? I suppose that having a 15-month window does tend to tighten that up. If you extended it out—and I am not sure what you are proposing—how would you deal with those issues?

Ms Ford: Yes, I suppose we are looking at more where it is something like school fees, or an ongoing children's medical condition, and would be unlikely to change. Also, with capacity for the other parent to pay it would be unlikely that a change of assessment would be set at such a low amount that a parent would be happy to keep going at a lower amount. Most parents would be aiming for a reasonable amount, reflective of what they think the other party can pay. I guess you just come back to that opportunity for either parent to be able to put in a cross application to say 'no, this has changed and it is not the same'. We would also be expecting Child Support itself to have more of a scrutineer role in this. They have access to taxation records, so if they know the parent is self-employed they could take a greater role and perhaps sometimes initiate changes where they believe the current assessment may not be fair.

CHAIR: On one of your recommendations you have suggested that DHS extend their current collection of arrears under private arrangements from—I think it is nine months at the moment—to the entire period. Can I just clarify: are you asking that to be done against the parameters of the Private Collect? Sometimes with Private Collect arrangements, for whatever reason, there is less being paid than what might be under a Child Support formulaic approach. Are we collecting the debt as per the private arrangement, or are we collecting the debt as it would be if the CSA formula was applied?

Ms Ford: We were looking at that issue in terms of Private Collect arrangements. It is our experience that a lot of parents are unaware that the other parent could have been paying more child support, and by the time they find out a debt has accumulated over a number of years. The debt can be quite significant to that parent. We say they immediately go back to Child Support and ask them to collect. In most cases they will only go back three months to collect. In certain special circumstances they will agree to go back nine months, but if there is a debt sitting there—it could be for years in some cases—the parent is then faced with the dilemma of, 'The only way I can get this money is by going to court.' The money may be in the order of two or three thousand dollars, which is a significant sum to a lot of families, particularly the families who are legal aid clients who are low-income families. For them to take the matter to court, or even for Victoria Legal Aid to expend the money could be six or seven thousand dollars. It is disproportionate to the debt, so in the end they do not pursue the debt and they miss out. If the matter could be pushed back into the hands of Child Support, and administrative processes used to pursue that debt, it would be so much more cost-effective and a much more simple system.

CHAIR: The only other question I have is related to one of your recommendations there about the introduction of procedures to reduce risks associated with the ongoing pursuit of nonpayment. Could you elaborate on that—on what mechanism or what procedures you want to see introduced?

Ms Rich: One of the issues that we see when we are acting for payer parents is that, for some payer parents who might not be paying or might have accrued arrears, there might be underlying issues that they are facing that are contributing to their nonpayment. It could be around capacity and not being able to properly communicate their financial capacity. There could be other issues, including mental illness. In fact, the pursuit of arrears in itself can cause distress in some cases to some of our clients. Our recommendation in that area relates to our having seen cases where the ongoing pursuit of the nonpayment or the debt with the payer parent is in itself causing significant stress and harm to that payer parent—and they are not not paying because they are recalcitrant or there is a complete unwillingness to pay; there are actually some underlying issues that are causing that nonpayment, and sometimes in an administrative system that could be a little bit difficult to recognise. We think that Child Support do have some good policies around this area, but there are still instances where this occurs.

We have recommended a few things around enforcement, but on this particular issue we are recommending that DHS look at its debt collection processes and consider that ongoing activity that is not a formal debt collection process—ongoing phone calls, contact and so on—might become harassing and not be effective in collecting the debt. They might need to adopt the sorts of policies and practices that have been adopted in other general debt collection areas and regulate their practices in that area so that they are not, perhaps inadvertently, slipping into being harassing. They might cut off that contact at a point where it is no longer effective but is causing stress for the payer and instead move to a simple, more formal process for collecting the debt. It is completely legitimate to attempt to collect a debt, but the way in which you do that can have a significant impact on the person that you are trying to chase up. Some processes to say where it is and is not appropriate to engage in certain forms of contact or behaviour would be helpful in that regard.

CHAIR: Okay. Deputy Chair?

Ms CLAYDON: Thank you both for your presentation this morning. It is very helpful. I really want to go to the recommendations that you flag in relation to cases where there is family violence or a risk of family violence. We have heard a considerable amount of evidence during our hearings with regards to how well or badly these cases have been handled throughout the whole child support system. I am interested in your recommendations here, because it has been put to us on more than one occasion that there is perhaps a need for a family violence unit. Where that would actually sit and how that might coordinate a victim of violence's approaches to the various departments is not entirely clear yet. Your suggestion of, firstly, a requirement that there be no private collection mechanism allowed is interesting. I just wondered if you might also take us through the second component of your recommendations in this area, which is:

- Consider implementing a system within DHS (Child Support) to flag cases in which there may be regular changes of assessment but family violence risk is present ...

I would like you to expand on that and give us some of the reasoning behind that recommendation, from your cases and experience, and what you think would be the obvious benefits.

Ms Ford: What we find is we often have parents coming to see us and the first thing they will say is, 'Look, it has taken me a long time to get the courage to come and see you about this because I am quite frightened of the other parent. I am worried if I say something about this he's going to retaliate in some way.' The current system requires that parent to complete a 10-page form, to fill out information about their own circumstances. They worry that the other parent is going to just see this as some sort of attack on them and take it personally. We think if it can be taken somewhat out of the hands of the parent and more into the hands of child support—if child support has more of a flag on these files—and the change of assessment application is initiated by child support itself, it just takes that extra burden, if you like, away from the victim. They will feel safer and be more likely to go ahead with the change of assessment knowing they have that added protection from child-support.

Ms Rich: Another reason for that recommendation is just the fact that, if it was part of the scheme that just needs to be done automatically by child support, then for the payee parent who was a bit nervous about having to initiate, and be seen to have initiated, the change of assessment, this would prevent that perception—because it would just be that the system is going through its change of assessment. Both the parents are required to participate and it is not that one of the other has initiated.

Ms CLAYDON: We have had evidence before this committee. You might have heard me say to the institute earlier on where there is a proposal for the government to guarantee child-support payments; then those liabilities will be owed to the government and it is the state's responsibility, then, to chase that up. Part of the reasoning behind that was to sort of remove the requirements for custodial parents to go chasing their payments and tracking down where their exes were working and living and all those sorts of things; to take a lot of the heat out of that high conflict—not necessarily family violence, but other levels of high conflict going on within families—and out of the equation. That seems to me pretty much what you are seeking to do but for people and families experiencing violence. It is not an underwriting Commonwealth system but the intent is to render this an administrative process.

Ms Ford: We certainly support any modifications to the system that do take the heat away. I must say, this proposal to look at the state guarantee is not something that we have gone into. We would be happy to look further at it, but we have not covered it in our current submission. I suppose one of our concerns would be that we would like the parents to understand that it is their responsibility to pay child support and perhaps by the state taking over that guarantee role, it takes away a bit from the parent understanding their responsibilities and obligations and could even backfire if the parent thought, 'Well, it doesn't matter if I don't pay because she is going to get paid anyway by the state.' So there are a lot of issues that it throws up. There are also a lot of budgetary implications to cover those payments. I can see some positives in it and it would be something that we would be happy to look at further if required.

Ms CLAYDON: Thanks. A lot of people are looking at it and if you do want to submit a view on it, we would welcome that. It is something that has been flagged with us quite a bit. But it seems to me that your recommendation is, particularly in cases of family violence, serving at least some purpose where you forbid a private collection method, and you have a system of flagging where family violence is present and there is an ongoing change of assessment review process. Because it has also been put to the committee that there is a potential for vexatious change of assessments to be submitted—

Ms Ford: Yes, certainly.

Ms CLAYDON: and trying to have mechanisms to deal with those situations.

Ms Ford: Yes, that is correct. I would also like to say that I think that Child Support has done a lot of work in training up its staff to screen for family violence and we would certainly be supportive of any further work. Perhaps a specialist unit, as you say others have suggested, would be a great idea, but I would not like to take away from all staff at Child Support having some basic training.

One of the things we often find with clients is that they do not identify that they have suffered family violence. We could ask five or six probing questions before they will say, 'Oh, yes.' Even the whole process of withholding child support or paying spasmodically is a form of violence, and they often do not think about it that way—or some of the controlling behaviour of the other parent. They may not be being hit by that other parent, but there is other underlying violence. So that would be just to ensure that, overall, all the staff at DHS are well aware of the extra questions they need to be asking to ensure these cases are appropriately flagged and people are not being missed in the system.

Ms CLAYDON: Yes. The issue of training has been raised quite a bit, so thanks for adding to that. I think there is just some concern about what level of generalised training for all staff—

Ms Ford: Yes.

Ms CLAYDON: and whether there are some specialty skills that are also perhaps required there. Anyway, thanks very much.

Ms Ford: Thank you.

Dr STONE: In relation to the whole child support program access: I know that Victoria Legal Aid helps to fund 40 community legal centres and supports the operation of the community legal sector. I represent a rural and regional area and I often have people saying to me, 'Look, given our farm asset we're not eligible for legal aid. We can't get legal aid, but we have this horrific problem and we need some legal advice. Who can you tell us, in this town or this city of Echuca or Shepparton, has got Family Court expertise?' It is very hard to help them find a legal practitioner who can help them. You cannot, I guess, comment too closely on your profession's expertise or willingness to engage in these sorts of cases, but are you concerned that we have equitable access—appropriate access—to legal support when there is a contentious matter and the only thing that will resolve it is ending up in court?

Ms Ford: You have actually raised an issue that is very important to me. Our child support legal service with Victoria Legal Aid is based in Melbourne, but we have an outreach program and we try to cover as much of the state as we can with personal visits.

I was just in Mildura last week; we go to Bairnsdale and we go to Horsham. We are particularly concerned with remote, rural clients because they do lack access to legal advice. We are aware that the quality of legal advice can be variable around the state and also that often these families—after all, child support is all about the financial wellbeing of the family—may have other issues. Being part of a rural community, they may have the issues of the environment—flood, drought and farming issues—on top of their ordinary worries about raising their children correctly with schooling and health and so forth.

So we are trying to get our message out as much as we can. It is the difficulty with broadcasting that Victoria Legal Aid is available. We are now using social media—we are using Twitter and Facebook—and we send email alerts to country communities that we are coming out. And even though Legal Aid does have a means-and-merits test, we are certainly usually available for most people to be able to at least have a half-hour telephone appointment with us. We have nine-to-five telephone advice sessions, so that they can ring from anywhere around Victoria. Then we have a little bit more restriction on clients being able to have personal interviews with us. But many clients would still be able to have a personal interview with us even if they cannot go on to have further representation. So yes, it is just a matter of being able to advertise our outreach program and our schedule. With the community legal centres, not all community legal centres have child support specialists.

Dr STONE: That is right, they do not.

Ms Ford: I believe you are hearing from one this afternoon, the Barwon Community Legal Service, which has an excellent child support service. So we have the one in Barwon, we have one down at Peninsular and we have one at Springvale. With other more remote clients we can do video—

Dr STONE: They are not remote, they are metro, those three you mentioned.

Ms Ford: Well, Barwon does sort of go further out from Geelong, but yes—

Dr STONE: They are metro.

Ms Ford: they are fairly regional compared with places—

Dr STONE: I would call them metro, but never mind, keep going.

Ms Ford: Yes, you probably would. We do video conference interviews and telephone interviews, and we do have panels of lawyers at Victoria Legal Aid who have to pass through fairly rigorous tests to show that they are experts in their areas. So there are some lawyers that we can refer clients to as well.

Ms Rich: The history of legal aid in the child support area is not in fact—when the child support legal service was established it was established with an injection of funding specifically in recognition of the fact that it is difficult to find access to legal services for child support, given the nature of the work. And even today, that is one of the reasons, as I mentioned in the introduction, we do so much of the work through our in-house practice. And that is an ongoing problem.

In some ways you have touched on a broader access-to-justice issue that we continue to face with family and children's law issues more broadly. There is no doubt that in regional and, particularly, rural and remote areas access to services can be more difficult, and it can be hard to find a qualified family lawyer to do this sort of work.

Dr STONE: The problem is compounded when it involves people living on farms, because often the farm is family owned and the previous generation officially owns the asset. So when the daughter-in-law has a family

separation, often there are very complex and difficult processes involved in trying to get that person—the wife, or, I should say, the mother and the children—some decent support. Because you are compounding the self-employed with family farming—often three generations on the one property.

Ms Ford: Yes.

Dr STONE: And there are family trusts and a whole range of things that the family has specifically put in place to avoid, as they say, 'losing the farm if she does a runner'—if the wife disappears. There is a whole battery of anecdotes about how to make sure you can tie up the ownership of the property and so on, so that if there is a family breakdown no one from the 'base family' ends up losing any property or having to pay very much.

These are very difficult times in rural and regional Australia. I put it to you that I do not think legal aid is being either adequately funded or is working out its resourcing to help with the family support complexities—or child support complexities—that are out there.

You talk about pursuing enforcement actions. In your view, how often is it the case that the payer has not been pursued when they should have been? In our constituencies and our offices we get a lot of complaints that the payer is getting cash—and in rural areas the opportunity to get cash work is much greater than in metro areas—which is not being divulged; or they are not paying tax on their income because maybe they are in the Army Reserve or they are a minister of religion. Sometimes they just simply refuse to pay and they are not pursued. So I get numbers of women saying to me, 'Look, we've just said forget it. We'll just go on the single parents supporting benefit. We're not going to pursue at all; it's too hard. At least we've got a guaranteed income if we go down the path of the single parent supporting benefit. Forget him. He's a rat; he should be paying, but it's all too hard and I'm going to be up and down like a yoyo depending on his decision about whether or not he'll pay.' Is that a typical scenario in your world?

Ms Ford: It is a typical scenario, and of course if they do just end up relying on family tax benefits it is a shame because they could be getting quite a bit more from that other parent. Our recommendations are around trying to create better certainty around the enforcement processes from child support. We find it difficult to advise clients because there is no transparent process. In some cases it would appear the \$10,000 debt is maybe put in the hands of an intensive debt collection team and they are actively pursuing it. Another client may come to us with another \$10,000 debt and nothing is being done. It is often difficult for us to be able to advise with any certainty how far Child Support is going to take it. From our paper in 2012-13, we do know that the number of cases they took to court in that year actually reduced greatly. In a lot of these cases, the only way that child support is going to be paid is if it ends up before the courts—that stick is often unreliably there. Which cases are they going to take to court? We do not know. By the same token we acknowledge that it is very difficult for Child Support. They do have limited resources; they do not have private investigators; a lot of the time they are relying on the parents themselves to provide the information. If a parent provides information, such as that he is earning cash on hand, then how do you know? If it is because when you were married to him, you were happily involved in the cash-in-hand business, then it is not going to reflect too well on yourself. If you just anecdotally believe it, it is very difficult thing—

Dr STONE: He just bought a boat. He must be earning a lot.

Ms Ford: That is useful, though. If you can provide lifestyle information of housing, overseas trips, acquiring assets—again that is something that often parents are not aware of that they are useful things for Child Support to know about. There are often things that we can tell them: 'Have a look. If he has just bought a huge flat screen TV and a new car—these are things that you can show to Child Support—then he must have more money there than appears from his \$30,000 taxable income.' Regarding tax returns, we are constantly told by Child Support that 'We are reinforcing lodgement of tax returns,' but that seems to be an area that merely—

Dr STONE: Does not seem to be.

Ms Ford: is not being enforced. We come across that all the time from parents who have not lodged tax returns for years. We would certainly support greater enforcement of lodgement of tax returns.

Dr STONE: Yes. Would you like to give an opinion about the decision, recently made, that there will be no face-to-face engagement, interviews, discussions; it will all be over the phone for the area of compliance and special cases et cetera.

Ms Ford: We actually have not addressed that in our paper—I do not know whether you have anything to say Nicole. My own view would be that many of our clients—because of their difficulties with language, communicating in general, with intellectual disability and mental health issues—Indigenous clients, in particular, often find a telephone an intimidating way of communicating what they feel. I think it is disappointing that they

have taken this step because often face-to-face is a much more successful way for people to be able to communicate their concerns.

Dr STONE: Thank you.

CHAIR: I think we will leave it there. Thank you very much for your contribution.

Ms Ford: Thank you very much.

DAVIES, Miss Kerry, Project Worker, Council of Single Mothers and their Children

DWYER, Miss Tenar, Executive Officer, Council of Single Mothers and their Children

[11:43]

CHAIR: I would like to welcome witnesses to the table representing the Council of Single Mothers and Their Children Victoria. Can I ask if, perhaps, one or both of you wishes to make an opening statement to the committee, and then we'll ask some questions.

Miss Davies: I will do most of the talking today because Tenar has been unwell and does not have much of a voice. She will certainly interrupt me if she feels the need. Be aware that we are quite fine with that. I suppose, firstly, we are really interested and have some concerns about—even though there are terms of reference for—what the impetus was to have a child support inquiry. We certainly agree that it needs to be looked at and a lot of things need to be changed. With everything that has been going on politically, it seems an interesting priority for this government, so early.

What we do know is that more than 50 per cent of child support is not paid in full, or on time, and that the debt of child support is astronomical and still steadily climbing. The best claim in the last 10 years, even since the 2006 changes, is that the rate that it is climbing at has somewhat slowed. I think what we also have is a fundamental cultural problem in Australia with how caring for children is seen and addressed, and whose responsibility that is financially, as well as emotionally and physically.

We are introducing really early this concept of a state guarantee or a government guarantee. What we have is a whole range of emotional issues and side issues that come with separation, and that is where most single mothers come from. They have been married or in really solid relationships with planned children and have ended up separated. The general things between both people are so emotional—their relationship has broken down and they have had to split the family—and that means that finances are always a big issue anyway, and of course the emotions of what is going to happen to those children. A state guarantee would actually make things much less adversarial. We believe too that, compared to the income support that is often sought just as a solution to this adversarial problem, at least if the state was guaranteeing child support they may be paying less income support and actually have recourse to reclaim that money—taking on board that then has to be chased by the government—at least there is money to be chased that can save a lot of dollars in income support that perhaps does not need to be spent.

There is another problem. We represent single mothers, because single mothers are such a vast majority of single parents, but we represent single parents. What we hear, particularly from single mothers, is that, even if in an ideal world there was no debt and all child support was being paid in full and on time and everyone was happy, it is still not enough money. However, the other side of that coin is that for the people who are paying the child support, it actually can be a huge struggle financially, depending on what the assessment is. Even if that is fairly done, we believe it is being formed on a bad foundation, because the cost of raising a child is part of the consideration. The costs of raising a child are figures that are based on people who are usually in a couple. Immediately when a family splits, you now almost have two half families—they both have the costs of having a life independently instead of sharing a life—so the foundation of the costs of raising a child is wrong. Therefore, if that is not even being assessed properly for how it is affecting everybody, having child support based mainly on capacity to pay, rather than what those children actually need and whether those needs can be met, is just getting further away from trying to find a solution to this difficult problem.

The legal system changed in the 70s and 80s when no-fault divorce and family law went into the courts. The legal system is mainly for criminal offences or civil matters and it puts relationships into an adversarial and almost criminalised way of sorting these things out. It may be the best system we have, but, on reflection, our organisation has been around since 1969 and in the 70s it worked with—ironically, considering how far apart we are now—Lone Fathers. After successfully getting the supporting mothers benefit in the early 70s, CSMC then worked with the Lone Fathers Association in their formative years to get that extended to men who were parenting alone. Then, in the 80s, we helped when the government was forming the child support system. We look back now, and we are still really grateful that that work was done, but many of the people who were involved then can now also see how problematic it was to put it into such a legal and adversarial format and framework.

We are a support and advocacy service. Obviously, primarily the people we represent are women. We certainly believe that is incredibly valid, seeing as the primary carers are, in the vast majority, women. Another side issue that we have, which is not about the child support and the payments themselves, is actually that Child Support has pretty much completely moved online now. It is impossible to get face-to-face appointments. People who are

impoverished, who are the people who are really feeling the worst effects—a lot of our members—actually do not have the internet. A lot of us take internet access for granted but a lot of the people who desperately need this system to work cannot even access it.

I am happy to leave it there. Thank you.

Ms CLAYDON: Thank you both for your presentation. I am sorry your voice is not with us today! I just wanted to pick up on a couple of issues. One is noting that a high proportion of the people, primarily women, who you represent have identified unpaid, habitually late or underpaid child support as the significant factor in terms of families experiencing financial hardship. It is certainly an issue that has been raised with the committee previously. I just want you to speak to a couple of the recommendations that you have made aimed at trying to address that area—the first couple, in fact.

There is a current grace period that allows the paying parent to delay payment of child support. I think that current period is around three months. Your recommendation is down to one month, so I would like you to speak to that. The second recommendation, which is for those payers who have a consistent history of late or sporadic payments being identified as early on as one could—given that you have to establish a history, I take it—and with an early intervention approach, where you might start putting some strategies in place to address those issues of noncompliance. Could you talk a little about how you could see that working more effectively?

Miss Dwyer: Do you want to take that?

Miss Davies: Yes, but please do continue to but in if you really need to!

It is great that you asked those together, because they are obviously so linked. I was here to hear most of Victoria Legal Aid's presentation. The interesting thing is that even if there are no mental health issues sometimes the block is just purely emotional. People can get into real trouble with all sorts of bills just because they do not open them—there are things like that. I think that sometimes when you actually deal with late or non-payments really early and assess how you are doing that then you are actually helping the person who is paying. Often the paying of some sort of child support is not the problem; the problem that means that the child support is withheld or not paid may be genuine financial difficulties but it can also be tit-for-tat payback for some other thing that is not relevant to the children and the fact that they are actually getting what they need.

I think that a lot of those people would benefit themselves, not just the children, by the child support payments being made. But a lot of us need that assistance just to get on with things. What we have to keep remembering is that for the children it is the most confusing and traumatic time in their lives, often, because their parents are not just breaking up—they do not understand the framework of a world that is different. They may have had to move house, school and all those sorts of things.

Even though they are adults, I have an absolute empathy for people who have gone through that kind of experience and who for whatever reason are not getting back on their feet and paying their bills. Sometimes it is that simple.

The problem is, though, when that actually becomes a habit because of the three months that these things are let go by. If you then make just one underpayment it resets the three months. Feasibly, you can make four payments a year that are not even the full amount of one month's payment and get away with that indefinitely. So it is not just an habitual, accidental, 'I'm just very sad and grieving at the moment' late payment. It can very quickly, in fact, be encouraged by the system to turn into, 'Well, that's one I can ignore,' at best or into financial violence and I know you have been discussing how financial violence can really affect children.

Miss Dwyer: I would also like to add to that: family tax benefit is calculated on the assessed child support and when it is not paid that is money that is not in women's pockets. Single mothers are already living well below the poverty line for the most part, even those who are working. So any delay in that child support or any playing of this system really affects their budget. You cannot budget when you do not know if the money is coming in. And if they suddenly pay it all at once and you have gone to Centrelink and said, 'I haven't received this,' and they have adjusted the family tax benefit to cover that, then the woman has a debt to Centrelink. It is beyond her control when the paying parent pays and so she is kind of at the paying parent's mercy. I think that highlights what is quite a big flaw with system.

Ms CLAYDON: That surely goes to your ninth recommendation, which is that the family tax benefit debts inadvertently approved by women when overdue child support is subsequently paid should be waived.

Miss Dwyer: That is correct.

Ms CLAYDON: That is your view—okay. I just wanted to touch on two other aspects in your submission. One was just a reference with regard to the reduction in the frequency of Child Support State Stakeholder

Engagement Group meetings. They are only now twice a year, I believe. I am just wondering whether you understood why? How often did you meet? And why is it only twice yearly now?

Miss Davies: Perhaps it is more like three years and two years. It was quarterly when I began in this role five years ago. It went down to three times a year and then when it went down to two times a year we did really kick up about that because we just did not see how it was really going to be consultative. We really were not given any reasons around it except for 'resources'. It was like even the morning tea got—'Oh, we can't even afford the morning tea.'

Ms CLAYDON: In your view, what were the real benefits to be gained from those meetings? Obviously, there was something you found useful if you are concerned that the frequency was getting cut back.

Miss Dwyer: They provide an opportunity for people working with the families that use child support to feed back into the system the difficulties they are facing. It is a really good way of communicating and trying to work out those issues—feeding back to Child Support where the problems are. When they are spread over six months my understanding is that there is not much opportunity any more to have that kind of conversation, when the meetings are so far apart. Also, when questions are asked we are often told, 'Well, we can't talk about that because it's—you know.' We are not really given any reason for it.

Miss Davies: Primarily, too, it was a format where systemic concerns would be addressed. But it also made sure that a range of people representing families who engage with Child Support or services like legal services that work with a lot of people who are engaged with Child Support could network. It was one of the few places where you were all sitting at a table together and having to be polite and respectful, which I found really valuable. Also you make contacts and connections that are not systemic but, because you know these people, you know who to ask when there is a more individual issue that you know can be sorted but will not be if you do not know who to contact. The value of all these people continually just meeting on a much more regular basis and having those conversations and that understanding cannot be underestimated, either.

Ms CLAYDON: Is it your view that those engagement group meetings might have been one way of overcoming another complaint that we often hear, and that is that departments are often looking at people's lives from a very narrow perspective and that we in fact lead very complex lives and so there is not a very good overview of all of the issues going on in anybody's life at any given moment, and obviously an agency like child support can be seeing people at times when there is a lot of conflict and lots of complex needs, perhaps, in their lives. Is it your view that those stakeholder meetings help to break down a siloed approach to dealing with post-separation issues?

Miss Davies: In a limited way. I think they were certainly about information sharing and our opportunity to address systemic concerns. But, as I say, just having that human engagement between people who then have a tea break together or do those things, you find that the workers and the people who work with people from different sides of the table in child support are getting exactly what you mentioned out of that.

Ms CLAYDON: Finally, as I am sure my colleagues will have questions too: I want to pick up on—and Dr Stone raised it here this morning—there being no capacity anymore for face-to-face contact, so that we are now reduced to child-support business being either on the phone or online. You made the point that you think that hits hardest perhaps those families who are from culturally and linguistically diverse groups, or people with low socioeconomic backgrounds. Might you like to further expand on that? When did that change take place? And what has been the lived experience that you have gained from your work with clients?

Miss Davies: It is relatively recent, but it is final. We find that really unfortunate, but we know that they are taking no more face-to-face appointments in the Melbourne Elizabeth Street office. I am fairly sure that, if it has not closed yet, the last one standing in Morwell in Gippsland could now very well be closing finally too. Being a state based organisation, I would have to take it under advisement. I can certainly get the information for you if needed.

Ms CLAYDON: No.

Miss Davies: As to the effect on the client: we do not have clients; we have members. We are a group that is representative of our membership, so the complex issues that go on are really fully understood by us. We are not just representing other people as a mouthpiece. Sorry; I am finding it hard to bring my answer back to your question because I have wandered a bit.

Ms CLAYDON: That is all right. Do you anticipate that your members will face an additional hardship or obstacle now that there is no avenue for face-to-face communication?

Miss Dwyer: Definitely they will. As Kerry iterated before, lots of our members do not have access to the internet, or they use mobile phones, so the calls become very expensive. Also there is the kind of emotional

content of the issue. When you are talking to someone on the phone, it is easy for it to escalate. When you are face-to-face with somebody, you can build that empathy. It makes a huge difference to you when you are dealing with somebody emotionally. It is really easy to disconnect from somebody yelling at you on the phone because they are really angry about the decision that has been made or what have you, and just write them off. I think that in itself is a big issue for the phone contact but, again, because they have mobile phones or do not have access to the internet, that is a real issue for women.

Miss Davies: Just to add to that, it does very much link to the onus being on the primary carer to chase child support. There is a lack of real engagement with the agency so they then have to gather and present this evidence. Not being able to have an actual meeting with someone to find out what is required—I would fundamentally question the ethics of that being the case. If a relationship has broken down, really the best thing properly for both those people is that they should not be—in fact in other circumstances it would perhaps be considered illegal—to be looking into each other's lives and trying to prove such things as their financial situation and their assets. Surely, those things should be more private. Of course, people are going to be angry when they find something and, of course, having your privacy invaded in such a way is going to make you angry. If people are not able to go and talk about what exactly they are supposed to be doing—what is expected of them—and get that clear, it is only going to exacerbate and make things much harder. The onus is on the person receiving the child support first and foremost to apply for child support—to get income support payment if that child support is not then forthcoming. So, instantly, you have started that adversarial process, now with no support—not even someone you can meet with face-to-face and get advice about your rights and responsibilities are.

CHAIR: I have two questions. One follows on from something the Deputy Chair asked earlier, and that has to do with debts being waived to payees where there might have been an overpayment or something along those lines. Even if the debt is waived, does your organisation believe that there still has been an overpayment and the CSA should pay back the payer?

Miss Davies: The payer should not be paid back because they owe the money—

CHAIR: In the instance where there has been an overpayment through whatever—

Miss Davies: From family tax benefit for unpaid child support.

CHAIR: Yes.

Miss Dwyer: My personal view is that debt should be raised with the person who made the debt—the parent who did not pay. That is another incentive to pay on time: if you get a debt because you have deliberately, or for whatever reason, created an overpayment for that person, it is not the receiving parent's fault that you have not managed your payments. I know it is a controversial thing to say—

CHAIR: I suppose I am asking that in circumstances where nobody is at fault, everybody thought they were doing the right thing but some circumstances emerge—whether it was a family tax benefit payment that was unforeseen, or something like that—and it is realised that for several months there have been overpayments. I suppose that, unless I am getting it wrong, what I had before was that in those situations there should not be any clawing back of the money that was overpaid to—

Miss Dwyer: Are you talking about the payment by the payer? So the payer has accidentally overpaid?

CHAIR: The payer is paying, and there has been an overpayment. What I heard before was that the payee should not have to pay that back. I can understand that because that is going to cause financial hardship, but do you think the child support system, the Department of Human Services, should still pay the payer back what they have overpaid? How do you think it should be managed?

Miss Davies: I suppose what happens is that the payments have not been made, which is why the person who is supposed to be receiving child support payments then can go and have, through Centrelink, that reassessed and are then entitled to payments to look after the children. And in the meantime that is money that is needed so that the family can actually pay their bills and survive. Meanwhile someone is just not paying—for whatever reason; it could be completely accidental or it could be absolutely intentionally recalcitrant, as you say. Either way, when that is finally caught up, it cannot change the fact that that money was sorely needed and the impact on that family, if they had not got it at the time, would have been astronomical. So if they incur a huge debt at Centrelink, because of someone else's misuse of the system or just oversight, they still wear a penalty for which they were not responsible. It is seen as a penalty, and financially that is how it is felt, because the income goes down.

For the government to recover their money, something to consider would be that you do not just pay back the money that you should have paid in the first place—so that some of that money then still gets through to that family—but also a fine. Systems like that do need to be addressed, and people need to be getting back to the very

first question I was asked: we should get on top of these things early so that, in an ideal world, this would not be happening.

CHAIR: I think I was putting across a different scenario, but I understand what you are talking about.

Miss Dwyer: I think you are saying that if the parent is paying it is an assessment issue, and I do not know that we have the answer to that.

CHAIR: It is a totally different scenario, so that is fine.

Miss Davies: The payer has effectively taken that money from the government, if they get it back. Because someone got family tax benefit, that means they are actually stealing—I call it that. I consider that that would be not just unfair but very questionable.

CHAIR: More generally, in your submission you talked about the cost of raising a child and that being paramount, versus—and this is my inference here—the capacity to pay. I am reading what you are saying as the cost of raising a child should be the priority, and that is what the government should be basing its calculations on and seeking payments towards. The next question is: how do you deal with low-income earners who are payers of child support? I suppose that is why the formula brings in that capacity-to-pay mechanism. The second thing is the flipside that has been put to us: that the current formula for child support enables the child support recipient to receive much more money from the payer than is actually needed for the cost of raising the child. So I am wondering about those two issues.

Miss Dwyer: I would dispute that the child support comes anywhere near addressing the cost of raising the children. And I guess by putting that point in our submission, we want to raise awareness around the fact that it does cost a lot to raise a child and that child support does not come anywhere near recognising that. The idea of assessing child support on someone's capacity to pay means the child support system is open for rorting. If you have an overall payment—this is, what it costs to raise a child, this is your share, this is your share—it is far more fair, as far as I am concerned, because—

CHAIR: What you are proposing again leads to the issues with low income people who cannot afford it, but it also leads to issues if there was a high income earner—and I know there is a threshold of about \$150,000—they would not be paying as much.

Miss Dwyer: I think anything over the assessed cost of raising a child could be negotiated between those higher income parents if they have the capacity to pay. Of course, you have the whole adversarial situation coming in—that is another whole issue—but, with regard to low-income earners, women or the primary carers still have to bear that cost of raising the child. They are on low incomes and they still bear that cost. By taking the cost away from the other parent, you are kind of letting them get away with not being financially responsible for their children. I do not know the answer to how you get that income, but it could be something—I think we suggested in our thing—like the HELP system where, if you cannot pay it now, you pay it back later through tax as you earn more. But just to recognise—

CHAIR: If the couple were together and he was in that job, that would be the circumstance that they were in. If the mother and father were together and the father was in the low-income job, that would just be the circumstances that the family were in; there would be nowhere for them to access extra money. So I have a hard time understanding that point of view that you bring across.

Miss Dwyer: I guess we just want recognition for the cost of raising a child. There are obviously issues with that, and it is a controversial thing to throw into the mix, but I guess what we are trying to say is that child support does not come close to actually compensating what it costs to raise a child.

Miss Davies: Can I add to that? If a couple are together and they are on a low income, and perhaps only one income, there are actually financial advantages to that. But also, regardless of what we think 'up here', what is in front of us is a living child or children who do have needs that are met—most of the time. We certainly have children living in poverty in this country, and it is shameful, but those children absolutely exist, even if that relationship breaks down. Acknowledging that the costs for both parents then increase because they are not in a relationship, then it is only harder and worse for people who are on low incomes. So there perhaps does need to be an acceptance by government that for certain periods of time—longer than perhaps the government thinks—there will be a bit of income support involved, because that other parent will not have the capacity to make that money up.

But what we also need to do is look at the high end, as you mentioned, and accept the realities and start to think about them when we make formulas and readjust formulas, so that, when we devise a formula, the cost of raising the child is held as equally important as the capacity to pay. And accept, too, that we do have different classes of income at least in our society, definitely, and that even the rates of the cost of raising a child have different

benchmarks. There is the cost of raising a child that is a general benchmark, but then they also have a level of the cost for low-income people to raise a child, because the lower your income, the more resourceful you actually are and the better with money you generally are. So children should also be allowed to continue, especially at such an emotionally traumatic time for them, as normal a life as possible. If you just start paying everyone the same, then you are definitely taking kids out of their school, taking kids out of their home and suburb and things like that, because you are leaving one parent with a heck of a lot less than what that family used to exist on, as well.

CHAIR: We are running over time, and I apologise to people who are waiting for the community statement sessions, but we will be there shortly.

Dr STONE: I want to announce that us eating jellybeans is not elitist; there are stacks of them down the back, so help yourself. Some of us did not have breakfast, you see. You have made the point—and it is statistically backed up, of course—that, apparently, Child Support has transferred \$3.4 billion between parents between 2012 and 2013, and there is over \$1 billion owing. So you are suggesting about, perhaps, half are not being paid what the agreement was or are paying late?

Miss Davies: And we are not just suggesting that. That is from Child Support's own reports and figures that more than half is not paid.

Dr STONE: Yes, I am quoting Child Support's figures. That is right; clearly there is a problem—a systemic problem. Is this a cultural problem, where—within our agency or within the Australian government or in the Australian society generally—we just think, 'Well, that is bad luck; the bloke's getting away with it—because most of the men are the payers—and aren't they clever?'

Or is it a staff problem where we do not have enough staff in the child support program, particularly for compliance—physically not enough heads to do this task? Is it that they have a lack of skills? We were there this morning, and they were telling us they have no private investigation capacity, for example. Or is it because they have very little power? You make this point yourself in your submission, you say that they have very little power to enforce payments except in extreme cases, and priority is given generally to chasing up larger debts and as a result the organisation is viewed as somewhat of a toothless tiger, with little capacity to get satisfactory outcomes for the thousands of single families and so on.

Is it all of the above? Can you hone in on where we should go to try to improve this recovery rate of agreed payments? Then it is a separate issue, whether those payments are based on cost of raising a child, or the incomes of both parents or the other.

CHAIR: In that figure you have quoted there is also a significant proportion—

Dr STONE: Of private engagement.

CHAIR: No, a significant proportion of that debt we quote that is unpaid is owed by people in foreign jurisdictions that do not have reciprocal arrangements with Australia, so we will never be able to recover that debt. That has always showed on that list, and if you extracted that figure it would not look so bad.

Miss Davies: That said, there is a lot of debt that does not show on the list, like the private arrangement debts.

Miss Dwyer: I would suggest that all of the issues that you have—

Dr STONE: All of the above?

Miss Dwyer: Yes. They feed into the problem. It is definitely a cultural issue. We have said that in our submissions; it is just one of those things. Men do not pay child support; women give up—it is just one of those things.

Dr STONE: So when the boss is asked, 'Look. By the way mate can you give me half my pay in cash now because I have a child support issue,' he says, 'No worries mate!'

Miss Dwyer: Absolutely that happens. I think it is a training issue as well. As the last group suggested, they do not have any investigative powers. That is a problem, because then the onus is all on the parent who is putting the query forward to find that information. If there is family violence that feeds into that. It makes it very dangerous for women to do that, and often women give up because it is not worth it. Do you want to add something to that?

Miss Davies: I think the cultural stuff is really important. I think that is why the 50 per cent figure is where it is. I think that is a really good benchmark to show us that we are nowhere near there yet. I would like to think, and I do believe that—and we also know this from other statistics and figures that I can back up, but I do not want a waste your time—for the vast majority of couples that separate, they do make their arrangements privately. Not just the financial ones, but the decisions about children. Of the percentage that end up in court, and the ones that

we call 'high conflict' or 'contentious', two-thirds of court cases involve family violence, and a lot of family violence is the reason that separations are happening in the first place.

Also disability: disability of either of the parents or children not only leads to family violence—not in all cases to family violence—but also leads to relationships breaking down because of the stress. We could talk for hours about why people break up and not even get to anyone's individual circumstances doing that. When we look at our society, we like to say that we are the land of the fair go, and everyone should pull their weight: dads should pay and mums should pay, and everyone should do the work of loving their children and caring for them no matter what has happened. But as soon as it gets into any of the individual complexities that are so layered, it also has that horrible silence that goes with family violence. They are our worst cases in child support, as well as the overall financial situation of so many parents that are separated—but you cannot go there, mate. So the whole conversation about what this is really about gets shut down, and we are not having it.

I know we are having it right now, which is great, but as a society it is actually taboo still and there is a lot more work that needs to be done. It is so interlinked, the intersections with family law, child support and working. Working is so fundamental to everyone: 70 per cent of single parents, mothers, are working by the time the youngest is 14.

So a lot of work is going into what is going on when people separate. Even if there is not family violence involved it is a really emotional, depressing, traumatic time for everyone involved. And if there are mental health or family violence issues as well, those things blow up and become exacerbated.

Ms CLAYDON: One of your recommendations goes to this idea of a child support payment being guaranteed by the government, and therefore pushing that responsibility for recovery of liabilities back to the state. One of the criticisms that is raised—you might have heard it this morning—is whether or not that would reduce the responsibility of the paying parent to honour their responsibility, and perhaps be seen as very heavy-handed state intervention. So I am just wondering what your response might be to that criticism, in particular about whether or not that is letting somebody off the hook, basically, from their responsibility.

Miss Dwyer: I disagree that it will let somebody off the hook. I think having the state chase you for money is far more incentive than having your ex-wife chase you for money. If you have got away with not paying stuff to a woman, they are already abrogating their responsibilities—many of them. So I do not agree with that. I think that having the state chase them for that, giving that responsibility to the state, would be more effective. And the state then also has the capacity to capture it through tax. I do not agree with it.

Miss Davies: I totally agree. I think it is actually the complete opposite, because it actually even takes it away from terminology like 'chasing'. It becomes just another bill. And in fact because of the emotions and the anger and the pain that goes with a separation, and the resentment because you have not got exactly what you want—without being able to stop to have the empathy that actually no-one in the family has got exactly what they wanted at the moment and everyone is perhaps struggling with that—it completely takes it away from the personal in that it becomes just another bill. So when you get your electricity bill, your gas bill and your child support bill and your tax that is taken out of your pay, it does not feel personal and not like does not feel like 'she dobbed me in, and now I have to pay', when she has no choice but to claim child support or live on nothing, as far as the Centrelink income support system is concerned. It completely depersonalises that and just makes it another bill, which we all strongly feel we should pay. Generally, most people pay their bills. That is why you work and why you have nice things. So I think the absolute opposite would be the effect.

Ms CLAYDON: Thank you. One of the other advantages that has been put to us in terms of that state guarantee system would be that the focus would in fact be that this as a payment for the child; it is not your ex trying to recover something or claim something or whatever. And so in a sense both parents are taken out of the equation and the focus is very much: this payment is required for the raising of your child.

Miss Davies: And a really good consequence could be that the care arrangements for the children can actually be much more clearly seen by both parents as the separate issue that they in fact are. And for those children, you might not just get better financial outcomes you might also get much better emotional and physical support outcomes. People might be able to work better together outside those sorts of things being sorted. All it is is figures.

Dr STONE: According to the government numbers, 36 per cent of all paid parents or payees are on \$500 per year or less. Now obviously they are depending on parental payments and welfare payments to allow them to eat. So it is an incredible number, isn't it—for 36 percent, less than \$500 is being contributed by the other parent.

Miss Davies: It genuinely is a pittance that we are talking about anyway, and actually a true reassessment is needed. As we said, the cost of raising a child is a lot more than \$500 a year, and it really needs to be brought into the formula equal with the capacity to pay. Where you find the middle—

Dr STONE: It leads to welfare dependency, and we all know that welfare dependency is a very, very poor way to raise a child to understand the work ethic.

Miss Davies: Absolutely, and at the same time as doing all the work of raising the children you are doing the work of getting the paid work to raise you out of that—all alone, for a lot of women.

CHAIR: We are going to have to wrap up, or we are going to go way over time. So, thank you very much for that.

[12:37]

Community Forum

CHAIR: We will now begin community statements. You will have four minutes to articulate what you want to say to the committee. A bell will ring at three minutes, when it will be time to wrap up and make your main point. If you have a heap longer, I ask that you present that to the table over here and we will include what you wanted to say in the transcript and we will take that into account. Please use the time to outline the problem and then to make the points of where you want to see the situation resolved or how you want to see the system fixed. As a general rule, we will use only first names here because we are talking about personal situations and other people who do not want to be identified can be identified. So I ask that you leave out any identifiers. It is fine to talk about your children and talk about your ex, or whatever, but no real identifiers if you can. If there is something in your story where you need to identify people for specific reasons, we have another mechanism where you can do that so that it is not on the public record but we can still see it. That is about it for all those details. We might kick off.

I declare open the community statement session. Those invited to speak here today have expressed an interest, as part of an online questionnaire, in speaking to the committee. I remind people to provide constructive ideas for improving the child support system, without disclosing personal details. The inquiry has other methods to collect that information. You should be aware this session is going to be recorded and you may be quoted in the inquiry report. The media may be present. They are not permitted to film you or to record you for broadcast, but they could quote you. Each person will have a maximum of four minutes. We will ring a bell at three. Try to keep your statement to that time frame because we have a few people to get through.

These are formal proceedings of the parliament. Everything said should be factual and honest. It can be considered a serious matter to attempt to mislead the committee. Again I will state, because I know the matters we are discussing can be very distressing to some people, that if anyone has an issue and they need to seek some help, we do have some information at the table over there. With all of that out of the way, we are starting with someone who is on the phone. Can you hear me, Ruth?

Ruth: Yes, I can.

CHAIR: Please begin.

Ruth: Good afternoon. Mr Chairman, members of the committee, ladies and gentlemen. I have been a part of the child support system since 2002. I believe changes could be made to the current child support system to make it a better, fairer system for everyone. The child support department could also employ more people, thus enabling it to provide a more efficient and supportive service to its clients. Areas which need particular attention include payers of child support who avoid declaration of all income they earn or receive. Proof of expenses such as rent or mortgage payments should be requested when a person lodges an estimate of their future income, the reason being that a person's estimated income should be enough to cover essential, everyday expenses. Also, more needs to be done by the child support department in regard to tracking down child support payers who try to hide to avoid paying child support. If employers can trace and track down prospective employees via social media, why can child support not do this too? These people need to take responsibility and to be held accountable.

Individual people's circumstances need to be considered more in the devising of the child support formula. Ultimately, the child is the most important person in the equation. Thank you for giving me this opportunity to speak and for taking the time to listen to my concerns.

CHAIR: Is there anything else, Ruth?

Ruth: No, that is all.

CHAIR: You have been very quick. We do not ask questions because these inquiries normally have expert witnesses, people from academic fields or from particular professions who come forward and we grill them. We are not in the business of grilling individuals. Thank you for your contribution, Ruth.

Ruth: Thank you for listening to me.

CHAIR: We will move on to Stef.

Stef: Good afternoon everyone. I believe the key element missing from the Child Support Agency currently working efficiently is that it does not have a face, shopfront or physical presence in our communities. I strongly believe the first point of contact with CSA at a street level should be with a psychologist to confidentially disclose the circumstances of the separation, where it is a safe place to tell your story, where you can be listened to, believed and fully understood, and that every case should be assessed on its individual merits and needs. A CSA psychologist would be able to offer sound professional advice and direction, offering the victim support for

appropriate decision making and identifying strategies to achieve a long-term plan. A psychologist would also be able to fully analyse the psychological abuse and in particular recognise personality disorders inflicted by the abuser, as most victims cannot process the psyche behind the abusive behaviour to which they are subjected.

If CSA had a physical presence in our communities, vulnerable people, in particular those living with domestic violence and intimidation and no safe place to go, could confidently seek free professional counselling which would be a starting point to begin the very difficult process of learning the skills of planning how and when to leave a highly toxic and unhealthy relationship.

Without my own personal journey, I would not have the understanding to be able to write this speech today. Without disclosing my personal details, I would like to say that an elderly neighbour who witnessed my domestic violence over a long period of time kindly gave me \$500, which initially enabled me to seek professional advice from a psychologist. In 2008, that psychologist advised me, 'For the sake of your children and yourself, you must leave your marriage.' I took his professional advice and planned my escape from my narcissistic, abusive, controlling husband. My psychologist still supports me to this day and has repeatedly advised me that, in his 20-odd years of practice, he has never known a case like mine. Without the insight of my neighbour and the professional, sound advice of my psychologist, my children and I would still be living in domestic violence and we would all be inferior to the people we are today.

Even though I have had contact with CSA since January 2009, CSA remains a stranger at the end of the telephone. During this time I have had no continuity with staff nor have they addressed my ongoing major issue. I have never been assigned a case officer after 5½ years of complex issues. My experience has been that information is not accurately passed on and protocol from CSA officers differs considerably depending upon whom you speak to. I have been waiting a year for a matter to be addressed and rectified by CSA but there is still no response or resolution, even though I have documented the information repeatedly. There has been no accountability from CSA.

The majority of the letters I have received from CSA over 5 ½ years are inaccurate, repetitive, confusing, farcical and a huge waste of tax funded money.

CHAIR: That is probably all we have time for. Is there much more you wanted to add?

Stef: There is one particular point I want to make.

CHAIR: Please make it.

Stef: I strongly believe in order to help alleviate the cycle of domestic violence in our communities as a priority at a grassroots level the federal government needs to channel funding into educational programs in all classrooms, starting with preschool, kindergarten, primary and high schools. Children need to be educated across all diverse cultures in our country to identify with good behaviour practices and to learn the importance of respect and love so that the flow-on effect will be taken from the classroom into the home environment, teaching children personal development skills to prevent the negative cycle of domestic violence from continuing into the next generation.

CHAIR: I totally agree with you there. The healthy relationship and education is something that is so important.

Stef: Education is the key.

CHAIR: That is right. Thank you very much. We will move on to Matthew.

Matthew: Honourable members of the child support inquiry committee. I have been invited to provide constructive ideas for improving the child support program. I have a range of experiences with the program as both a payee and a paying parent. I believe there are many problems with the equity and fairness of the current system. I think that the heart of the problem is the use of income assessment formulas to determine a parent's capacity to pay. In many cases, the government does not succeed in fairly working out parent incomes. The result is that some parents pay very little or no child support, some parents get very little or no child support and some parents are forced to pay more child support than they should have to. I propose a two-tiered child support system that would fix this.

The first tier would be the government setting a basic support amount based on what the government has determined the child could be supported on—that is, the amount the government pays to support a child on full welfare benefits. Because divorce in Australia is no fault, both parents should financially support their children equally.

The basic support amount should be split equally between the parents, with the majority-custody parent being an assumed contributor. The minority-custody parent should pay their half of the basic support amount, less a care

percentage for the time they have with the child. This should be based on a period time percentage not on overnight stays so that parents doing night shift work are not disadvantaged.

Payee parents supporting preschool children should get maintenance unless they can support themselves by their own means, re-partnering or until the child starts school. Parents who could not pay the basic support the matter should pay what they could and arrange with the government to pay the rest through a system like the educational HECS system. They could then pay off their debt to the government with interest over time, providing an incentive for early repayments.

Payee parents would then receive the paying parent's portion of the basic support amount each month instead of relying on the social security system. Parents who are liable to pay and make no arrangements to could be pursued by normal debt collection processes, including billing followed by the retrieval through the private debt collection agencies.

The second tier of child support would be based on negotiations between parents with extra capacity to contribute, which would be appropriate in most cases—if necessary, with the assistance of a counsellor overseeing the process. This would be more about negotiations and commitments about direct payments by the parents to benefit their children further, with their capacity to contribute further determined by disclosure of income within the counselling process. It should be flexible and take into account reasonable circumstances and the expectations of both parents, including re-partnering, taking on dependants and having further children. It should be much more family and contextually oriented.

The basis could be: how can we make this work in the fairest and best way for both parents and for the child or children involved? Where this did not work, or was not appropriate, a second-tier compulsory child support amount could be applied. But doesn't it just makes sense that this should be the first step?

CHAIR: Thanks very much for that, Matthew. It is food for thought. I might ask Marco and Sean to come up, but we will move on to you, Phylomena.

Phylomena: I wish to express my gratitude to the committee for allowing me the time to present the recommendations I have. I am not going to go through my individual case, but based on being a criminologist I have identified a number of flaws within the Child Support Agency that could be addressed.

Firstly, the financial analysis. Child Support staff currently lack the financial analytical expertise that is required to properly assess the financial data in relation to child support assessments, given the enormous cost to the taxpayer in relation to the appeals process based on these incorrect assessments of financial data. Currently, there are no financial analysts literally to look at the data that is coming in.

It is recommended that Child Support employs a fully-qualified financial analyst whose role is to assess the financial data provided to the Child Support Agency. Secondly, training is to be provided to Child Support staff in identifying and acting upon breaches of section 24 of the anti-money-laundering legislation pertaining to the use of false-name bank accounts.

Thirdly is the introduction of mandatory reporting of taxation offences to the tax office. Fourthly, that policies be implemented that apply to Child Support having due diligence in reporting matters to other government agencies in instances where legislative breaches have occurred. Fifthly, documents and correspondence received by Child Support and on forwarded to carers and/or payers be scrutinised for correctness to ensure that the documents are legally correct.

In relation to health issues: in instances where Child Support officers or case managers need to make decisions in relation to medical claims relating to child-support assessments, these decisions should be evidence based and backed by those Child Support officers and case managers who hold proper medical qualifications.

On the issue of accountability, the Child Support Agency should be accountable to an external authority to ensure transparency of processes and accountability to the public and to federal parliament. This is particularly important in matters where information has been provided to Child Support which has highlighted breaches of other federal legislation that, in turn has led to the financial abuse of the child; the actions of the Child Support staff have a negative flow-on effect to state governments, aware that these decisions may have an indirect impact on other international jurisdictions; and Child Support identifies what constitutes a specific time frame and works within that time frame to ensure that carers and/or payers are able to lodge objections within any given specified period. Thank you.

Janet: I thank you for the opportunity to speak at this inquiry. I have had an extensive and somewhat turbulent involvement with the Child Support Agency over the past 14 years, and I hope I can offer some ideas for improvement for service delivery of the child support program.

If the government is serious about reducing high costs of benefits then it must closely examine the roots of the excessive spending. One such cause may be non-compliant payment of child support, due either to a failure of the payer to declare true income or to the payer simply refusing to pay child support for their children for myriad hostile reasons. The current system relies too heavily on the honesty of payers and is failing our children. Correct representation of income is often an issue. Where a payer is self-employed, their personal, business and company income should be automatically linked to determine the true level of income, and thus accurate child support payment obligations. Where distribution occurs, the matter could be reviewed on the production of a profit and loss statement, or other documentation, to determine the correct amount of income. In the case where the payer has trade qualifications and documented income well below the industry standard, then adjustments could occur based on an earning capacity taking into account their skills and other relevant factors—a deeming provision such as that which exists in many compensation jurisdictions.

In my view, the CSA requires stronger powers to be able to collect arrears from payers, such as accessing joint bank accounts or superannuation, or redrawing additional funds in offset or mortgage accounts. By the CSA achieving a higher success rate in compliance and collection, we may see a reduction in single parents being forced to claim Centrelink benefits. If the payer fails to comply with repayment of arrears then there should be harsher penalties imposed. A precedent for such has been set in the US and includes asset seizure, restricted travel overseas, fines or incarceration.

I would also like to raise an important issue about adult child support. Where children over the age of 18 are full-time students or apprentices aged up to 22, or in special circumstances upon completion of selected courses, the child support administration assessment should still apply upon proof of enrolment. This would reduce the family court proceedings and would simplify the adult child maintenance process. Children in full-time study are still dependents until the age of 22 under Centrelink legislation, and thus should apply to the CSA, considering both agencies are part of the Department of Human Services.

Finally, it is my view that the change of assessment process is currently too slow and needs to be handled more quickly. I personally have experienced a COA application take up to four months before finalisation and another six to eight weeks for the payment and arrears to arrive. Change of assessments are not lodged needlessly. Where there is an arrears amount, it should be due and payable within seven days of the decision.

Child support exists to ensure the ongoing costs of raising and educating children is born by both parents. Making the process of income determination as transparent as possible, increasing the methods by which the CSA can access arrears payments following assessment and by attending to timely determination and payment of benefits would go a long way to decrease the stress and burden on individuals and other agencies alike.

CHAIR: Thank you very much for that. Phylomena and Janet, you can take your seats back there, and I will ask Danielle to come up if she wants. We will go to you, Joe.

Joe: My name is Joe and I thank you for this opportunity to talk about a topic that I am very passionate about. I am very passionate about this topic because a few months ago I had picked up my kids from school when a boy in grade 2, who comes from divorced parents, came out of school limping. I know the boy very well and I asked him if he had hurt himself, and his reply was: 'No, my shoes are too small and my mum can't afford to buy me new shoes.' I will not go into the individual circumstances of that boy but that resonated with me because the current system has actually failed this boy in my view.

To resolve many of the well documented issues that have been highlighted here with the current system, I recommend that the Commonwealth introduce a government administered children's trust as an additional option to the child support program, particularly for parents in volatile and high-conflict circumstances. What is the government administered children's trust? It involves a public officer, with the appropriate skill and authority, working with both parents at the time of separation, and on an annual basis, to calculate the total cost of supporting the kids and formulate a budget. Based on income, both parents proportionally fund the trust. The Child Support Agency would then become responsible for directly paying expenses included in the budget, such as school fees or any other expense that the public officer and/or parents consider appropriate based on their individual circumstances.

The current system works well in most cases when both parents are somewhat amicable and it should be retained. Private agreements should be encouraged and the formula based assessment is a good guide when separated parents are trying to work out the fair and reasonable amount of child support to pay.

The introduction of the government administered children's trust must be used as an additional option for parents in high conflict circumstances. The proposal benefits everyone involved, especially the kids, and there are four main benefits. One, it reduces the number of high-conflict cases investigated through the change-of-

assessment process and the court system because the individual and unique circumstances of the kids are considered—for example, if the child has any special medical needs. Secondly, it increases workforce participation and productivity because, once child support is paid, any additional income earned by the parent can be used at their own discretion; child support will no longer be viewed by many paying parents as another tax or a form of spousal maintenance. Thirdly, a budget approach will provide more transparency on how child support money is used and will reduce situations involving parents, such as the self-employed, hiding income. Separated parents in high-conflict circumstances would trust the government to handle expenses associated with their kids more than they would their ex-partners in high-conflict situations. The fourth point is there is reduced cost for the government, because separated parents believe it is fair and reasonable for the government to recover costs for administering the trust by generating an income from the funds held in trust and/or charging a modest service fee.

To conclude, child support is not an entitlement for either parent. Rather, it is a means to make sure that the kids go to school with a pair of shoes that fit them. Self-interest must be pushed aside to make sure our child support system is changed to financially support kids from broken homes. Thank you for your time.

CHAIR: Thanks very much for that, Joe, and if you want you can take a seat.

Cath: Thank you for the opportunity to speak this morning. Firstly I, in my life, have been the wife of a paying parent; I have been a payee parent. The situation that I see every day at court involves parents trading off time with children for money—and that is the ultimate problem with the system. Equating overnight time to money is not in the best interests of children. That is the first point.

The second point I would like to make relates to enforcement. Currently the agency has absolutely no teeth. There is not enough funding given to the agency to enforce, in any circumstances, funds that are due and payable by one parent to the other.

There are a number of suggestions I would like to make around that. Firstly, I would like to suggest that the funding be given to the Child Support agency, the Department of Human Services, to enable them to look into the financial situations of people who are self-employed mostly, or people who have income from trusts or companies that is not necessarily declared in their taxation returns.

There needs to be administrative ability from the agency not only to look into the affairs of those trusts and companies but also to take money, if there are arrears owing, from the bank accounts of those trusts and companies, even if it can be proved that that person is not necessarily the recipient of the entire amount due. The reason for that is that then puts the onus on the paying parent to prove otherwise that they are not entitled to those funds.

The same also applies to joint accounts. I regularly see parents simply putting money in a joint account: with their neighbour, with their friend, with their brother, with their sister, with their new partner. The ability of the agency to recover funds from those accounts is non-existent. Again, there should be an administrative procedure to put the onus upon the paying parent to prove that the funds in any joint account are not theirs.

Further, in relation to enforcement, there needs to be an extended use of the departure prohibition orders. Currently, they are rarely used. It would entice people to make arrangements to pay arrears, if they were prohibited from leaving the country. This particularly applies to people with large amounts of arrears. Certainly, in my experience, it is very unusual for a departure prohibition order to be placed unless the amount is more than \$5,000 in arrears. That amount should be lower, and it should be used far more often than it already is.

The third point I would like to make is about the removal of the cap. As was discussed earlier this morning in some of the previous submissions, currently, when the parents' joint income reaches \$150,000, the amount that the child is calculated to cost the parents effectively ends. It is quite simple: if each parent is earning \$75,000, that is not a high income these days. Children cost a lot more than the amount that is set out in the assessment. If one parent is earning more than that, then, yes, they do pay a substantial amount more than, maybe, the child might cost. However, when you have two parents both of whose incomes are taken into account, there needs to be a higher cap.

It is also unfair when you have a cap, particularly where the caring parent is the person who earns the higher amount. Obviously, in my case, I am the parent who earns the higher amount. I removed myself from the child support system four years ago, despite being considered an expert in the field, because I did not need my ex-husband to pay me a pitiful amount of money—less than \$80 a month—to support an autistic child and another child. It is simply not enough.

CHAIR: Thank you. We have run out of time, Cath. Is there much more?

Cath: I was going to make some comments about international agreements but I can do that at a later time.

CHAIR: Please hand that over to our table over there and we can include that in the comments. We will move over to Marco.

Marco: Hello, guys. My name is Marco. My appearance here today is based on a few questions brought up by the very male dominated workforce that I work in. I work with 127 guys; 120 of them have separated and they see their kids every second weekend. Of these 127 guys, one of them has full custody, because the mum did not want it, and three have committed suicide. These are all CSA clients. Of those 120, there are 80 who have spent \$80,000 or more in legal fees to see their kids. A good outcome, according to the barristers, was four to five days a fortnight. So a lot of these questions that have been brought up are by guys who deal with the CSA.

Information given to callers is not consistent and reliable, and some of it is incorrect information that has been given and received by the CSA. Wrong calculations, which have caused an already financially burdened parent who was paying the CSA, push them beyond the limit that they can financially sustain. It is then met with fines or penalties, which just makes the situation—compounds it—10 times worse. Solutions which these guys have come up with—and we sat around the table and it was a very dignified situation where we all spoke and put some ideas upfront—include that CSA staff need to be thoroughly trained to be clear and concise. They need resources.

Staff need to be able to refer to senior management who know the answers. If they do not know the answer to a question, I do not want them to give me an answer that is not correct. We need an information pack—just a very basic information pack as to why we are paying child support, where it is going, an example of where this amount came from. How did they come to it? Guys want to know how they have come to that payment.

The guys bring up a lot points like, 'If it costs \$20 for a kilo of meat, whether I earn 60 grand, 100 grand or 200 grand, it is still going to cost \$20 for a kilo of meat.' After a divorce the guys have usually paid exorbitant legal fees, they have usually left the house with nothing, they have to set up and they have had to leave sort of well-paying jobs. In particular, if you are lucky enough to get four or five days a fortnight, or if you are doing shift work or something like that, you need to leave that job. You need to take a job that allows you to look after those children, usually with a drop in pay. The CSA do not take that kindly. They say, 'You are able to earn \$120,000. You have now dropped to \$60,000.' You put it across that you have dropped because you have to look after your kids. They then assess you on the greater payment.

George knows full well about guys who work in the mines at Mount Isa and stuff like that. Whilst there was a family unit and they were earning \$120,000, they were all happy to be there. The marriage has dissolved; the mum has left with the kids, leaving the dad there to earn his 150 grand or 130 grand a year. He no longer has access to the children. If he did have them two or three days a week, he would have to pay the full amount—so the mum is looking after them the whole time. That is a big bugbear with all the guys. Parents having to pay child support when there is no access: that is the biggest bugbear. The amount to set things up after you have left the marriage—it is just out of control. These guys are driven into the ground. They are just beaten into submission.

The formula that they use to assess how much a child costs to raise: why does it change with what you earn? If it costs X amount to raise a child, to clothe and to school them, why does it change if I earn more or less?

CHAIR: Thanks very much for that, Marco. Is there much more that you would like to add to that?

Marco: No.

CHAIR: Thank you very much for that submission. Some points to consider. Sean?

Sean: Thank you for affording me the opportunity to speak today. I agree with a lot of what Marco was saying, but I am not here to talk about the financial side of it—more the personal side of it. I believe that what the committee is doing is probably the most important social reform in Australia today. Effectively, if we do nothing, for a lot of people—a lot of Australians—there is a very real chance of a new stolen generation. I believe the government is being compliant in this, because to deny loved ones the opportunity to see their children, when it is unjustified, is a form of child abuse and should be a crime. It is cruel. It is vicious.

I speak for all parents when I say that legal, moral and financial responsibilities must be met by both parents, irrespective of who has custody of the children. There needs to be accountability. There need to be consequences. At the moment I have not seen my children for two years. There has never been an issue with my payment. I have exhausted all legal avenues. I have poured thousands and thousands of dollars into it. To this very day I have the Child Support Agency telling me that they just want more and more money off me. I do not have rights. I have been told that it is my problem. It is not my problem. It is the country's problem. It is everyone's problem. My parents are in their 80s. They have not seen their grandchildren for two years—their only beloved grandchildren. I doubt that they will see them again whilst they are alive. The person who is doing this is denying those children the love of people who love them. Something must be done. There has to be accountability. There have to be

consequences. I have hit brick wall after brick wall—between CSA, SSAT, you name it; the family law courts. They all say they do not work together.

The CSA needs to be more than a collection agency. The CSA has to have the ability to work with the family law court. If either parent is breaking the law there has to be a consequence. Kids need more than money. They need love. We have got to get this right; as a country we have to. We cannot let this go because people are dying. I am not just talking about fathers committing suicide or mothers being bashed to death. I am sick of turning on the news and seeing these situations. What about the ones we are not hearing about? What about the children who are taking their lives? We do not ever hear about that. We do not hear about suicides. We just hear about the maniac who has gone and shot someone.

We need to, as a society, look at this. Why is this happening? And if it takes fairer and more equitable laws to change this situation and prevent it from happening, for God's sake, let's do it. Let's do it, because the only hope of society is our future and the children's future. It is more than financial. I am sorry but that is how I feel about it. Thank you for allowing me to talk.

CHAIR: Thank you very much, Sean, for that presentation.

Danielle: I am hoping I do not throw up on your table. I have been with the child support program for 12 years without much success. I have just tried to explain a few loopholes I have found in the system through all those years. The few loopholes I have found are mainly the lodgement of taxable incomes, the estimating of incomes and back payments. I will start with the lodging of income tax.

Ninety-nine per cent of Australians have to lodge their tax by 30 June every year. The exception to this rule, apparently, is if you use a tax agent to lodge a return. You can tell your agent when you would like it lodged, and the last possible date for lodging is 12 May of the following financial year. I have an example: let us say that for the financial year ending 2012-13, the CSA are doing their new assessments for the next financial year, 2013-14. The CSA have not received any taxable income from the paying parent, so they default to the previous years' taxable income.

For arguments sake, let us say that the previous income was \$75,000, which assessed by the CSA for the support of two children equates to an annual child support payment of around \$13,000 per year. The paying parent receives this assessment, calls the CSA and advises that they need to estimate their income for the next year as circumstances have changed and they will not be earning that kind of money. The CSA then allow them to estimate their income to whatever they like—let us say, \$20,000, which assessed for the support of two children equates to \$400 a year. That is what the custodial parent will receive for the next financial year or until a new income is lodged with the tax department.

The paying parent has asked his tax agent to lodge his return on the last possible date, being 12 May. The tax department do their thing and they send the information through to the CSA around 1 June. The CSA will then do a new assessment based on this income and forward letters to both parties notifying of a new financial change. It turns out the paying parent actually did not earn the original \$76,000 that he was assessed on but instead, according to the tax department, he earned himself \$188,000, which assessed by the CSA for two children equates to an annual child support payment of around \$28,000.

This is where it becomes unfair. By the time the tax department and CSA have finished their assessments, there are only one or two weeks left in the 2013-14 financial year and as the CSA will not back pay, out of that \$28,000 the custodial parent receives only a one- or two-week part payment of around \$1,200 for that year. The paying parent is generally happy to hand over that small portion because they know that on 1 July they will be making a call to CSA and informing them that they need to estimate their income as circumstance have changed and they will not be earning that kind of money—and the vicious circle begins.

Therefore, my suggested constructive ideas to improve the child support system are. Firstly, if an individual has a case file with the Child Support Agency they must have their current financial year income returns up to date and lodged by 30 June. This would ensure correct assessments are done and financial burdens are shared honestly and fairly. Secondly, if an individual thinks they are being smart by always being a year behind in income lodgements then back payments are only fair and just in sharing the load. Thirdly, to be able to estimate your income was a goodwill option but has been abused by the dishonestly, greed and bitterness of divorced couples, I would suggest that the ability to estimate your income becomes scrapped or that you cannot estimate your income to less than what you earned in the previous year. Who would give up an income of \$100,000 to go and earn \$20,000? That is it.

CHAIR: Thanks very much. That wraps up the community statement session. I want to thank everyone for participating in that today. There were some very good ideas and more food for thought for the committee that has come out of that. So thank you again.

Proceedings suspended from 13:20 to 14:07

ARCH, Miss Kerry, Founder, United Sole Parents of Australia

BORLAND, Ms Kate, Private capacity

WILLIAMS, Ms Barbara, Private capacity

CHAIR: I welcome witnesses representing United Sole Parents Australia. Do you have anything to say about the capacity in which you appear before this committee?

Ms Borland: I am here to represent sole parents from a domestic violence point of view.

Ms Williams: I am here today on behalf of Aboriginal single mothers.

CHAIR: Miss Arch, if you or your representatives here want to make a statement to the committee first, and then we will ask some questions.

Miss Arch: Thank you for the privilege of speaking at this child support inquiry. We are not an organisation but a movement of concerned parents communicating via modern technology. We are excited that after presenting our submission we have been invited and included in this child support inquiry. Our group started in January 2013 after the Gillard government moved the grandfathered sole parents from the parenting payment single allowance to Newstart.

Sadly, we were united by increased financial hardship and often bound by poverty. This occurred irrespective of our paid employment, which consisted of often low-paid, part-time or casual, insecure positions. It is therefore not surprising that we have strong views and a great interest in this child support inquiry. It is often the resident carer who is impacted by a reduction in government assistance and then needs to deal with the impact of child-support debt.

My evidence is spoken through lived experiences from concerned parents. The sole parents in my group are wondering why child support has not been looked at by our governments, both Labor and Liberal, when they are trying to save budget blow-outs. There is a national child support debt of over \$1 billion. In Victoria alone, it is over \$200 million. This is money that could have been saved through family tax payments.

Our kids are important and they deserve the best of everything. They are our next generation and we cannot afford to fail them. We need to get this child support system right. In saying this, we hope this inquiry will look at the best financial interests of the child and leave child custody matters to the family courts and mediation centres.

Regarding increasing financial hardship, the current child support formula was developed before single mothers were forced onto Newstart, and we are frightened by the further reductions as announced in the May budget. The formula needs to be increased to reflect current costs and the reduction of government assistance. We do not understand why sole parents who receive child support have their family tax payment reduced so harshly, and for so little by the maintenance-income test, which reduces by 50c per dollar until it reaches the base rate of family tax benefit part A. Reductions commence once child support reaches \$1,522.05, plus \$507.35 per child per annum. These are really low thresholds. However, low-income two-parent households do not have their payments reduced until they reach over \$50,151 per annum, when their family tax benefit part A is reduced by 20c in the dollar until it reaches the base rate of family tax benefit part A. There was a recommendation to change this back in 2006. We would like to know why there is such a huge difference.

The Anglicare Rent Affordability Snapshot report shows that fewer than one per cent of houses listed in April were affordable for anyone on a government payment. I have heard that since these cuts there have been women and children sleeping in their cars. Is this acceptable in our country? I have spoken to a couple and their experience has broken my heart. Newstart is approximately 40 per cent below the poverty line and designed to support a single person without dependents. It is imperative that the resident parent is paid appropriate child support, on time, to help raise their children when they need it the most, especially whilst they are on such low incomes—such as Newstart. Even when we are supporting each other online, and sharing information, we find the system confusing and complex. We also find that information given to us can vary from one child support employee to the next, which can be very frustrating and lead to heightened stress levels during change of assessments.

It is ridiculous that the resident parent is constantly chasing payments and made to feel that they should be grateful. Isn't it the responsibility of both parents to provide support for their children? If the Child Support Agency took on the responsibility of collection, and paid automated payments to the resident parent, then this could take the emotion out of the system. The resident parent could be better able to plan their budget if child support payments were consistent. And I would like to refer to an article in the *Guardian*, dated 21 July, which was headed, 'The coalition not ruling out changes to guarantee child support payments'.

Our kids need support not only while they are in their school years but also when they are in higher education at TAFE and university. Most sole parents do not understand the complex child support system enough, or have the time or money to go to the Family Court and get new arrangements to force ex-partners to help with the ongoing responsibility of their children's education. Nor should they have to. We would appreciate if the laws for collection were continued on until all education is completed by our children. Our children should not have to deal with the burden of financial stress while they are in school, or at any stage. They need the security of a roof over their heads and food on their tables.

Some sole parents are unable to work due to lack of skills, experience, age, race or other prejudices; and some have carer responsibilities for their children or ageing parents, thus placing them very much behind the average coupled family in being able to provide adequately for their children. Those that are lucky enough to work are mostly working part-time or casual hours to balance their parenthood responsibilities. They have less opportunity to work weekends and to benefit from penalty rates. They are unable to do overtime or travel extended distances to work, and they have to forgo promotions if it means more hours. Less income is invested into superannuation, which leaves sole parents worse off—even into the future after their children are grown. As it is difficult to make up these losses, can these points please be considered when drawing up the final new policy for child support from the information given from this inquiry.

Unpaid care is absent from the Child Support Scheme and this needs to be recognised and changed. For this reason we would like to see the disregarded self-support amount for resident parents restored to the pre-2006 reform amount of \$45,000. It was not appropriate to equalise the self-support amount for both parents, as there are far more day-to-day costs the resident parent needs to meet that are not covered by the child support formula, and many extra costs to the resident parent. The nonresident parent is not required to make any contribution to these costs and is not constrained in the same way in their career.

Another problem some in my group are experiencing is when the nonresident parent lodges late tax returns and the resident parent is left with a Centrelink debt for overpaid family tax benefit based on a higher level of child support—these debts need to be waived, as they are out of the resident parent's control and can be the result of financially controlling behaviour once again—or when the nonresident parents does not lodge tax returns in years and the resident parent is owed thousands. Child Support and the ATO must work together to ensure this does not continue to happen. During the child support assessments there is an increase in anxiety and depression. I myself have been bedridden with anxiety and depression, just in the last change of assessment, due to financial stresses that I know I should not have been made to experience. Changes of assessment can also lead to leaks of identifying information, which can put some sole parents and their children in danger. This is not acceptable.

Some payers who own their own businesses are able to hide thousands of dollars by working in a cash economy or by placing income in trust accounts or on their home loans or even by paying their workers cash in hand. Again, this is a loss not only to the children but to our Australian economy. Both the income of the business and the personal income should be added together and assessed for child support.

Reports of fraud from the resident parent need to be taken seriously, as with the admissions from the payer expressing their own fraud, which have no consequences and, in fact, assessments still seen in favour of the payer. Examples of fraud should be investigated under section 159 of the Child Support (Assessment) Act. I have been told by a child support lawyer: 'It is impossible to change the fraud that has been occurring with cash businesses. But, hey, at least they are paying GST when they spend their money.' I was also told that it would take 20 years to change the child support laws to prevent this happening. Today is a good day to start to ensure our next generation's children will not go without. High conflict and violence can continue post separation, which Kate will talk about later.

In conclusion, I would like to state the main points of my speech. The child support formula needs to support sole parents that might be on Newstart or other allowances and unable to obtain work. Housing—excuse me. I am sorry.

CHAIR: That is okay. Not a drama.

Ms CLAYDON: Take your time; have some water. Take a breather. It is no problem at all.

Miss Arch: Housing costs are consuming the majority of incomes, leaving the sole-parent families struggling with day-to-day costs. Just in saying that, I have one point: I did a questionnaire with the sole parents in my group, and a lot of them were paying anywhere from 30 to 50 to even 90 per cent of their incomes on their rentals and living off just family tax benefit alone—and child support, if they were lucky enough. The current system is confusing, with conflicting information. Children need support until they finish higher education. Unpaid care needs to be considered in the new formula. Child Support should make automated payments to the resident

parent, regardless of collection from the payer, to ensure the payee is able to better budget and stop Centrelink debts. Change the system for change of assessment, as not only is it stressful but the information shared can be leaked, putting families in danger. Look seriously into the cash economy and fraud. Reduce emotional stress where possible, which will lead to a calmer life for our children.

I hope that from our submission, from what the parents have openly shared plus what I have just spoken on today—and Kate and Barbara will also—we can make an impact on future policy. The system is in desperate need of change and there is definitely a need for penalties placed on those who are avoiding their child support responsibilities. Do not let the children go without what they are rightfully entitled to any longer. Thank you once again for having us here. It has been a real privilege to share with you all and I look forward to further engagement with the committee as the inquiry progresses.

CHAIR: Thank you very much for that, Miss Arch. You have outlined a very strong push there about cracking down on the cash economy or black market payments. I know there are some points about that in your written submission to us, but what specific measures need to be adopted to really get stuck into that? You have talked about the ATO in your submission, but my fear is that the ATO already does what you suggest and that it is just that people are very good at hiding it where they want to. I am wondering if there have been thoughts around what mechanisms—

Miss Arch: In my own experience with that, I have found inconsistencies over the years. For a number of years the money that was invested into the trust was not looked at as recognised income, as with superannuation. That has now been looked at. I do not want to personalise it here, but I want to give an example of what happened in my situation. There was a property that was bought and I asked for an investigation into that and the child support was significantly raised. Then, on the following child support assessment, there was a claim that those figures were incorrect—that he had actually boosted up his income so that he could get the house loan that he wanted and that what was not a true indication of his income. So my child support was again dropped down to what he was assessed as capable of earning instead of what was lodged in his profit and loss to obtain this property.

Even in admittance that there was fraud committed, there were still no consequences for those actions. I would like to see that in their businesses their profit and loss are looked at a lot closer, so that that the goods that they do buy are actually reflected in the income that they make. If they are getting a lot of goods into the property and it is not coming out with income, and the income is short to what the goods are purchased, there needs to be a recognition that there is a cash basis going on there and also cash wages. We have also got separated fathers who are working cash in hand while claiming Newstart and they do not want to get paid employment because then they will have to start paying more in child support. I do not know how—

CHAIR: It is a dilemma for us—those ones getting Newstart. The government would also like to know whether they are getting cash in hand, because they are defrauding government too. I want to go on to some other measures that you have recommended in your written submission—and it reflects what I heard earlier from the Council of Single Mothers and their Children. You have suggested that the minimum capacity to earn for child support purposes be no less than male total average weekly earnings of \$70,569. It is similar to what was said before. They were suggesting that we look at the cost of raising a child rather than the actual financial capacity that the person has. Going away from self-employed people to someone with just a straight income, they earn—pick a figure—say, \$35,000 a year and that is it. How can you balance it up, if you are saying that you require it to be based on a \$70,000-plus male total average weekly earnings rate but the person is earning substantially lower than that?

Miss Arch: I would want to look into the skillset of what they have previously been employed at. If they are—

CHAIR: Forget all of the other factors. I am talking about someone in a job where they have no skills, or low skills, and low income. There are a lot of people like that—

Miss Arch: Well, again, it would have to be on a case-by-case basis. If they are not capable of earning any extra then you are not going to be—

CHAIR: Yes, okay. I am just working out whether you still want to hold them to that. Basically, if they are lower income and it is justifiable—

Miss Arch: Yes, of course.

CHAIR: they are not held down. Another point that you mentioned is that payers should not be able to choose to resign from secure employment to pursue, say, university study—

Miss Arch: That is for extended periods, if they do course after course.

CHAIR: Okay. Like continued courses? Yes, I get you. No, I would agree on that. You argue that the nonpayment of child support should affect the payer's credit rating. There is certainly a case for that. You go on to talk about licence suspensions and custodial sentences. We heard that from the US example. The issue with the US example is, I think, that it emanates from the court system. That is the only way that prison sentences can be put in there. Licence suspensions worry me because that might just make it harder for that person to actually earn an income and to make child support payments. So—

Miss Arch: It is a hard one to—

CHAIR: Do you have a view on that?

Miss Arch: It is a hard one to look at, because you are right: they can use it as an excuse for not working. But I would presume that they would want it more for their independence. It would be more appealing for them to keep their licence for their own independence, whether they are working or not.

CHAIR: I had a discussion earlier this morning with someone actually in the Child Support Agency about another matter, and that is the departure prohibition orders and whether they are mitigating the risk of people who owe child support leaving the country, or whether they were a punishment. I suppose that what you are specifically talking about here are punishment measures; if you have not done something.

Miss Arch: Yes.

CHAIR: It would be, probably, not unique but extraordinary to have a government department with the power to impose penalties, other than the police and maybe a few others in very tight circumstances. Most penalties are issued by courts of law. Would you be proposing that if there were punitive measures like this—such as that your licence is suspended—it would just be done by the agency or would it have to go through some sort of court process?

Miss Arch: It would have to be a build-up of missing payments. There would be a limit that would be capped. Then they would be sent to the court of law because they defaulted on a payment. If you do not pay your parking fines, you are sent to the court of law.

CHAIR: Okay, yes. No, that is—

Miss Arch: But if Child Support actually paid the parent to begin with, automatically, then they could just remove all of that. Then it is up to Child Support to then—

CHAIR: To go and collect it.

Miss Arch: Yes. That would be our preferred method. We will be able to get a regular income where we can budget from week to week knowing that we will get that money. Then, whatever happens with the ex-partner, the emotions are completely taken out of it. They are more likely to pay to an organisation, as it would become more like a law—more so than having to pay the ex-partner.

CHAIR: It is a good idea. It is going to be a difficult one, though, in our deliberations, because we have also got to think of the impact of cost on that. What we have found out in some of the research that we have done is that, at best, I think the rate was something like—what was the best rate that we had?—50 per cent. In countries that do this, where they have government guaranteed payments, I think the best collection rate they got back was still 50 per cent or 60 per cent. I cannot remember the exact figure, but it was still pretty low—pretty equivalent to what it is in Australia.

Miss Arch: If fraud was investigated a lot more, that would bring that ratio down.

CHAIR: Hopefully.

Miss Arch: We are telling Child Support and the ATO constantly of the fraud that we are seeing, and it is like it is falling on deaf ears and no-one does anything. It is really frustrating. Year after year after year, your children are going without and you see these ex-partners going on holidays and things like that and you cannot afford to buy shoes for your child, or you are going without so that you can put food on the table for them.

Ms CLAYDON: Thank you for your presentation today. We do appreciate it. I know that it is tough at times, so thank you for persevering. I would like to ask a couple of general questions, first up, and try and involve, perhaps, Ms Williams in this as well. You talked in your opening remarks about a general difficulty that people have in navigating their way around a child support system. I would be very curious to know if you have any specific suggestions about what sort of help you might have benefited from if you had been given some assistance up-front or had a better understanding of the system and what would work. I suspect that there are different experiences for people. Perhaps Aboriginal women have a different experience as well, and I would be really interested to hear about that. I would like to know your thoughts on how we might better inform people, so that navigating one's way around the system is a little more informed than it currently seems to be for people.

Miss Arch: In my own experience, I have found that when you speak on the phone with a child support officer—as distinct from the officers who do change of assessment—there can be completely conflicting stories. I have had four people tell me different things over the phone. I have rung on several occasions, with information that I have pulled off their website with regard to child support and independent schools, to talk about how it was an unreasonable cost, because the costs are much higher than public schools. Four different people said that, yes, that was the case and when I went to change of assessment they said, 'No, it is within reasonable grounds that the levies are included in the child support.' I was really frustrated at that change of assessment when that was not considered. When I showed them information on their website it still was not considered.

Ms Williams: As an Aboriginal woman, I had trouble getting child support. The fathers would go on unemployment benefits so that they would not have to pay child support. A lot of the Aboriginal people in my community do not receive child support. If they have an Aboriginal partner, an Indigenous partner, a lot of the problems come back to the stolen generation. They are in and out of the system. While they are doing that, the mothers are not getting child support. They need to receive their child support so that they can cut their crime rate down. A lot of the crime rate comes from needing to get money to support their children—to put food on the table and put a roof over their children's heads. A lot of the women in my community are in and out of the system too because they just cannot manage. There is a lot of crime, domestic violence, drugs, alcohol. These things are caused from way back. There does need to be change for either the single father or the single mother, whoever is looking after the child, for the other parent to pay some sort of child support. Whether it is low-income—well, it would be a lower child support. Not receiving child support has put our crime rate up.

Ms CLAYDON: Thank you for that. If I understood you correctly, you would suggest that Aboriginal women—at least in your community, in your experience—are really choosing not to engage in the whole child support system at all.

Ms Williams: Yes.

Ms CLAYDON: You spoke earlier, Miss Arch, about some of those financially controlling behaviours, and they are certainly matters that have been raised with us—by the payee parent in particular. I am just wondering what your response might be, because evidence has come to us that the payer would like to have more of a say in how their contribution is being used—

Miss Arch: In theory, that sounds good.

Ms CLAYDON: or spent. It comes from different experiences, I suspect. Given that you have been talking a lot about the cost of raising a child and that there are all these factors for the resident custodial parent taken into account and given a financial weighting, I am just wondering what your response might be to the notion that—

Miss Arch: We have actually discussed that in our group. The theory sounds really good, but if it were put into a policy, they could still be controlling our money—what we spend. Then there would be disagreements—'you shouldn't be spending it on this; you should be spending it on that'—because they might want them in soccer, whereas the mum might want them in piano lessons. It would be another way to control the parent and it would cause more conflict. The theory sounds good, but the practicality of it—we do not believe that it would be helpful at all.

Ms CLAYDON: Thank you. I would like to follow-up on some of the options that you have suggested, given the earlier discussion around the failure to lodge tax returns in a timely manner. We have certainly heard evidence that there have been seven consecutive years of people not lodging returns and the difficulty that obviously causes. One of the enforcement options in your paper is that the ATO is to investigate non-lodgement of tax returns and undeclared cash income. Each time someone signs a tax declaration at a new job, the ATO links this information through data links with agencies to ensure current payment agreements are kept up to date. You are saying that is not currently done, I am assuming, and that is your recommendation?

Miss Arch: Yes. That was what one of the women suggested in our group, so I have put that through as a recommendation.

Ms CLAYDON: Have you ever tried suggesting that to anyone previously?

Miss Arch: Personally, no, I have not.

Ms CLAYDON: I have not thought it through but, obviously, each time somebody starts a new job they are going to be signing a tax declaration.

Miss Arch: And it is a way to keep track of where they are, because a lot of men are jumping from one job to another to avoid their child support payments. When Child Support catch up with them, they leave that job and go and find another job.

Dr STONE: If it is a cash job, they will not be paying tax.

Ms CLAYDON: The cash jobs are a particular issue, and I have got to say I have never seen so many people working for cash in a particular sector as in hospitality in Melbourne. I am not sure if anyone is on the books.

Dr STONE: Try the orchid industry.

Ms CLAYDON: It is pretty prevalent.

Miss Arch: I asked my group how much they believed that they were experiencing fraud and I was just astonished. I can send you information about how many actually believe that their partners are doing cash income or avoiding cash with their own businesses.

Ms CLAYDON: That is a problem, as the chair pointed out, both for the nation and for the families directly involved because that is a fraud on everybody. There is one other matter that I wanted to raise. I think it was you, Miss Arch, who touched on the reductions in the family tax benefit payments following not getting the child support, and then you go back and you get an increase in family tax, but that in turn triggers a potential debt. Do you want to talk us through what you think might be ways of alleviating that?

Miss Arch: Again, like the woman suggested earlier in the public submission, if they were to give by 30 June and were forced to do tax returns, that could help reduce that. People should not have the option any more to delay putting in their tax returns until May the following year, and they should be fined if they do not put in tax returns.

Ms CLAYDON: Would it be helpful in your first engagement with Child Support—or perhaps it has to happen even earlier than that—to have some kind of booklet, some source of information? I do not know the best way to deliver it, to be honest. Maybe it could be a clip on YouTube. It could talk about how best to navigate your way through these various departments. That seems to be a big issue.

Miss Arch: I do not think people would even really look at it, to be honest. How much do we get in our mailbox that makes us think, 'I don't have time'.

Ms CLAYDON: So what would you suggest?

Miss Arch: I believe that having a case manager would help. They could walk with you through your whole child support life, unless of course that case manager resigns and goes somewhere else and you are offered a new one. If you were given one for the term that you were actually involved with Child Support then you would have familiarity with that person and you could also build up trust. That would help with the emotional side. You would form a relationship with that person and it would bring it to a more personal level when you were dealing with child support.

Ms CLAYDON: A case manager from day one? That obviously is not the current situation. Indeed we have heard a number of people talk today about the complete lack of or inability to have any face-to-face contact with Child Support now.

Miss Arch: We put in a submission or a response to the McClure report as well. Our response was about having a case manager who was not associated with any actual department. They navigate you through all the different services and they direct you to other services that could also help you. They navigate all the different systems that there are, and that could be another option.

Ms CLAYDON: Ms Williams, this might be a question for you now. We have heard there is a lack of face-to-face contact now with Child Support. As we understand it, there is no option. It is all online or by telephone. I am just wondering what you think the impact of that change in policy might be for Aboriginal women—or men, for that matter—trying to access information or advice, to do a change of assessment or deal with all of those things that you might need to talk to Child Support about if the only options are online or call centres.

Ms Williams: Online or call centres? I do not like them myself. A lot of the time you are talking to a machine, or someone who is not even here. Sometimes they are overseas. I would agree with what Kerry said about case managers.

Ms CLAYDON: So your preference is for face-to-face contact?

Ms Williams: Yes, face-to-face contact.

Ms CLAYDON: Certainly our discussions with the Child Support Agency this morning suggested that that only gets triggered in certain circumstances, when specialised services are required. That would be a very big change to have that from day one.

Miss Arch: That would also help you navigate through the whole welfare system. Through that, they would be able to bridge the gaps and help strengthen education, strengthen people back into work. It would actually end up saving the economy money that way.

Ms CLAYDON: Could you just expand on that? Where would you see that case manager residing? It is not somebody who works in Child Support?

Miss Arch: There would have to be a new department opened up that knows all the laws on child support or, if they do not know, they can find out for you. Instead of the recipient dealing with everything on their own, and dealing with the emotional stress that goes with that, you have someone walking through the system with you and you have a person who you know and trust who you can go to. They can link you in to the places you need and help to strengthen you and support you.

Dr STONE: I will address this question to you, Ms Williams. A lot of grandmothers raise Koori kids in Victoria. Do you think there is a problem or can you see part of the solution to those grandmothers often doing it very, very tough financially? Often they have more than one child that they are feeding, housing, clothing. They are doing all the costly things involved with child care, not to mention the emotional mothering that they are giving to those children. They are not always their grandchildren, either. Sometimes they are other relatives. Do you think they should in fact get the child support that the father is supposed to be paying the mother? If the mother is not in fact parenting those kids because they are with her mother, the grandmother, do you think there should be some arrangement like that?

Ms Williams: Yes, I do. Whoever is parenting the child should be receiving the money.

Dr STONE: There is a problem at the moment with Centrelink. They often will not acknowledge that parenting because the daughter does not officially acknowledge that the child is not in her care because they might remove some of her welfare payments. So it can be a serious problem for the grandmother to have any financial support.

Ms Williams: Yes, right.

Dr STONE: That is not just an Indigenous situation, I might add, of course. But it is very much a common situation in my electorate. You mention as one of your recommendations that, if you do not pay the agreed child support, your welfare could be cut off. I am wondering if you have thought about income management as an alternative to that. As you know, we have income management in lots of parts of Australia, including in my electorate in Victoria. Up to 50 per cent of your Newstart allowance or your single parent income is quarantined or managed. Can you see a scenario where perhaps the father—it is almost universally the father who is not paying—is on Newstart allowance, there is an agreed proportion of support he is meant to be giving, even though it is a small amount, and the money could be garnished or managed out of his welfare payment before it goes to him? It could get paid directly to the mother. Does that make sense as an option?

Miss Arch: There is an automatic deduction.

Dr STONE: Yes, an automatic deduction for the Newstart allowance.

Miss Arch: I would say that that would be a positive, but I do not like income management—as in the BasicsCard. I believe that it is a controlling, demeaning policy and I believe that education is the key. In our recommendations for the McClure report, we have stated that we preferred education: if they were to be taken to court for drugs or alcohol that they go through rehabilitation, and if there was a recurring offence that they would then be put on the BasicsCard. Because we believe that empowering people to be independent is the better way, instead of controlling them and not helping them to grow.

Dr STONE: I certainly agree with you, Miss Arch, but what we are talking about is the failure of all of those high ideals in nearly half of the cases. So we have got this problem here and now. And since we income manage—and I understand exactly what you are saying about your worries and concerns about it—with the intention of the person learning to meet their commitments, then this is one of their commitments. If they are the parent of a child, there has been an agreed—often it is a very tiny—amount, as you know, if they are on welfare. And, if you are earning an income, there is often an agreement that your employer will take—your salary will be automatically deducted for your child support. You would be aware of those arrangements that are made. I think it is interesting that Centrelink might be fully aware this person has child care support commitments, but they do not in fact—

Miss Arch: It would be like taking it from a wage, so I would be happy with that.

Dr STONE: It is the same thing. That is what I am looking at. It is a parallel potential situation. I understand what you say about the custodial parent having to spend days compiling receipts, forms and so on. As you know,

the current government is trying to reduce red tape and bureaucracy. We know that it is deadly and cuts productivity in the country, so I think we will need to have an audit of all of those forms that you are required to fill out and have a good hard look at them. They do seem to be very detailed, very time-consuming and intimidating. But I am wondering how many of your membership might have literacy issues and for whom it is a difficulty to even fill them in with the time available.

Miss Arch: Exactly. I have a man in my group that cannot read or write and he is grown adult. He has asked me to relay that he has a disability where he cannot read or write, and you are right: it is a big problem.

Dr STONE: Thank you very much. I have read all your recommendations and I do not have any further questions, but I have been listening very carefully to what you have been saying.

Ms CLAYDON: I just have one final question. Do you have any recommendations around the issue of the change of assessment? There is the issue about the complexity of forms and things, but there has also been a suggestion that that is a mechanism that is sometimes used to reduce and delay payments, and may fall into some of that controlling behaviour that you referred to earlier. Have you got any thoughts around—is it worth, for example, only enabling one change of assessment per financial year, outside of extraordinary circumstances?

Miss Arch: Mine is delayed for 18 months. I can only redo mine every 18 months. But within that he can have up and downs, and I would not even know about it. And that is the problem. How do you gauge what the ups and downs are? So 18 months later, he could have had a spike in income. Come down to change of assessment and, six months, later he can reduce his income so that when he puts in his tax return—or whatever he does with his profit and loss—it is really hard.

To be honest I do not know what the solutions are for people who own their own businesses and the like. And you are right, the forms that we have to fill out—they can get you so distressed when you put it all down on paper. And then you have to wait six weeks. You are told to lodge it before six weeks to enable you to get that form in on time so that you do not have a gap. But then you have to wait for his response to come back and then you have got another six weeks. So you have got this 12-week delay before you can even do anything. Then, if he objects to it or you object to it, it is another six weeks and then another six weeks. How many delays till the actual assessment is then finalised, before a change of assessment is done? And, in that time, the emotions you go through are just debilitating for some of us.

Dr STONE: And you only get three months maximum back pay anyway, don't you? If it has been a different assessment, where you should have had a different payment, say, for a year, the maximum I understand you can get reflecting that different support amount is three months.

Miss Arch: I am not sure of the time.

Dr STONE: I think it is only three months—one to three months.

CHAIR: Something like that, yes.

Miss Arch: But, yes, I know that you cannot go further back if it was a long period.

CHAIR: Thank you so much for your contributions. They have been very good, very useful. We will take them all under consideration when we make our deliberations. Thank you again.

CAMERON, Ms Prue, Researcher, WIRE Women's Information

DOUGLAS, Ms Samiro, Chief Executive Officer, WIRE Women's Information

[14:56]

CHAIR: I welcome WIRE Women's Information. I invite each of you, or one of you, to make an opening statement and then we will ask some questions.

Ms Douglas: Our submission was based on research which we are actually launching next week. The concept behind the research was that we speak to 12,000 women a year on all sorts of issues, particularly about the ongoing financial hardship for women who have separated from family violence relationships. So there is the immediate hardship, but the ongoing hardship was something that we were really alert to. The other factor that we were really alert to was that, both in professionals and in individual women, there was little understanding of abuse and the tactics of that abuse were not very well known, and so women were not seeing themselves in that category. Also, they were not getting advice about that from either lawyers or some of the other services.

It was wanting to know how we could communicate more with women, what language we needed to use more with women, to make sure that they had the information to make informed decisions that led to this research. I will let Prue talk a little more about the findings of the research. Even though we speak with women really regularly, there were some aspects of the findings that were a real surprise to us. That was the impact of the system. There were some things that we thought that we would find. There were other things in terms of gender and the socialisation, the gender beliefs and loves, that were also a surprise to us. So we think the research is fantastic and we think it is incredibly rich and is going to be quite significant.

Ms Cameron: I will maybe just give you a little summary of the findings, in particular in relation to child support. As Samira said, we expected to find that the primary reasons for women not pursuing their legal and financial entitlements when they left family violence situations would be fear, safety, and just an absolute desire to get away. So they did not pursue it through the legal system. But in fact most of the women who participated in our research did—the vast majority—pursue their legal entitlements. What we found was how, through those systems, the pattern of financially abusive behaviour was perpetuated and, through their interconnection of the legal system child support and income support, it enabled their former partner to perpetuate it often for years.

While through the research we wanted to get a better understanding of the nature of financial abuse—and we certainly got a lot of rich data about that—what was surprising was the extent to which women wanted to talk about what was happening to them through these institutions often 10 or 15 years after leaving.

The woman who was not able to come today has been fighting for seven years. She is the sole resident carer of her three children and this has been an ongoing process for seven years. You saw the emotional effect—I am sure you have seen it with lots of witnesses—on the previous speaker and the toll it takes, never mind the financial impact it has on these women's lives in the lives of their children. So that was one of the key, huge findings.

In our submission, we were hoping to emphasise that, in families where there is a history of financial abuse within the context of family violence—and that, importantly, does not necessarily mean physical violence, though often—almost all the participants in the research in the focus groups would not have identified themselves as having experienced financial abuse until after they had left and spoken to counsellors. For some participating in the research, it was the first time they actually said, 'Oh—that is me. That is what happened to me.' So I think that highlights the importance of understanding the nature of financial abuse and how it is perpetuated for the purposes of this inquiry through the child-support system—deliberately, explicitly—

Ms Douglas: Maliciously.

Ms Cameron: Maliciously; yes. Former partners strategically use the system to maintain their power and control over the financial situation of their former partners and, consequently, their children. What came out of the research and what was quite shocking to us was that there did not seem to be any mechanisms in the system to say: 'Flag it. Alert! Alert! This person is a repeat offender. This person has a history of this kind of behaviour. This is just a continuation of the abusive and controlling behaviours that happen within the relationship. Let's flag this. Let's put a stop to it.'

So, yes, while it is exceptionally difficult for all women who struggle to get their proper child-support payments, women who have experienced financial abuse and the consequent impact of that for many years or through the relationship are arguably even more disempowered and psychologically affected by the ongoing abuse through the system.

To sum up: the women that we spoke to said that they felt that the system replicated the financial abuse that they had experienced in the relationship. They felt they had no control—that their ex-partner had all the power

and control about whether to pay and how much to pay, easily avoiding payment, and that they were easily and constantly able to game the system. They also felt that financial abuse as a form of domestic violence was not well understood by the staff they spoke to. I think in the submission there is a woman who said that she was trying to explain it on the phone, and she was not being heard. He was doing it in the relationship and was just continuing it. That was not taken on at all. That was the general comment that it was not understood. The assessment system generally advantages the payer over the payee was their perception in a variety of ways, which I can go into later if you like.

On the other hand, the women felt that their financial behaviour was highly regulated, that they were constantly under surveillance and lived in fear of overpayment through Centrelink through the situation that was being described earlier, and then accruing, inadvertently, a huge debt which they then had to pay back. These women, no matter what their situation was when they were in a relationship, were living in very straightened circumstances. So, all the women who participated in the research were really struggling with their budgeting. This had a huge effect on living on a low income. It affected their health and their mental health and wellbeing. They were constantly juggling things, as well as filling out forms and responding, which took a huge toll on them.

One of the things that came up earlier in one of your questions was the increased amount of spending that their former partner was able to prescribe impacted on them. They are living on a very small budget. To lose that relatively large discretion on how they spent the money on the children was disempowering for them. As I said, it replicated that sense that, once again, they were not in control of their finances, or the way that they managed their budget, or looked after their children, which was exactly what happened when they were in the relationships. They felt that they were not getting support through the system, that they were not being protected from this behaviour and they were not getting the support that they needed.

We did a survey, and it is not statistically relevant, but what it does is validate the findings from the focus groups who talk in percentages. Overwhelmingly, from the survey, the barrier to leaving family violence was lack of money, and with the complexity of the system they just did not know where to start. In the focus group that is what we heard, repeatedly. Again, you heard it from the previous speakers. Ring Centrelink, talk to 30 different people and get 30 different answers. It is the same with Child Support. The perception is that Child Support and Centrelink's do not talk to each other. You ring up and you get a different person every time, and they tell you something different every time. There is no consistency, there is no appreciation of the history, and there is no ability to see that this is a pattern of behaviour.

Ms Douglas: Also, in relation to that, while you have an inquiry into child support, child support is not in isolation for people experiencing financial abuse. The difficulty is from the Family Court and from Centrelink. While you are looking, particularly, just at the child support system in isolation, women are living that with the Family Court and Centrelink. It is not just in isolation and it needs to be seen in that broader context as well.

Ms Cameron: Do you want to ask us questions now, or do you want me to go on?

CHAIR: I might kick off. I am going to be honest. I do struggle with a bit of what you have told us today. You mentioned the change of assessment that favoured the payers rather than the payees. It sort of goes very much against a lot of what this committee has heard over the past month and a bit at other hearings by the payers and how they feel about the system. We have had those people break down crying in front of us as well as others. There is a sense of angst from them about the system, so a lot of what you said surprises me.

I want to focus on one thing because it was very heavily present in your verbal submission to us there and it is in your written submission, and that is to do with financial abuse as part of domestic violence. I do get a little bit wary when I hear the term 'financial abuse' because I think that sometimes that term can be misused and it demeans the concept of domestic violence in some regards. Sure, when someone has had money stripped from them and is controlled in that fashion, that is domestic violence; that is financial abuse. But arguments happen in every family about who bought what and whether they have overspent. That happens on both sides, and we have to accept that.

But then saying that, post the relationship—as part of the argy-bargy that goes on with child-support payments—someone making a change of assessment with perhaps legitimate information which would need to be considered is part of an ongoing example of financial abuse, I really struggle with that. Everything has to be taken on its merits. If it was vexatious, it would be found out to be vexatious. What purpose would it serve to say, 'This is a history of ongoing financial abuse'? Regardless of whether or not that was the case, if someone came to the Department of Human Services with a change-of-assessment form that had correct information in it that might lead to a negative impact on the payee, because they might receive less child support—but, still, all of it was right—how would this inference that it is a continuation of financial abuse affect that situation? I do not understand.

Ms Cameron: I will start at the beginning. Obviously, financial abuse is recognised in—

CHAIR: I know what it is.

Ms Cameron: the domestic violence laws of almost every state and territory, and the Family Law Act.

CHAIR: But certainly not argy-bargy over child support.

Ms Cameron: I am not talking about 'argy-bargy', nor are the people—

CHAIR: Well, none of this is recognised as domestic violence. There would be no definition that would include anything to do with child support payments being considered domestic violence.

Ms Cameron: Withholding economic resources is part of the definition. Certainly, in the Victorian Family Violence Protection Act—

CHAIR: The whole of child support payment could be considered that.

Ms Cameron: This is the very problem with financial abuse and this is why it is so poorly understood in the community and why it is quite an invisible—we said it is hidden in plain sight—form of family violence: it is so common and it is often dismissed in just that way, 'This is just argy-bargy,' and, 'Women are terrible spendthrifts, men are much better with money and they are the breadwinners, after all.'

CHAIR: To be clear, I did not say that.

Ms Cameron: I know you are not saying it, but this is one of the—

CHAIR: What I am saying is that there are disputes over child support payments, and all the parameters that go into that could not be considered domestic violence. That is what I am trying to get across—that that definitely could not be considered domestic violence. I have an issue with it being seen as a continuation of some form of domestic violence. I do not understand how that could be and I do not understand how the inference of it even has any part to play in a change-of-assessment application.

Ms Douglas: I think that it is important to see that it is one in a series of tactics that are part of a series of behaviours that actually are considered to be family violence or domestic violence—so it is not in isolation from a series of tactics. It can come at the same time as changed parenting orders or changes of assessment in relation to the Family Court. It can be about the critical times when it actually happens. So the Child Support Agency might not make the link about that critical time being a child's birthday or another significant event, but that family does and that woman does. So it is about the ability to use the system, to continually take her back to the system, to continually leave her unable to re-establish her life because the income is uncertain, the income is variable. It is, in a way, an attempt to continually take away her power and it is using the wellbeing of the children to do it. So it is not that that is solely in isolation from a series of other behaviours that have been part of it. In many of those instances, it is vexatious rather than a legitimate change. So the number of times that that change might come in is where you need an alert—why have we got all of these changes happening at this time? So it is about a vexatious action and not in isolation.

Ms Cameron: It is a pattern of behaviour. It is not just a change of assessment—which, as you say, happens legitimately with people receiving child support and paying child support all the time. It is about a pattern of behaviour that is replicated in previous behaviour and part of a range of tactics.

CHAIR: I have no doubt that in a small proportion of cases, particularly where the people are going into the cash economy and hiding their income, they are doing it because they do not want to give any money to the other person or because they want to keep it all to themselves. In one of those scenarios they are punishing them, which would be financial abuse. But those people are not putting in change of assessment forms. They are just hiding their income. If you put in a change of assessment form you are laying it all down for the Department of Human Services to come in and have a look at what you have got. You could potentially get a negative finding against you and be deemed to have an income greater than your actual income. I suppose the ultimate question is: how does the red flagging of this guy as a financial abuser translate to any practical response to a change of assessment form coming in?

Ms Cameron: It is not just change of assessment; it is almost avoiding, hiding, minimising. The point is that the Law Reform Commission recommended that people identify a history of family violence. It is simply about flagging that financial abuse is a form of family violence and is something to be considered. So if this pattern of behaviour is repeated and there is a continuous cycle of this—and the woman and the family are constantly living in uncertainty, chaos and financial instability as a result of it—that should be an alert that says: 'Let's have a look at this guy. Let's check this out. Let's do a proper investigation.'

CHAIR: So with the red flagging of financial abuse, if there is an allegation that they are hiding money, you might do a detailed forensic investigation into that individual. How would the red flagging of someone who

carries out financial abuse be done in a way that is just and fair? I mean, any allegation can be made and, in some instances, it does not have to be backed up with evidence. But if someone says they have been subjected to financial abuse by a person and it is put on that person's record, but it is actually a lie, how would you resolve that?

Ms Douglas: It could be within the identification of a history of financial abuse rather than an individual moment—has there been intervention or police attendance? That woman may be required to provide some evidence of the history of financial abuse. Within that alert system, where these changes have happened over this many periods of time, there could be a flag saying there is a history of financial abuse.

CHAIR: Thank you for that.

Ms CLAYDON: Thank you for your evidence today. You are certainly not alone in your suggestions that there might be patterns of behaviour that are repeated over a long period of time. We heard evidence, prior to you talking, about financially controlling behaviours. That has been evidence that has come before the committee time and time again. I would like you to talk us through some of the research in the focus groups that goes to this issue of how something like a change of assessment process may be utilised as a controlling behaviour. Could you talk us through some of that?

Ms Cameron: Yes. As Samiro said, and as I said earlier, it is often interlinked. In these cases often it comes in combination with challenging a court order around parenting arrangements, or the woman going because there have been breaches of parenting arrangements. Yes, I guess it is exactly that. There are numbers of stories of men quitting their jobs. There are lawyers and senior financial advisers. They are changing their jobs, minimising their income to child support, claiming capacity to pay under the reason 8 or whatever it is. The issue then is that the child support payment is reduced. The women describe getting the kids to bed and then sitting down at their desk with the piles of medical stuff, legal stuff, child support stuff, Centrelink stuff, and they work through these piles to respond to all the documentation, and keep track of every piece of information they have. I guess that is one of those areas of their life where they never know when things are going to change and when they are going to have to respond. Or they could be challenging his income assessment. I am not sure if that answers your questions. It is that combination. They feel trapped.

Ms CLAYDON: Thank you. We have had evidence before us about the reason 8 within the change of assessment, looking at special circumstances. This has, sort of, given rise to a lot of inconsistency in decision making, and there are complaints from all parties in that regard. You are calling for a review to try to make that a more rigorous process, I think, with a view to seeing that it also be a deterrent to any attempt to minimise a payment. There was some discussion at previous hearings that perhaps lawyers should have a practice note or something that helps guide that decision or tries to make that decision-making process more transparent.

Ms Cameron: At the outset.

Ms CLAYDON: Yes. I am wondering whether something like that would help. Do you have any other thoughts about what might be a remedy to a situation that all parties, generally, are seeing as fairly inconsistent at the moment?

Ms Douglas: In response to that it is like, as the previous witness was saying, it is about the situation that kids are living in. The payee is the father of the children and it is the children that are really being impacted upon. The other thing I would say in relation to that is that it is not in isolation. I think that is one of the things that can be very complex when we see an issue in isolation. It is, maybe, part of the history gathering of having a diagnostic tool on whether there is a history of family violence. Is there a repeated history of going back to the Family Court for changes of arrangements?

Is there a history of changes in child support payments and those arrangements there? Is there past history of family violence or, within that assessment tool, going back to the Family Court, because that is one of the other systems, and then the child support system, which then raises the alert? It is not just in isolation; it is the additional evidence that comes in and supports it.

Ms Cameron: The suggestion of a case manager around these cases would certainly help in that because there would be that consistency to follow it through and to recognise what is happening.

Ms CLAYDON: There are two lines I want to follow at the moment. One is with regard to the issue you were referring to before. There was some earlier evidence today that said, where there is this pattern of perpetual changing of assessment—where there is a thought that there are some deliberate behaviours happening—there should be prohibition of private collection. Obviously, more than half of child support is under private collection, and we do not know very much about that at all. Then there is the flagging, which is a suggestion you have also had. The flag would be used to try to determine whether it is a deliberate perpetuation of longstanding behaviours.

I am checking whether or not your recommendations sit comfortably with those previous suggestions as well, that we are all on the same page in terms of trying to prevent private collection in circumstances where there is a history.

Ms Cameron: I think that many of the women in the focus groups started off with private collection and none of them had it at the end. They would swap because it just does not work. It still does not work when it is child support; the private agreement does not last long.

Dr STONE: Half are still in that situation, but for many it does not last.

Ms Cameron: That is what I meant. I am talking about the women who have identified as experiencing financial abuse. I am not talking about all women.

Ms CLAYDON: I want to come back to your considered opinion and research with regard to financial abuse and how that might be factored in more prominently than it is now. We have taken a considerable amount of evidence to suggest that the child support system actually struggles to identify other forms of family violence. There have been suggestions that we actually need a dedicated domestic and family violence unit that works, because the child support agency sometimes has unwittingly revealed details that should never have been revealed but did not have a skilled and trained enough worker to pick up any of the early suggestions or triggers that somebody might have come from a violent circumstance. They have not been directed to go for an exemption. There are a range of experiences that at times do not leave me feeling very confident that the current supports are working and are in place. So I guess I am feeling a little concerned, if we have not got that aspect quite right yet, about the idea that people might pick up financial abuse which might be a little less overt.

Ms Cameron: It is.

Ms CLAYDON: As it stands now, our child support system would be struggling enormously to deal with that aspect. I do not know if you wish to comment or whether you think my judgement is overly pessimistic, but I would be really interested to hear your opinion.

Ms Douglas: I think the child support system is not alone, particularly in struggling to understand financial abuse in that context and those behaviours. I think the Family Court system and the legal profession are struggling to identify it and highlight it with women. It is about training and tools to assist organisations or people to identify it. That is one of the mechanisms that can be helpful.

Ms Cameron: Just to underline that, I have spoken to Family Court judges past and present, and they agree that it is poorly understood by judges in the Family Court and that there needs to be professional training around financial abuse as a form of family violence. So yes: it is certainly a very difficult area. But, as you say, the Child Support Agency staff need to be able to identify family violence in all its manifestations. I think that is absolutely critical.

Ms CLAYDON: Thank you.

Dr STONE: Obviously, if a marriage or partnership breaks down and people end up before the Family Court or the Child Support Agency, there is almost universally going to be stress and distress. It is amazing to me that 50 per cent of couples, it is reported, claim to have a cooperative and reasonable sort of relationship—that was the data we were given by the Family Research Institute. But, of course, there are two weapons: one used by the men, who are mostly the payers, and one used by women, who have control of this other element—that is, the access to the child. The women withdraw the access to the child or make it more difficult—perhaps allege abuse of the children, which now, as you know, immediately triggers access issues.

So we are hearing from both sides. One side is the men who are denied access to their children for years and who then retaliate by not paying or whose questioning of payment amounts triggers them having the child access become a lever, a tool or a bargaining chip. Women are not without the capacity to also exact a very heavy toll in terms of emotional abuse against their male partners, and I have observed that very often. We have had evidence to that effect just today from some men. So it is a very vexed and serious area. I think what we have to do is try to work out what to do when we have real cases of difficulty in honestly portraying what your income is. Then, seriously, the problem is breaking down.

We have also had evidence, and I would like your comment on it: if we went away from this business of assessing your capacity to pay to simply assessing how much it costs to raise a child at various ages, would that do away with this constant pressure of trying to bring down your income level to maximise your chance of not paying? Men often talk about the stresses if they have started a new family and have one, two or three children, a new wife and a new household to establish. If they do extra penalty shift work to support that extra family, it goes in child support anyway, so they are caught absolutely, and they spiral into real distress and anxiety too. So we have no-one winning in both those scenarios.

So what do you think about this idea of simply assessing the cost of a child to be raised, to be split fifty-fifty between the two parents, with a formula that says, 'You actually have the parenting of the child 90 per cent of the time'—or fifty-fifty or whatever—'and you get a loading on how much you need to pay to support that child, depending on how much physical care you're providing.' Does that make sense to you at all?

Ms Cameron: Isn't that the way the formula works now, pretty much?

Dr STONE: No, at the moment you look at your income.

Ms Cameron: But isn't it the age of the children and the amount—

Dr STONE: I understand it is not entirely. I might be wrong and misunderstanding the system, but I understand that if you are unemployed and have got next to no money, then there is nothing that is put to you formally as a responsibility to pay.

Ms Cameron: That is right; it does not apply in those cases, but in other cases isn't it now the two parents' income and the—

Dr STONE: It is the parental income which determines how much the supporting parent might end up receiving. If he is on \$120,000 she is going to receive more than if he is unemployed. I am saying that in a different system, as has been put to us today as an alternative model, if you had instead a formula which said, 'It costs X dollars to raise a child of five, six, seven, eight. If you have a prior arrangement about whether the child is privately school or not that is your arrangement, but this is how much the state system costs—and so on. You are liable for that cost whether you are unemployed or being paid cash that you are not announcing, or whatever, and it goes from there—rather than someone perpetually saying, 'My income's dropped. Let me submit yet another submission.' We had the data today that in fact there are 19,800 applications for a change of assessment every financial year. You would do away with that. That would no longer be the case, because there was not any issue about your changed financial circumstances.

Ms Douglas: So a flat rate.

Dr STONE: I am putting it to you as a model. What do you think? It has been put to us as an alternative.

Ms Douglas: I think that is one model that could reduce the amount of angst—

Dr STONE: Just the constant effort to bring down your assessable income, for some men who have no values in relation to what they should be doing.

Ms Douglas: People would always have the ability to contribute above that, but that is the flat rate that would be coming through the system. It was not a recommendation here, but a few years back I worked in New South Wales in the child sexual assault service. The compensation process that happened then was that compensation would be paid out to the victim and that department would be responsible for reclaiming that compensation from the perpetrator—

Ms Cameron: Government guarantee.

Ms Douglas: Yes, a government guarantee—so a model where the government guaranteed that and they were responsible then for getting the funds. That would be another really good model to consider as well.

Ms Cameron: I would just add to that model: it seems a little bit regressive. As we heard from the previous speaker, and it was reiterated that a lot of men with capacity to provide more for their children would have a lot more holidays. As Kerry was saying, it is heartbreaking, and the mothers are trying to pay for the school shoes. A lot of women that I spoke to felt like they just wanted to walk away, because they had had enough and the fight was too exhausting and too costly. But a sense of justice and what is fair for their children is what drove them, so there may still be that problem in that model.

Dr STONE: In my view, the problem would be relieved because it would be a standard statement: 'You have one child, two children, three children, you have this amount of responsibility and liability because the cost to raise that child has been established. It does not matter whether you are a millionaire or on the dole, you have this responsibility and we will see how we can make sure you pay it.' I have a problem in my electorate: I have one of the highest rates of teenage pregnancies in Australia. Some of these girls, some of them very young, have not had a long-term relationship with the fathers of their children. And there is this culture locally, 'I'm the dad but what do you mean I should do something about supporting that child?' There is not in their heads any sense that if you father a child you actually have some responsibility. So I think it would be changing the culture, too, that the fathering of children goes along with supporting that child until they are at least 23. I had an interaction with a trying-very-hard 19-year-old the other day, who had three children from different fathers. Two of the children are disabled. She wants to nurse and she was talking about how she might train to be a nurse. Those three fathers all

have salaries; one is a tradesmen. Not one of them is paying a cent to her in support and she says, 'How could I? What would I do?' We have a serious problem here and we have to find some novel ways to address it.

Ms Douglas: That is kind of separate to what we are talking about, really, in terms of financial abuse as well. The critical thing is you put the child in the middle.

Dr STONE: The child has got to come first.

Ms Douglas: You work back. If the child has to live in poverty because of this, that is not good.

Dr STONE: In our system, where women typically give up, then go back and become welfare dependent, that is another problem for our economy—because they are not being productive in the workforce like they might be, and the taxpayer cannot afford the number of welfare dependents who are emerging through the ageing population and so on.

CHAIR: We are going to have to move onto something else.

Ms CLAYDON: I just want to follow up with something that was raised with me in New South Wales. One of the issues we are looking at is the interface between family court law and child support. It was raised with me New South Wales that if you went to what was Family and Community Services—DoCS—in New South Wales and said, 'I am in a violent relationship' then you would be advised to remove yourself immediately if those kids were at risk and if you did not, the children may well have been taken from you. But with family court orders, when they did remove themselves and seek a safe shelter, the family court was directing access to the children. We have heard that quite a bit, actually. It is a profound disconnect between the state and federal governments and the advice being given to women in this circumstance—in a violent relationship. Do you have similar experiences in Victoria?

Ms Douglas: Yes, because the family court is still the federal court that has that—

Ms CLAYDON: But would your Victorian state legislators say, 'You are not able to remain in a violent relationship' if it is brought to their attention and they fear that the children are in danger?

Ms Douglas: Look, I cannot talk directly from recent experience, but my understanding is that New South Wales has that much more strongly than Victoria. But I do not really hold a lot of recent knowledge on that.

Ms CLAYDON: That is okay. It is unfair to put it to you. I will ask others, but it did strike me as putting that woman in that particular circumstances in an absolute no-win situation.

Ms Cameron: The recent changes to the Family Law Act have gone a long way to addressing that in terms of putting the safety of the child first in family violence situations to prevent that very situation arising.

Ms CLAYDON: Thanks for your evidence.

CHAIR: I move that we form a subcommittee of the chair and deputy chair; moved and carried.

KONIECZKA, Ms Geordie, Solicitor, Barwon Community Legal Service

[15:44]

CHAIR: Our apologies to Barwon Community Legal Service. If you would like to come up to the front; we finish at four but we can go until, probably, a quarter past four. It will be about half an hour, but the member for Murray has to go very shortly so it will just be us two. Do you want to give a presentation to the committee or a brief explanation of your submission? Then we will ask you a few questions.

Ms Konieczka: I have been a solicitor at the Barwon Community Legal Service for approximately seven—nearly eight—years now. In that time I have been involved in child support matters extensively, as well as attending family violence court. We attend three days a week for the purposes of intervention orders. We are also in a partnership with the Family Relationship Centre, which is a funded partnership. We provide legal information sessions and legal advice to recently separated parents. We experience quite a range of different areas in which child support is quite a relevant issue. I only found out about the inquiry a week before the submissions were due. There are even some legal services who did not find out about it until it was too late. Peninsula legal service have not submitted anything but would have liked an opportunity to. In saying that, I have outlined in my submission some of the more common issues, and I am happy to answer some questions.

CHAIR: I am not sure what else we could have done, because we did put it out there in the media. We in fact extended the deadline and then put more out there. Unfortunately it is just not picked up sometimes. I suppose we could have written to every legal service, but then there are plenty of organisations we could have written to, unfortunately.

Ms Konieczka: Not every legal service is actually specifically funded. There are only three community legal services in Victoria that receive specific funding for child support purposes. I know that Springvale Monash put in a submission, and so did we, but Peninsula did not get that opportunity because they did not know about it.

CHAIR: I do not know if we have specifically written to any organisation that is involved in this. We have thrown it out through networks and we have certainly put out through the media that it was on—repeatedly, in fact—and advertised the inquiry. So I am sorry that that has been the case. Perhaps you can phone the newspapers here and ask them why did not run it so extensively.

I have just got a couple of questions. One of your recommendations is that, where parents are self-employed or employed by family members, the Department of Human Services use the average weekly earnings statistical data as the minimum amount in which to calculate child support income, and then it can be incumbent upon them to show why it is not accurate and why it should be reduced. I can understand the intention behind this, but it opens up to all sorts of problems. I suppose the big thing is that someone is almost guilty until proven innocent, which is not how we do things. What would they have to genuinely show to the Department of Human Services to say, "That is not my income"?

Ms Konieczka: Basically, the information that we have received from receiving parents over a long period of time is that they are never expected to show any evidence of that income. When they are lodging their tax returns it is often years worth at a time. There is a problem with not lodging tax returns when they are due and every year creating arrears or creating long periods of time whereby their income is not called into question by anybody. When they do lodge their tax returns, obviously there is a lot of minimisation for business purposes. They might be living a pretty good life—going overseas, doing all the holidays, having gym memberships, driving good cars and putting half their income into a new spouse's name and doing all these sorts of things, but there is no requirement that it be dealt with on a periodic basis. The nonlodgement of tax returns is one of the most massive issues that I see with the system.

CHAIR: It is, but, again, the matter of putting it in the other spouse's name has been raised with us before. It is almost demeaning to the other spouse to say that that income is not hers. Legally, if there is a joint account or if there is a partnership arrangement in a business, you have got to accept the fact that, regardless of why it was done, that other party has a legal right to those funds. How can you say that we just ignore that legal right and have the child support system or the Department of Human Services treat that solely as the other person's income? It also opens it up to the other side of the ledger, where there are many payees that have remarried or repartnered with partners who have substantial incomes, but that is not taken into consideration by the child support system either. So how do you balance that up?

Ms Konieczka: What has been my experience is that it is often the case that the new partner is not actually working within the business.

CHAIR: That is fine, but they do not have to. They could be a co-owner of it and all they need is their name there. They could have absolutely nothing to do with it, apart from having their name put on it. The fact is,

legally, if those two people separated, that other person would walk away with half of the profits of that business and half of the assets of that business.

Ms Konieczka: Yes, that is understandable. But I suppose for the average person that goes to work for a salary, they do not have that same benefit of being able to put half of that income into somebody else's name for tax purposes or for child support purposes.

CHAIR: No, they don't, but I suppose it is a legal right in this country that you can set up a business and have a joint partnership. So, unless you want to undermine all of that. I have got to say that my concern is particularly, if we are talking mainly that it is blokes doing this, the thing is, if it is men doing it, it is women who have their name on the thing also. To say that that is not their income and it is not their property so we are just going to treat it as his really demeans her value in the situation as well, because she is legally entitled to whatever her name is on.

Ms Konieczka: I appreciate your argument as well. I guess I am just coming at it from the point of child support. The way that our system is set up in Australia does make it easier for people who are running businesses or who are employed by family members to do just that.

CHAIR: I am aware it does, but I just do not see an answer for it. Because if you go into that scenario there, you are basically removing someone's legal rights. To say of a joint account or a partnership arrangement that the other party really has no interest in it, it is just the bloke's, I just don't know how you resolve it.

Ms Konieczka: Realistically speaking, a lot of the times it is a cash income that is not run through bank accounts. All of that is another problem again.

CHAIR: Yes.

Ms Konieczka: Anybody who works in the area will tell you that it is common for it to be done to avoid child support. I guess that is the point I was trying to make. I think realistically the Child Support Agency should be doing more to get evidence of that income that they do not ask for. The onus is put then back on the receiving parent to provide proof of things that they cannot possibly prove by virtue of not being in a relationship with that person anymore. Who do they bank with? What is their income a year? Blah, blah, blah. Obviously, when you are separated you do not have the benefit of knowing any of that sort of stuff. Then you call the Child Support Agency and they say, 'We won't go on a fishing expedition.' Whilst I understand that to be a valid argument and that resources are limited, the other side of the coin is: how can the receiving parent possibly be able to tell you who they bank with for you to look into that? Oftentimes the paying parent will not provide proof of anything to the Child Support Agency and the Child Support Agency do very little to follow that up.

CHAIR: Yes. Just on one other thing I wanted to ask about. You have given a number of recommendations here regarding paternity testing. You say that there should be some process established or streamlined so that a father has a choice as to whether they accept they are the father or participate in a paternity test. I am just wondering where that should be in the situation. As I understand it, right now, even if a father was actually found to be not the father and reported that to the Department of Human Services, they will not take it into consideration until there is some court order around it—a court mandated paternity test or something along those lines.

Ms Konieczka: It depends on if he has already been assessed for child support or not. If he is already assessed then the way he can be assessed is by him accepting he is the father or by there being the inference that he is the father—if they were in a relationship for X amount of time prior to the conception and all these other reasons he can be deemed to be the father. Then it is incumbent upon him to get the testing done if he believes he isn't.

CHAIR: What change are you proposing there?

Ms Konieczka: We see a lot of mums who come in because their family tax benefits are being threatened. They are threatened 13 weeks after the child is born. That is how long mothers have to do something to try and get child support for that child. They go and apply, the Child Support Agency then sends something out to the nominated father and he ignores everything; then the mothers come to us to try and get the testing done. They are required to jump through a lot of hoops at a time when they have got a very young baby to care for. Often their health is not great either. What I am suggesting is that some of the onus should be put back onto the fathers to say: 'You can either acknowledge that you're the father or agree to participate in testing—one or the other; it does not matter which. If you're not the father, there's no skin off your nose from agreeing to participate in the testing.'

CHAIR: My understanding is that if someone alleges it then that is the situation anyway.

Ms Konieczka: No, it is not. You have to go to court to get a court order to make them participate in the testing.

CHAIR: It is all predicated on whose name is on the birth certificate and—

Ms Konieczka: It is usually the case that no father's name is on the birth certificate, because the alleged father has not signed that either.

CHAIR: What happens then if there is no father's name on the birth certificate, the mother knows or suspects she knows who the father is, she says to child support it is Joe Smith and Joe Smith gets the letters and ignores them? Can Joe Smith just keep on doing nothing and not paying anything, or does the Child Support Agency effectively say, 'You're the dad; you're getting the bill'?

Ms Konieczka: No, they do not do that. If Joe Smith ignores it, Joe Smith does not pay anything for as long as it takes for the mother to jump through all the hoops to get him served with court paperwork and to get him brought before the court. That can often go on for over a year before the mum is in receipt of any payments. During that time, we can write to Centrelink and get an exemption from having to pursue child support, so she will get the maximum family tax benefit if she is doing that. But what that results in, once the testing has been done, is an overpayment to her that she is then forced to repay.

CHAIR: I suppose, though, the other way is the same too? If something comes up and the father gets suspicious that he is not the biological father of the child, he has to jump through the same hoops. So what would be applicable for one scenario would have to be applicable in both cases.

Ms Konieczka: If the mother of the child does not have any problems with testing. Most of the time—I would say 99.9 per cent of the time—the mothers that we have dealt with have been quite willing to participate in paternity testing. If the father comes to see us then the mothers are more than willing to participate in the testing to prove that they are the father and the mothers are validly receiving the benefits.

CHAIR: I doubt that is the case in a lot of circumstances that you do not see. If someone has a dedicated income from someone else and it is suddenly threatened, particularly if there is a chance that that person is not the father, common sense would tell you that they are going to do what they can to try and stop that. That will mean they just will not give access to the child for testing. They will have to go to court and get that order.

Ms Konieczka: I would say that is a very small percentage of the matters that come to us. I am not suggesting that it does not happen in the community. The matters that we see usually involve vulnerable young mums—usually young—who are in this predicament of having to go through legal aid applications to fund their case. They are in a position where they have to go to court several times to get the alleged father to come to court. We often have to apply for substituted service because alleged fathers avoid service on purpose. It can be quite a long, difficult, emotional process for the mother as well. Often mothers want the father to have some involvement with the child, and they feel that, if the father is proven by paternity testing to be the father, that might increase that chance. The other problem that arises from allowing fathers the right to neither participate in paternity testing nor acknowledge their paternity is that there are people who just go interstate and deliberately do not let you know where they are, so that you cannot serve them the documents. It becomes a bit of a circus.

CHAIR: Ultimately what I am putting to you, though, is that we change the rules so that, if the mother applies and says that person A is the father, person A then legally has the choice either to accept it or to undertake that test for the purposes of the child support system so that we can determine it and move on and we forget about the recourse to the courts. What I am putting to you is: would you accept, then, that the same ease of access to a paternity test would be able to be done by someone who says, 'Actually, looking at the kid—you don't look like me. It actually looks like another bloke I know. I really think that's not my child and I want a paternity test.'

Ms Konieczka: I think that is fair and reasonable. If you are expecting someone to fund that child's existence for the next however many years then you should be prepared to prove that that is the case.

CHAIR: Okay, yes. That is all I wanted to know.

Ms CLAYDON: Thank you very much for your evidence. You are one of the few legal centres that has a dedicated child support or family law person. Is that—

Ms Konieczka: We receive specific child-support funding to help parents who are in receipt of payment of child support. A lot of our matters are paternity matters but we also assist people with change of assessment and special circumstances applications, the arrears and the problems with estimates—all that sort of stuff.

There is us, Springvale Monash and Peninsula in Victoria. We are not geographically bound, so we will accept people all the way to the South Australian border.

Ms CLAYDON: How long does that funding last for you?

Ms Konieczka: It is recurrent funding. At the moment, obviously, we are not sure. When there is a change in government you are never sure whether or not your funding is going to be reallocated, or cut or anything like that.

Ms CLAYDON: Is not due to end at the end of the year or something?

Ms Konieczka: No.

Ms CLAYDON: I just wanted to pick up on something in your submission, where you suggest that the child support program often accepts payee advice about a changed income without requiring evidence. I will go to your recommendation in a minute, but my question is: how common an experience is that for your clients? There has been this suggested change of income but nothing evidential to back it up. How often does that correlate with incorrect advice?

The recommendation that you have actually made is simply to require that proof is also submitted in support of any estimates—something like lodging pay slips, bank statements or some kind of evidence supporting their income changes.

Ms Konieczka: In our experience it is not only payers but payees also who underestimate. We will often see receiving parents will declare only so much as the self-support allowance, which is \$23,000-odd a year. This then allows them access to family tax benefits and also means that they do not have to contribute anything for child support purposes—whether or not the child resides with them or resides with the other parent.

They often do that by the same means as the paying parent: they are working for family, or they are involved in a business or maintaining other sorts of structures where they are putting money here there and everywhere. So it is not only paying parents but it is also receiving parents who are able to do that and not have to show any proof of their income or justify why they are driving the \$50,000 car but only earning \$23,000-odd a year.

There are people who have a rental property and drive a very nice car—all these sorts of things cannot necessarily be attributed to a new partner's income. There is obviously income somewhere, and then when you call the Child Support Agency, the answer given is that they tell the paying parent, 'You want to be careful what you're alleging about their income because it's going to mean the joint income will go up,' which means that if you are the paying parent your payments will go up. That is the answer which is given, which I find highly unfair.

CHAIR: Could you explain that again?

Ms Konieczka: The child support formula is quite complicated, but basically it is predicated on both parents' incomes being added together, meaning that is the child support assessed amount. Depending on the care levels of the children and how much that income actually is in the scheme of things, and the ages, obviously, of the children, it will determine who pays money to whom. In most cases, it is the father paying money to the mother because usually the mother has more care than the father. So if the mother has more care than the father—say, the father has to pay 60 per cent of X dollars, it is going to be more than 60 per cent of X dollars when it was less because of the mum's income being wrong. That is why they tell you not to do anything about it. I am not a fan of the formula per se. I think it has a lot of flaws.

The suggestion before about the formula being done away with and X amount being attributed to each child depending on their age has a lot of flaws. The reality is that people who earn a larger income will generally provide for their children differently to people who earn lesser incomes—for instance, participation in activities, attendance at private schools. We see a lot of cases when people are still together and one child has started private school and everything is good. Then they break up and there is argy-bargy over who is responsible for the payment of the school fees. It is often the case that the person paying the child support will say, 'I can't afford to pay child support and school fees for the next child,' whereas if they were together it would have been the intention for them to privately educate their children. School fees are a huge issue. Child Support can consider that intention, but it is often the case that one child has started and then the splitsville happens.

Ms CLAYDON: Is it the experience of your clients that the Child Support Agency is acting on hearsay about income?

Ms Konieczka: Definitely.

Ms CLAYDON: So there is no evidence attached to reporting about changed income?

Ms Konieczka: No, especially in a case where estimates are lodged rather than a change of assessment. I draw that distinction. The lodging of estimates is when someone says: 'I'm not really sure what my income is going to be this year because I work here and I work there. It is not a consistent income, so I'm going to say I estimate X dollars for the year.' That is used as a tool by people to underestimate their income for a long period of time before it is reconciled. Once it is reconciled, they do get penalised but that penalty goes to the Child Support Agency; it does not go to other parent. I think if the other parent received that penalty, they would be less likely to underestimate because they know they would have to pay a fine to the other parent. It is often the case too with the lodgement of estimates.

If people are found to underestimate that moving ahead, they are still allowed to lodge an estimate without providing any proof of that. That does not trigger a scenario whereby they have to provide proof because they have previously underestimated. The legislation says the agency may require proof of that income, but they do not have to and they often do not. It is often the case, for instance, that dad calls up and says, 'I'm only going to earn \$40,000 this year when I was previously earning \$100,000.' The agency will say, 'Thank you for that.' The first mum knows about it is when she gets a new letter that says, 'You are now receiving a quarter of what you were getting before.' There is no phone call prior to that that says, 'We've received this call. Do you think there is any truth in that?' They just change the estimate and send it out to you. The fact that when you have been shown to be underestimating and it has been the case over a period of time, you would think there would be some requirement that you then show proof if you are going to lodge another estimate without them just accepting it without any need for proof.

Ms CLAYDON: Your recommendation would be that there is a requirement for proof to be provided at the time that a change of income is reported?

Ms Konieczka: Yes.

Ms CLAYDON: And that would be to the Child Support Agency?

Ms Konieczka: Definitely.

Ms CLAYDON: Obviously that is not going to be readily handed over to everyone's ex-partners.

Ms Konieczka: That is understandable and that would be the recommendation. In addition to that, the need to lodge tax returns every single year is very important. Shall I talk about that now?

Ms CLAYDON: Yes, that is a great segue. That was going to be my next question. One of your suggestions is to revert to a provisional income, in the absence of a completed tax return. I was wondering if you might talk to us about how you would arrive at what that provisional income might be and how you see that as one remedy—but there may be other remedies that you have in terms of this sort of non-compliance, really, of lodging tax returns in a timely manner.

Ms Konieczka: It is currently the case for people who are child support customers that if they do not lodge their tax return they will use a provisional income, and the provisional income is based on previous tax returns. They gross it up by the CPI or do something to it to make it what they see as the best estimate that they can use when they do not have the tax return.

I understand that it is a requirement for everyone to lodge their tax returns by a certain date. I understand that. But what I really think is that it causes so many problems in the child support area by arrears accumulating over big periods of time. Say a paying parent does not lodge a tax return for five years, for instance. And then at the end of the five years he does all the tax returns. Say he owes 20 grand. All of a sudden he has an accident and he is on a disability pension. He has got no way of ever paying that money back. Whereas if that amount was required to be reconciled every year by the lodgement of the tax returns, it becomes apparent when there are amounts due. The tax can be intercepted—whatever it is—to make it the case that it does not become a bigger problem.

Ms CLAYDON: In addition to the concerns you might have about his capacity to repay in five years time because, as you said, he may not be in a position to work or any number of changed circumstances, we have heard time and time again that the other big consequence is that the debt that is incurred because of the family tax benefit being paid at the incorrect rate—once all of that reassessment has been sorted out and then that is a massive burden on somebody who, through absolutely no fault of their own and complete incapacity to do otherwise, has now been lumbered with a great debt because they were not getting a regular, steady, accurate payment and could not chase it up for five years or whatever because of the tax return not being in.

Ms Konieczka: Yes.

CHAIR: How do you fix that? I know you say that we can make them put in a tax return, but how do you make them put in a tax return? Or they just don't?

Ms Konieczka: There might be something that is a loading that is imposed if you do not, or something. I do not pretend to have all of the answers. What happens at the moment is that Child Support does work with the ATO, and they do recommend certain people be looked into if they do have a history of non-lodgement. But it is not as far-spread as it needs to be. It needs to be where everybody who is in receipt of or pays child support needs to lodge their tax returns in full and on time to make this system work well. Both departments do not necessarily intertwine. You talk to Child Support about, 'so and so doesn't lodge their tax return,' and they go, 'That's not our problem.' But you cannot then make the tax office act either.

CHAIR: They probably do not care, unless, of course, they are not getting taxes from them—

Ms Konieczka: That is right, because there is no incentive for the tax office to do it if they have to pay money out.

Ms CLAYDON: Would your suggestion of reverting back to the provisional income be some kind of disincentive for not submitting a tax return? There are certain circumstances where that would be the case.

Ms Konieczka: Yes. It would depend on what that provisional income consisted of; but yes, I guess that is my submission: that might be one way. If people get their thing and go, 'Hang on, I'm not earning that amount of money—best I put my tax return in', because that is the only way to fix it. Then they might do it. The reality is there is a lot of—

Ms CLAYDON: It depends on whether that provisional income is in fact greater than what the person expects.

Ms Konieczka: Exactly.

CHAIR: What if the provisional income was actually greater, and they did nothing about it for a couple of years and then put their tax returns in? Suddenly, the payee owes money because there has been overpayment. We do see examples of that, from time to time. It occurs normally more when the payee puts in their tax return and suddenly there is a calculated overpayment, but that would cause problems too, obviously.

Ms Konieczka: For sure. There are problems any way you look at it but the reality is that there are a stack of arrears in this country, and there is not anything great being done to collect it. I understand that the Child Support Agency has methods of trying to collect it. They can issue third-party notices but I see them as being very relaxed in their approach. They give the paying parent a lot of opportunities to do it voluntarily prior to doing anything more stringent. Possibly, once the money gets to X amount of dollars they should say, 'We're going to issue a third-party notice,' and 'Now, we're going to garnishee your wage,' before it gets to a \$5,000, \$10,000 or \$20,000 problem, because in all that time the children are missing out on that money.

It is one thing to talk about it in terms of money but the reality is that the children are missing out. A 15-year-old child will get to 20 before anything happens, in a lot of cases, if those tax returns are not done. By that stage it is not necessarily as much of a problem for the receiving parent because so much time has gone by, and they have struggled all the way through until that child can, maybe, earn some independent income or whatever.

You often get cases, too, where, when the child or children turn 18, a lot of paying parents throw their hands up in the air, despite the fact that there are arrears owed because they have not paid all along. They say, 'Sorry; they're 18 now. They're not my problem anymore.' It becomes a problem of the receiving parent having to enforce that payment in court.

Ms CLAYDON: Can you talk us through your final recommendation? I think it is No. 27.

Ms Konieczka: Basically, it goes back to what we were talking about before, when there are situations of large overpayments of family tax benefit through not receiving the child support that they were meant to be getting. I was suggesting that if it becomes the case that that child support money becomes available, that debt should be paid off directly before going into the hands of the mother, to minimise the stress associated with having to pay back the government.

There should not be a penalty put on her for having received that money in the interim period, when she was not getting the child support. Possibly the child support could be paid direct to Centrelink, off whatever that debt might be, before it goes into her hand.

CHAIR: Thank you so much. Sorry, we have run out of time.

Resolved that these proceedings be published.

Committee adjourned at 16:18