

# Supporting children

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*A Government discussion document on  
updating the child support scheme*

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Minister of Revenue



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## **FOREWORD**

Family break-ups can be difficult and traumatic experiences for everyone involved, not least the children. Financial instability following a break-up is all too common.

If parents are able to work together in the interests of all family members, this can greatly reduce the strain and pressure of the situation. Many separated parents do make private, relatively amicable arrangements for the care and financial welfare of their children. This is the best option and the one to be encouraged. However, there will always be circumstances in which amicable arrangements are impossible. In these circumstances the Government provides a means for the financial welfare of children to be safe-guarded. The state-run child support scheme is a back-up for parents who are living apart and are unable or unwilling to make satisfactory private arrangements for the financial support of their children.

Government intervention for parents living apart can, however, exacerbate tensions between them, since externally imposed schemes are, by their very nature, less flexible than good private arrangements. I note that over a quarter of the letters I receive as Minister of Revenue are from people who are unhappy with some aspect of the child support scheme.

Even though it will never be possible to develop a child support scheme that satisfies all participants all the time, it is from time to time worth reviewing the scheme to see if it can meet the needs of the vast majority. In the 18 years since the scheme was introduced there have been significant shifts in patterns of child raising, workforce participation, the expenditure for raising children, and family law. Child support debt levels, mainly due to penalties, have also escalated considerably.

I therefore encourage you to express your views on the options suggested in this discussion document for improving the child support scheme. Your contributions will have a big influence on ensuring we have a child support scheme that works as effectively as possible, and for the wellbeing of our children.

**Hon Peter Dunne**  
Minister of Revenue



# CHAPTER 1

## Introduction

- 1.1 The New Zealand child support scheme helps to provide financial support for over 210,000 children. It is therefore essential that the scheme operates as effectively as possible, and in the best interests of the children involved.
- 1.2 The child support scheme is intended to be a simple, efficient, equitable and transparent method of establishing the amount of financial support that parents living apart may have to pay towards raising their children. Not all parents involved with the scheme, however, perceive it to be so and over the years, since its introduction in 1992, there have been numerous calls to make changes to the scheme.
- 1.3 Everyone has a different view about what a fairer scheme might look like and how to achieve it, and it will never be possible to design rules to satisfy all concerned. Nevertheless, many people consider that the scheme is now out of date, which if true, could undermine parents' incentives to meet their child support obligations. This could be detrimental to the wellbeing of their children. This discussion document considers these issues and suggests changes to the way that child support is calculated and enforced.
- 1.4 Some paying parents have raised concerns that the scheme does not take account of their particular circumstances.<sup>1</sup> For example, they may share the care and costs of their children but have arrangements that do not qualify as "shared care" for the purposes of the child support formula. Or they might be in a situation where their income, on which child support liability is calculated, is substantially less than that of the receiving parent's.
- 1.5 Some receiving parents may be concerned about non-payment of child support on the part of the paying parent or the instability of payments. Some may consider the payments to be insufficient to meet the costs of caring for their children.
- 1.6 These perceptions can make some parents less willing to meet their payment obligations or increase their desire to have the amount of their contributions reviewed. Because children are disadvantaged when child support is not paid, any improvements to the current scheme will be based on the need to increase incentives to meet child support obligations. This is most likely to occur if the scheme is seen as a fair reflection of the expenditure for raising children, the parents' contributions to care and their capacity to pay, as well as being well administered through appropriate sanctions for non-payment.

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<sup>1</sup> In this document the terms "receiving parent" and "paying parent" are generally used to distinguish between the two parents, rather than "custodial parent" and "liable parent". There are some relatively rare situations when both parents are paying and receiving child support.

- 1.7 The primary assumption under the current scheme is that the paying parent is the sole income earner and that the receiving parent is the main care provider. However, when parents live apart, there is now a greatly increased emphasis on shared parental responsibility and the importance of both parents remaining actively involved in their children's lives.
- 1.8 Participation of women in the workforce, particularly in part-time work, has also increased since the scheme was introduced, resulting in the principal carer of the children now being more likely to be in paid work.<sup>2</sup>
- 1.9 These issues form part of this review.
- 1.10 Ways of dealing with the ever escalating levels of accumulated debt relating, in the main, to child support penalties, also need to be considered. Options to encourage the prompt payment of child support and increased compliance by paying parents are therefore discussed in this document. Conversely, paying parents may consider the penalties for late payment to be excessive and may question whether the penalties provide the right incentives to pay.
- 1.11 Tax credits that assist families in raising their children have changed substantially since the scheme was established, and the child support scheme needs to be evaluated against this.
- 1.12 Developments in other countries need to be considered too. Australia undertook a substantial review of its child support scheme in 2005. The result was a fundamental change in the way that child support contributions have been calculated in Australia since 1 July 2008. Given our cultural and economic similarities, and the co-operation that exists between Australia and New Zealand in relation to child support enforcement, there are advantages in our schemes being compatible.

### **What this discussion document aims to do**

- 1.13 Improvement to the child support scheme is an ongoing process that will continue to happen on a variety of fronts. The suggestions in this document follow a number of recent changes made to improve the effectiveness of the scheme, such as:
- The introduction in 2008 of child support information-matching with the Customs Service that allows Inland Revenue to know when parents who are significantly behind paying child support enter or leave the country. This has proved to be a very effective enforcement measure that has resulted, in the year to 30 June 2010, in these parents agreeing to make over \$77 million in back-payments of child support.

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<sup>2</sup> Department of Labour statistics show that the female labour force participation rate was at a record high of 62.5 percent in the year ending March 2009, compared with 54.3 percent for the same period in 1992. Over the same period there was little change in the male labour force participation rate.

- In 2006, the ability for Inland Revenue to review a child support assessment if an investigation into a paying parent's financial affairs shows the assessment does not reflect the parent's true ability to provide financial support. This is a very useful tool that enables Inland Revenue to counter the use of vehicles such as trusts to shelter parental income for child support purposes.
- 1.14 This document includes options for revising the child support formula to take account of the important issues of better recognition of shared care, the income of both parents, and the current expenditure for raising children in New Zealand.
- 1.15 The Government needs to ensure that the best incentives to pay are in place so that child support payments are made on time, as timely payment is critical. The document therefore analyses these issues, and makes various suggestions, including that child support payments be compulsorily deducted from salaries or wages.
- 1.16 The desirability of parents reaching private agreements on their financial contributions and care arrangements for their children, without having these arrangements imposed upon them cannot, however, be emphasised too strongly. The Government supports the conclusions of the issues paper published last year by the Families Commission in this regard.<sup>3</sup>

## **SUMMARY OF MAIN OPTIONS**

### **Child support formula**

#### ***Option 1 – comprehensive change***

Under this option, the child support formula would be revised to incorporate:

- Lower levels of regular and shared care, by way of tiered thresholds (in which case care at levels from 14 percent of nights could be recognised).
- The income of each parent. For the purposes of the calculation, each parent's income would be reduced by a fixed living allowance, equivalent to one-third of average earnings.
- Up-to-date information on the expenditure for raising children. This information would result in the amount of child support payable being variable, depending on:
  - the number of children;
  - the age of the children (costs being higher for children over 12 years); and
  - parents' combined income (taking into account that expenditure on children rises in absolute terms as income rises, but declines in percentage terms).

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<sup>3</sup> The Families Commission's issues paper of August 2009 entitled "What separating parents need when making care arrangements for their children."

Payments would still be subject to an income cap to reflect that, even though there is no obvious cut-off point for expenditure on children, the expenditure becomes increasingly discretionary as household income rises.

### ***Option 2 – component changes***

Elements of option 1 would be incorporated into the existing child support formula. For example, the existing formula could be extended to include recognition of a wider range of regular care situations (including a simple reduction to the minimum shared care percentage) or just incorporate the up-to-date expenditure for raising children in New Zealand.

### ***Option 3 – status quo***

Retaining the current child support formula, particularly having regard to the impact and complexity of more radical change, is also an option.

## **Payment, penalties and debt**

### ***Improving payment***

The compulsory deduction of child support payments from salary and wages for all employees with child support obligations is proposed. Other suggestions include Inland Revenue being able to place greater reliance on the terms of parenting orders and agreements to determine a parent's level of care.

### ***Reducing debt***

Options for reducing debt, mainly through the penalties system, include reducing penalties in later years or capping them and, instead, increasing non-financial enforcement measures, are also considered.

## **Timing of reform**

1.17 The Government will be guided by the feedback on this discussion document. If feedback supports change, the Government will consider the detail of any such change and when it would be most appropriate to implement it.

## **How to make a submission**

1.18 Readers who wish to express their views through a brief online survey may do so at [www.supportingchildren.ird.govt.nz](http://www.supportingchildren.ird.govt.nz). That website summarises the main suggestions set out in this discussion document and gives visitors the opportunity to answer questions and provide comments on the main options considered.

- 1.19 The Government welcomes more detailed written submissions on the whole range of options discussed in this document. Submissions should be made by 29 October 2010 and can be addressed to:

Supporting Children Project  
C/- Deputy Commissioner  
Policy Advice Division  
Inland Revenue Department  
P O Box 2198  
Wellington 6140

Or email: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz) with “Supporting Children” in the subject line.

- 1.20 Those making written submissions should include a brief summary of major points and recommendations.
- 1.21 Submissions may be the subject of a request under the Official Information Act 1982, which may result in their publication. The withholding of particular submissions on the grounds of privacy, or for any other reason, will be determined in accordance with that Act. Those making submissions who feel there is any part of it that should be properly withheld under the Act should indicate this clearly.

## CHAPTER 2

### Background

This chapter discusses:

- the objectives of a child support scheme;
- how the current scheme works; and
- advantages and disadvantages of the current scheme.

#### Objectives of a child support scheme

- 2.1 The purpose of a child support scheme is to deliver financial support to children to promote their ongoing wellbeing and healthy development following parental separation. This includes:
- maintaining as far as possible the level of care children could have expected had the parents remained together, by providing financial support to assist receiving parents to raise their children, thereby promoting stability for the children;
  - ensuring the scheme does not discourage either parent from being actively engaged in their children's lives and that they share care and financial responsibility where possible;
  - encouraging parents to work together in the best interests of their children;
  - reducing opportunities for conflict which will negatively impact on the children; and
  - encouraging and facilitating parents to make timely payments.
- 2.2 Child support schemes may also be designed to ensure, where relevant, that contributions are made towards taxpayer-funded sole-parent benefits.
- 2.3 With these aims in mind, the current scheme was established by the Child Support Act 1991. That Act revised the rules relating to child maintenance when agreement between parents proves difficult, or when the receiving parent is a beneficiary.
- 2.4 One of the Government's key social policy objectives is to ensure that New Zealanders have an equal opportunity to participate in and contribute to society. This includes providing a safety net through the benefit system for those who are unable, for various reasons, to financially support themselves.

- 2.5 In the context of child support, this means that child support payments are collected and delivered for the benefit of the children they are intended for, and that parents do not pass their financial responsibilities to maintain their children onto other members of society. This is why parents can be liable for child support even when the custodial parent receives a state-provided benefit.
- 2.6 The child support scheme is needed when parents cannot mutually agree on their relative financial contributions to support their children. Although many parents reach private agreement on their financial contributions and care arrangements, and outcomes may be more satisfactory if they do, many others cannot achieve agreement. A back-stop scheme is needed in these circumstances.
- 2.7 In the absence of an administratively based scheme family courts would need to determine levels of child support contributions when parents cannot reach agreement. This could place undue pressure on the court system. The administrative approach will, in any event, likely be more efficient because contributions can usually be determined quickly by reference to a formula.
- 2.8 The scheme is not, however, intended to provide full financial compensation to offset any decline in family members' living standards as a result of the parents living apart. A decline in living standards is often inevitable in these circumstances. There is often a duplication of housing and related costs, such as utilities and household furnishings. There are also additional costs associated with the children visiting or staying with the paying parent, such as play and study space, toys and play equipment, and transport costs.

### **Does the scheme calculate contributions appropriately?**

- 2.9 While an administratively based scheme is generally accepted internationally, child support schemes and how contributions under these schemes are calculated differ. The intention is that the payments should represent the expenditure for raising children but there are different views about how to measure the expenditure. There is no single "expenditure" that applies in all situations as parental income and values may influence how much parents would normally spend on their children. Further questions include to what degree regular care by paying parents should result in reduced payments and whether, if it is appropriate to link the payments to income, there should be an income cap. These are all difficult issues that other countries have had similar problems grappling with.

### ***Perceptions***

- 2.10 In the stressful circumstances of a relationship breakdown, or when parents are otherwise separated, a child support scheme that calculates and places an obligation upon parties can appear to one or both parties to be unreasonable and inflexible irrespective of its merits.

- 2.11 Many parents have said they would prefer the scheme to be more flexible to take account of their particular circumstances. For example, parents may genuinely share the care and costs of their children but have arrangements that do not qualify as shared care for the purposes of the child support formula. Or they might be in a situation where the paying parent's income is substantially less than that of the receiving parent.
- 2.12 If the receiving parent is a sole-parent beneficiary, some paying parents may perceive that their payments are not being passed on to their children, given that the state generally retains the child support payments to help offset the cost of the benefit.
- 2.13 In these situations, child support obligations imposed on many paying parents can be a barrier to their willingness to pay.
- 2.14 In other cases, the scheme may simply fail to accommodate the discordant views about a child's upbringing that may become apparent when parents separate. This too can reduce the willingness to pay.
- 2.15 Conversely, receiving parents want to ensure that the payments are received and are on time, that the paying parent is meeting his or her responsibilities, and that the children do not suffer the consequences of late or non-payment. Importantly, they want to ensure that the payments they receive are adequate for supporting the children. A survey commissioned by the Families Commission found that receiving parents often feel the payment is insufficient to cover both everyday expenses and "one-offs" throughout the year.<sup>4</sup>
- 2.16 This perceived lack of flexibility in the scheme may also mean that, for either parent, there is insufficient regard for:
- re-establishment costs that parents incur when they separate;
  - private financial contributions parents make for the benefit of their children; and
  - parenting agreements relating to the care of children for shared care purposes.
- 2.17 Are these perceptions about the scheme correct? To answer this question this chapter considers in more detail the advantages and disadvantages of the scheme. Before doing so, features of the scheme are first outlined. A more detailed outline is provided in appendix 1, along with some background on earlier child support legislation.

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<sup>4</sup> New Zealand Child Support Arrangements – A research report for the Families Commission: Kōmihana ā whānau by Colmar Brunton.

## How child support works

- 2.18 The current child support scheme is administered by Inland Revenue, which is responsible for both assessing contributions and collecting payments. The child support scheme is voluntary for parents unless the caregiver is receiving a sole parent benefit.
- 2.19 When an application for child support has been properly made, the Commissioner of Inland Revenue is bound to accept it. Liability then arises under a simple administrative formula. The parent with the liability makes his or her payment to the Crown which then passes it to the person who has primary care for the child. In most cases this will be the child's other parent. If the caregiver is receiving a sole-parent benefit, the child support payments are retained by the Crown to help defray the cost of the benefit and any excess is passed on to the caregiver.

### *The standard formula*

- 2.20 The current formula for calculating child support is:

$$(a - b) \times c$$

where:

“a” is the child support income amount;

“b” is the living allowance; and

“c” is the child support percentage.

- 2.21 For most paying parents, the child support income amount is their taxable income in the preceding income year. The maximum child support income that can be assessed is set at two and a half times the national average earnings for men and women as at mid-February of the tax year immediately preceding the most recent tax year. The maximum is currently \$120,463.
- 2.22 There are six separate living allowance levels, ranging from \$14,158 to \$35,868, depending on whether the paying parent is living alone or with a partner and/or other children. The allowance is based on benefit rates plus a set amount for each dependent child up to a maximum of four children.
- 2.23 Once the living allowance has been deducted from child support income, the product is multiplied by the child support percentage relevant for the number of children being supported. The standard percentages are:

<b>No. of children</b>	<b>Child support percentage – sole care</b>
1	18
2	24
3	27
4 or more	30

- 2.24 There is a minimum amount of child support payable each year, the current minimum amount being \$815.

### ***Shared care***

- 2.25 The above percentages are reduced if parents share the care of their child. Under the Child Support Act, care of a child is regarded as being shared when each provider of care shares the ongoing daily care of the child “substantially equally” with the other care provider. A paying parent who looks after a child for at least 40 percent of nights is considered to meet this test.
- 2.26 If a parent does not meet this test, he or she may qualify under an alternative test based on the court’s interpretation of “substantially equally”. This is at least 50 percent of the responsibility in relation to the factors constituting care other than overnight care.
- 2.27 If shared care is established, parents can cross-apply for child support. This involves respective liabilities being offset to produce a net amount for one parent to pay.

### ***Administrative reviews***

- 2.28 If either parent considers that the amount payable under the formula is not appropriate, they can apply for an administrative review under one or more of the 10 grounds set out in the Child Support Act. The Commissioner of Inland Revenue then appoints an independent review officer experienced in relevant cases to consider the application. The review officer makes a recommendation on whether departure from the child support formula assessment is warranted. The Commissioner has the discretion to either accept the review officer’s recommendation or conduct a rehearing.

### **Advantages of the current approach to calculating contributions**

- 2.29 The scheme is fairly simple and provides relative certainty for parents about their obligations and entitlements. Assessment under the scheme is simple to understand and relatively easy to administer. Furthermore, the formula’s fixed standards generally ensure that parents with like circumstances are treated the same. In most cases, there is no need for a reassessment.

### **Disadvantages of the current approach to calculating contributions**

- 2.30 The main disadvantage of the current approach is that it does not adequately reflect the variety of social and parenting circumstances in New Zealand today. To the extent that, in the longer term, this adversely affects parents’ willingness to pay child support, it adversely affects the children concerned. It is also at least questionable, given increasing child support debt rates, whether the current penalties system creates the appropriate level of incentive to pay.

### *Actual expenditure for raising children*

- 2.31 The formula is linked directly to income rather than expenditure. Expenditure appears to rise in tandem with income, but whether the current income percentages and the cap in the formula are set at appropriate levels may be questioned. Incentives to pay child support may decline if parents are unhappy with the basis used for calculating the payments.
- 2.32 An associated issue is the impact of the increase in the living allowance when a paying parent establishes another family. This leads to a lower contribution towards the expenditure for raising children from an earlier relationship even though costs have not declined.<sup>5</sup>
- 2.33 These concerns are explored in chapter 3.
- 2.34 Generally, there is a need to ensure that child support in New Zealand focuses on the expenditure for raising children rather than any wider objective such as providing a general income supplement for single-parent households. If a greater equalisation of lifestyles between parents is intended, there are other income transfer mechanisms for separated families designed precisely for this purpose – namely, domestic maintenance, Working for Families Tax Credits and state-provided benefits.

### *Shared care*

- 2.35 Shared care is assumed under the formula to arise in a narrow set of circumstances. In reality, parenting arrangements are far more varied. The current approach, therefore, acts as a disincentive to shared care. Specifically, the threshold tests for recognising shared care are perceived as too high and as creating a “cliff” effect. A “cliff” effect results in there being a substantial change in the amount of child support payable, depending on whether shared care is established at the prescribed level.<sup>6</sup> Paying parents who have care of their children for lesser periods are not entitled to a reduction in their liability even though they incur costs in providing for their children during those periods of care. The cliff effect may have a negative impact on the time children are able to spend with the paying parent because, in reaching the threshold, there is a sudden and substantial drop in the amount of child support received. These matters and how they might be addressed are explored in chapter 4.

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<sup>5</sup> This issue was discussed in the 1994 Trapski report. See *Child Support Review*, Report of the Working Party, 8 November 1994.

<sup>6</sup> Under the current scheme, in extreme cases, this change can come down to which parent the child is with on a given night.

### ***Respective incomes***

- 2.36 The current child support formula assumes that receiving parents' main contribution to raising their children is their time and that they have little income because of this commitment.<sup>7</sup> Consequently, the child support formula only applies to the paying parent's income. This approach can produce inequities when both parents are in fact in paid employment and are, therefore, able to financially contribute towards their children's upbringing. In some cases, the receiving parent may even have a higher income than the paying parent.
- 2.37 A method of calculating child support that not only reflects the expenditure for raising children but also more closely mirrors what parents would likely do were they living together, such as pooling more of their income and expenditure, could produce a better outcome for both parents and children.
- 2.38 These issues are explored in chapter 5.

### ***Interaction with administrative review process***

- 2.39 Inevitably, a formula cannot take the wide variety of often complex circumstances surrounding the breakdown of a parental relationship fully into account. The administrative review process is designed to provide further flexibility but the factors that it can currently take into consideration are not always pertinent and the process can be cumbersome and stressful. Appendix 2 sets out the current administrative review criteria.
- 2.40 A consequence of the measures outlined in this document is that a wider range of relevant factors could be taken into account up-front. This could result in efficiencies in the administrative review function.

### ***Child support debt and penalties***

- 2.41 A critical issue in delivering child support is the timeliness of the payments. Chapter 7 outlines how this could be improved by ensuring deductions are made automatically from salary or wages.
- 2.42 Penalties play a vital role in encouraging parents to pay their child support obligations, and should continue to do so. However, if they are excessive, they can perversely discourage the payment of child support, to the detriment of the children concerned.
- 2.43 Changes that could encourage the timely payment of child support and increase compliance by paying parents, in addition to dealing with existing accumulated debt, are discussed in chapter 8.

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<sup>7</sup> This in-kind contribution can be measured as the foregone potential employment opportunities and loss of work while providing day-to-day care of the child.

## **Summary**

- 2.44 Although the current scheme provides a relatively straightforward way of calculating child support liability for the majority of parents, there are some major concerns that seem to be affecting an increasing number of parents. These concerns need to be addressed in any revised approach. The following chapters explore how this might be done.

## CHAPTER 3

### Expenditure for raising children

This chapter outlines Australian and New Zealand studies relating to the expenditure for raising children and discusses the implication of these studies for the child support formula. It concludes that the trends in the estimated expenditure for raising children in New Zealand are broadly in line with Australian findings, and suggests that these expenditures should be recognised in any revised formula. A number of related matters are also discussed.

#### Relevance of the expenditure for raising children

- 3.1 There is an acceptance internationally that child support contributions should reflect the cost to parents of raising children. Various methods are used to try to achieve this. They invariably involve deriving a “cost” and then translating it into a percentage of income to represent the assumed expenditure for raising a child for a particular income level or range.
- 3.2 New Zealand’s current scheme is based on an approach initially developed in the United States in the early 1980s as a way to recover from paying parents welfare payments made to receiving parents.<sup>8</sup> Like other schemes internationally, it incorporates a measure of the expenditure for raising children to derive the income percentages used in its formula.
- 3.3 As noted earlier, a commonly raised criticism of the current scheme – and in particular its formula – is that it may not accurately reflect the expenditure for raising children in varying family circumstances.
- 3.4 This is partly a function of the approach assuming, in the first instance, that:
  - the receiving parent cares for the child and does not earn any income outside of the home (the paying parent is therefore assumed to be the sole income earner); and
  - the child lives with the receiving parent for the vast majority of the time.
- 3.5 Adjustments and review mechanisms have been provided to accommodate a wider range of circumstances such as shared care but these have been found lacking. Accordingly, alternative ways of relaxing the assumptions the scheme is currently based on are discussed in subsequent chapters.

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<sup>8</sup> The scheme originated in Wisconsin and formed the basis of the scheme previously adopted by Australia too.

3.6 It is important to consider whether the formula produces payments that fairly represent the true expenditure for raising a child even when there is no shared care and the receiving parent has little income. Some mechanism for determining what it costs to raise a child that is a fair reflection or proxy of the actual cost in the majority of circumstances is, therefore, necessary. Accordingly, this chapter examines overseas results in this area and compares them with estimates of the expenditure for raising children in New Zealand, to test their relevance in the New Zealand context.

### **Measuring the estimated average expenditure for raising children**

3.7 Internationally there is a wealth of research into the expenditure for raising children. It often starts with identifying the items that make up cost or expenditure. These are housing costs,<sup>9</sup> energy consumption, food, clothing and footwear, household goods and services,<sup>10</sup> childcare, health, transport, leisure,<sup>11</sup> personal care and education. Identifying a dollar amount for each of these items is a more complex exercise, however.

3.8 Matters that need to be taken into account to gauge costs include:

- Which methodology is most appropriate. As described in paragraph 3.10, there are two main methodologies for measuring costs – one based on actual expenditure (as per household survey data) and another that uses a “basket of goods” that a child is considered to need for an acceptable living standard.<sup>12</sup>
- The need to compare like with like. For example, families should have equivalent living standards for comparisons to be valid. Also, when analysing actual expenditures it is necessary to make assumptions about the way in which having a child affects the amount that parents spend on themselves as this is not directly measured in household survey data.
- How to allocate costs of goods and services used collectively by the family, the key ones being housing and transport.
- Whether to take into account the additional duplicate costs that arise when parents live apart. These essentially arise from shared care; for example, an extra bedroom, toys and clothes at the paying parent’s home, and travel. Household survey data will tend to reflect the expenditures of two-parent families.
- The need to reduce expenditures by any tax credits and other similar benefits received as these in effect subsidise the cost to parents.<sup>13</sup>

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<sup>9</sup> Because of the variability of housing and the fact that the costs of home ownership, such as a mortgage, are used to acquire an asset that adds to wealth, studies may instead use private rents as their cost guide. For example, the study undertaken by Paul Henman for the Australian Ministerial Taskforce on Child Support used median private rents as its guide. Expenditure for the child was based on whether an additional bedroom was required, which depended on the number, age and sex of the children.

<sup>10</sup> This includes an assumed reduction in the life of general household appliances and utensils.

<sup>11</sup> Includes the cost of toys, books, sporting equipment and outings.

<sup>12</sup> Identifying living standards is an issue in itself.

<sup>13</sup> Income tax aspects were not taken into account in the Wisconsin model as it was originally intended to apply to income earners paying little or no tax.

- 3.9 Opportunity costs, such as forgone earnings while looking after the children, are often not taken into consideration, partly because they are a non-cash cost and studies generally focus on direct parental expenditure. The expenditure required to enable parents to stay in the workforce, namely the cost of childcare, may be included instead, but there is some debate around how to do this. Parents' participation in the labour force varies significantly so simply including an average cost of childcare within expenditure for raising children estimates could overstate the aggregate costs for those who do not incur childcare and understate the cost for those who, even after allowing for Government subsidies, may have substantial childcare costs.<sup>14</sup>

### ***Methodologies***

- 3.10 While there is a range of approaches to measuring expenditure, the two main methods are:

- Analysing actual household expenditure data to estimate how children add to a couple's observed household expenditure. Households with the equivalent standard of living, with and without children, are compared under this approach.
- Calculating how much it costs two-parent households to meet the non-discretionary financial needs of children, holding living standards constant, irrespective of household income. Rather than using actual expenditure data, this approach costs a "basket" of goods and services considered appropriate for the relevant living standard.<sup>15</sup>

- 3.11 There are supporters and detractors of both approaches and their variants. The consensus internationally is that there is no single method that is best and that produces an unambiguous "true expenditure" for raising a child. The Australian Ministerial Taskforce on Child Support undertook one of the most comprehensive studies of this area and concluded that, in the end, it is a matter of judgement, and that judgement must be informed by existing empirical estimates and be evidence-based.<sup>16</sup>

## **Australian studies and results**

### ***Key findings***

- 3.12 The Australian Taskforce took the view that the formula percentages should be based on the best available estimates of the expenditure for raising children. It considered the fairest basis for the scheme to be the expenditure for raising children in two-parent families, with the research on the expenditure for raising children in separated families informing the issue of how to take account of the costs of regular and shared care.

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<sup>14</sup> Australia has endeavoured to provide for childcare and some degree of lost earnings through applying the higher expenditure for raising 5-12 year olds also to 0-4 year olds given that childcare costs are likely to be highest for very young children.

<sup>15</sup> This approach has been used as the basis for many child support guidelines in the United States.

<sup>16</sup> The National Academy of Sciences Panel on Poverty and Family Assistance in the United States which undertook a major study on how to measure poverty and equivalence scales, came to the same view.

- 3.13 The taskforce compared the results of various methodologies to reach what it considered to be the best and most up-to-date estimates of the expenditures for raising children in two-parent Australian families. In one study, the Australian Household Expenditure Survey was used to derive patterns of expenditure on children while another study used the basket of goods approach, taking into account differences in housing costs across Australia. The results of these two studies were then compared with earlier Australian research findings on the expenditure for raising children. The Australian estimates were also benchmarked against international studies on the expenditure for raising children.
- 3.14 The key findings of this research were:
- The dollar cost of raising children increases with family income but declines as a proportion of income.
  - The expenditure for raising children rises with the age of the children (teenagers were found to cost two to three times as much as very young children).
  - There are economies of scale so that, in general, each additional child costs less than the last.
  - Subsidies delivered through the tax system mean that the community as a whole now plays a much more substantial role in sharing the expenditure for raising children for all types of families.
- 3.15 Some key results from the study undertaken by Paul Henman of the University of Queensland, using a basket of goods to derive estimated expenditure for raising a child for various family situations, are provided in Table 1. The results are reported as percentages of taxable income and, given as noted earlier that childcare costs can vary appreciably depending on a parent's participation in the workforce, are shown with and without the costs of childcare.

**Table 1: Estimated average expenditure for raising one child as a percentage of household income, two-parent households (June quarter 2004, Australian state capital city average, percent)**

Household type	Percentage of taxable income	
	<i>With childcare+</i>	<i>Without childcare</i>
<b><i>3 year old</i></b>		
Modest, both parents full-time employed	38.5	13.1
Modest, one parent full-time employed	24.6	22.4
Low cost, one parent full-time employed	23.3	23.3
<b><i>6 year old</i></b>		
Modest, both parents full-time employed	24.9	17.0
Modest, one parent full-time employed	16.6	16.6
Low cost, one parent full-time employed	25.4	25.4

<i>10 year old</i>		
Modest, both parents full-time employed	26.5	19.1
Modest, one parent full-time employed	18.7	18.7
Low cost, one parent full-time employed	27.5	27.5
<i>14 year old</i>		
Modest, both parents full-time employed	23.9	23.9
Modest, one parent full-time employed	22.0	22.0
Low cost, one parent full-time employed	31.7	31.7

Where only one parent is full-time employed, the other parent is assumed to be the full-time carer.  
+ Childcare costs are gross costs, that is, before receipt of any childcare subsidies.

- 3.16 Henman also produced dollar expenditure estimates for the main cities in Australia. A modest income two-parent household<sup>17</sup> was found to have spent on average 30 percent more on a child than a low-income family, with annual expenditure, depending on the city, ranging from A\$6,500 to A\$10,300 compared with A\$4,910 to A\$7,850 for a low-income family, assuming no childcare costs.
- 3.17 In contrast, the study undertaken by Richard Percival and Ann Harding of the University of Canberra used actual household survey data to estimate the expenditure for raising children. Some key results are shown in Table 2.

**Table 2: Estimated average expenditure for raising children in two-parent families, by number of children and family income, Australia 2005–06 (A\$ per week)**

Level of income	Average weekly income	Number of children in household							
		1 child	% of income	2 children	% of income	3 children	% of income	4 children	% of income
Low income	\$661	\$114	17	\$209	32	\$290	44	\$362	55
Middle income	\$1,330	\$179	13	\$317	24	\$428	32	\$522	39
High income	\$2,662	\$285	11	\$492	18	\$651	24	\$779	29
Average income	\$1,473	\$188		\$331		\$446		\$543	

Based on Australian Bureau of Statistics 1998–99 Household Expenditure Survey. Calculations do not include childcare costs.

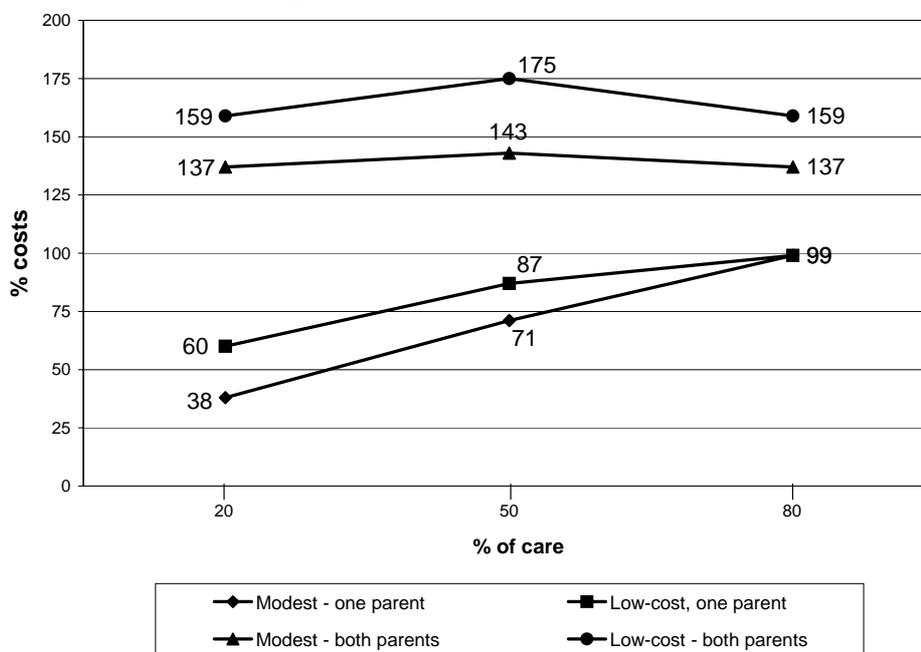
***Additional expenditure for raising children when parents live apart and care is shared***

- 3.18 There is general agreement that the costs associated with shared care of a child are higher than when one parent has sole care. The major cause is the need to duplicate housing and related costs, such as utilities, household furnishings, play and study space, toys and play equipment, and additional transport costs.

<sup>17</sup> Defined to earn in 2004 around A\$46,000 per annum when both parents were working full-time.

- 3.19 The Australian Taskforce research has helped to throw light on the extent of these additional costs. The research by Henman found that for households with a modest but adequate living standard, a paying parent with 20 percent care of a six year old child has average costs that amount to 38 percent of the expenditure for a child that is 100 percent cared for by a sole parent.<sup>18</sup> On the other hand, the receiving parent with 80 percent care still incurs 99 percent of the costs he or she would have borne had that parent been caring for the child 100 percent of the time. Aggregate costs are therefore on average 37 percent more under this shared care scenario.
- 3.20 For the equivalent low-cost household, when 20 percent contact occurs the paying parent faces average costs that are 60 percent of the cost of raising a child in one household and the receiving parent still faces 99 percent of the costs associated with 100 percent care. In aggregate, the cost is 59 percent greater than under the one-household scenario.
- 3.21 This increase in costs is also evident when care is evenly shared. For modest but adequate households, the costs borne by each parent with 50 percent care represent around 71 percent of the costs borne when all the care is provided by one parent, equating to an aggregate cost of 143 percent. For low-cost households, the equivalent percentages are around 87 percent for each parent and 175 percent in aggregate.
- 3.22 These findings are illustrated in Figure 1.

**Figure 1: Estimated average shared care costs as proportion of 100 percent care situation in Australia**



<sup>18</sup> This confirmed earlier research which had shown that paying parents who care for their children for 15 percent to 30 percent of the time incur a relative share of costs in excess of this proportion.

3.23 Table 3 shows how the aggregate costs are distributed among the two parents:

**Table 3: Percentage of estimated average total costs incurred by each parent**

% of shared care	Low Cost		Modest	
	Receiving parent	Paying parent	Receiving parent	Paying parent
80:20	62	38	72	28
50:50	50	50	50	50

3.24 The findings suggest that sizable additional costs arise even when a parent has only a 20 percent share of a child’s care. This implies that the shared care threshold should be substantially lower than the 40 percent of nights currently used.

*Net costs*

3.25 The expenditure for raising children has always been split between parents and the community, with the latter effectively occurring through taxpayers funding the provision of cash transfers or services used by families with children.

3.26 The Australian Taskforce studies highlighted that these transfers had increased substantially since the Australian Child Support Scheme was introduced in 1988, meaning the community as a whole now plays a much more substantial role in sharing the expenditure for raising children for all types of families, but particularly for lower income families. Because of various tax credits there was, for example, no noted net increase in costs after three children.

3.27 Consequently, the taskforce recommended basing child support liabilities on the contribution parents normally make out of their own earnings towards the expenditure for raising their children in two-parent family situations, rather than on the total costs. Such “net” expenditure for raising children is the gross expenditure for raising children minus the contribution of Government through family tax benefits.

**Implications for New Zealand**

3.28 Following the Australian approach, two methods have been used to measure the expenditure for raising children in New Zealand for the purposes of this discussion document, based on the costs for two-parent families. The options for handling the additional costs arising from shared care when parents live apart are addressed in the next chapter on regular and shared care.

3.29 The methodology from the equivalent Australian studies into the expenditure for raising children has been used as far as possible, but with New Zealand data. The application of these methodologies in the New Zealand context is discussed in detail in appendix 3. A summary of the results is provided below.

*Using actual expenditure survey data*

- 3.30 The first method involves estimating parents’ actual expenditures on their children using data from Statistics New Zealand’s 2006–07 Household Economic Survey (HES). This survey collects detailed information on household income and expenditure as well as demographic information on individuals and households.<sup>19</sup>
- 3.31 The method requires estimating not only households’ expenditure but also households’ standards of living. Households with the same proportion of expenditure on a set of key expenditure items are assumed to have the same standard of living, irrespective of other differences like the total dollar amount spent on consumption, household size or composition.<sup>20</sup>
- 3.32 The expenditure for a single child can then be measured by the difference in expenditures of a couple-only household and a two-parent household with a child, where both households have the same standard of living. Similarly, the expenditure for raising a second child can be measured by the differences in expenditures of a two-parent household with one child and a two-parent household with two children. Given that child support is potentially payable until a child reaches 19 years of age, the expenditure for raising children is defined as parental expenditures on children up to that age.
- 3.33 The results show that the average expenditure for raising children in New Zealand varies according to the age of the child, households’ level of income and the number of children in the household. Higher income households are found to spend more on their children than lower income households, but the proportion of household income spent is lower, particularly for children aged 13 to 18 years. The average expenditure per child is greatest for households with one child and progressively declines with additional children. Moreover, the expenditure for raising children aged 12 years and under is lower than that of teenagers. These findings are shown in Table 4 and Figures 2 and 3, with more detail being provided in appendix 3. The results are all consistent with the findings of the Australian studies.

**Table 4: Estimated average weekly expenditure for raising one child in New Zealand**

Level of income	Average weekly income	Age of child	
		0 to 12	13 to 18
Low income	\$704	\$147	\$196
Middle income	\$1,365	\$243	\$291
High income	\$2,838	\$426	\$477
Average income	\$1,552	\$268	\$316

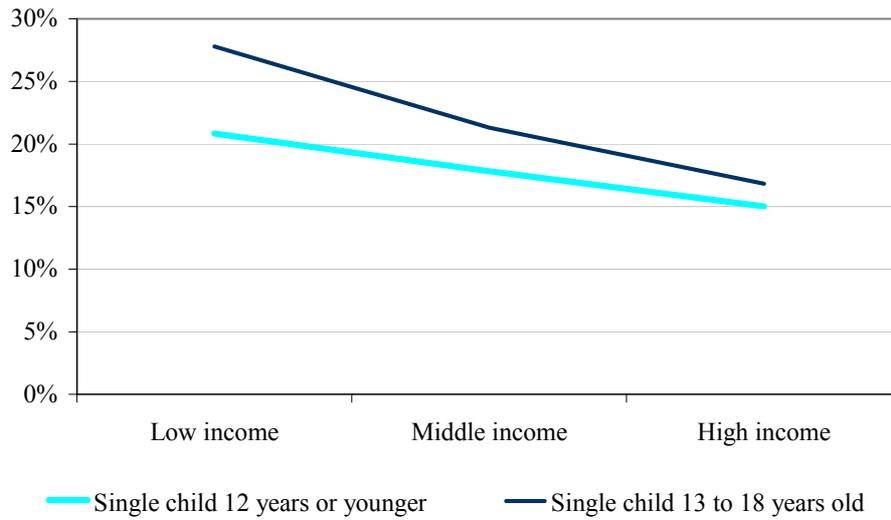
Low income households are defined as the bottom one-fifth of households with children, middle income households the middle one-fifth and high income households the highest income one-fifth.

The reference to “average” in this Table and in Figures 2 and 3 relates to the average for the income band.

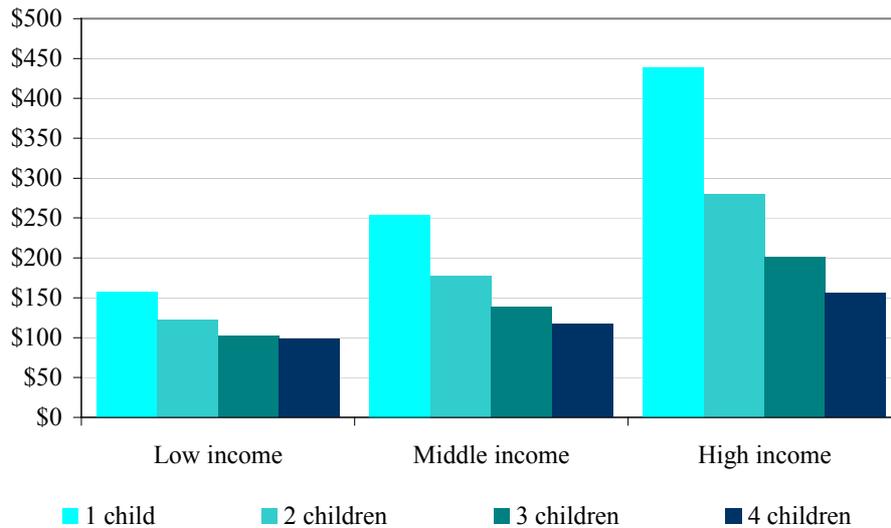
<sup>19</sup> For details about the survey see [www.stats.govt.nz](http://www.stats.govt.nz).

<sup>20</sup> Food made at home, non-durable household supplies and services, communication equipment and services and personal care products and services.

**Figure 2: Estimated average weekly expenditure for raising one child as a proportion of households' weekly income (in percentages)**



**Figure 3: Estimated average estimated weekly expenditure for raising the first, second, third and fourth child**



*Basket of goods results*

- 3.34 The second method involved estimating the expenditure for raising children through pricing a basket of goods and services considered necessary for raising children at a given living standard.
- 3.35 An estimate of weekly household expenditure was made for a modest income household with two children – a 14 year old boy and a 6 year old girl. One parent was assumed to be employed full-time, with the other parent being the primary caregiver.

- 3.36 This estimate for one family type only was done as an accuracy check on the estimated expenditure for raising children calculated from the expenditure approach using the HES data. It was not intended to use the basket of goods approach more widely to try to replicate the trends observed from using actual expenditure data across a range of incomes. This is because the preferred method was the expenditure approach, which bases the expenditure for raising children on parents' actual expenditure rather than a subjective basket of goods and services considered necessary to provide for children to achieve a given living standard.
- 3.37 The items, amounts and weightings used in the basket by Henman for a modest income household in Australia were used, as far as possible, to provide direct comparability.<sup>21</sup> For example, when goods or services were used jointly by family members, a portion was allocated to the children in accordance with the weights used in the Australian study. Average retail prices for the basket items were obtained from Statistics New Zealand's Consumers Price Index data. In some cases, substitute items were used when there was no New Zealand equivalent, because of data confidentiality, for example.
- 3.38 The modest income household's total weekly expenditure was estimated to be \$1,088 of which \$187 was allocated to the 6 year old child and \$216 allocated to the 14 year old boy, a total of \$403, this being the estimated expenditure for raising the two children. It is broadly in line with the estimate for a similar income household under the other study using HES data (see Figure 3).<sup>22</sup>

## Conclusion

- 3.39 The estimated average expenditure for raising children as a proportion of income for New Zealand is reasonably in line with the Henman findings (using a basket of goods) but is generally higher than the base estimates obtained in the other Australian study (using HES data) by Percival and Harding. For example, the following table compares the expenditure for a 6 year old, a 10 year old and a 14 year old for a low-income household.

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<sup>21</sup> That basket contained over 700 items.

<sup>22</sup> A "modest income" household with a single income earner would appear to fall between a low and middle income household in the HES study. The expenditure for raising children derived from the basket of goods approach is subject to two known biases, which affect the estimates in opposite directions. The basket of goods and services is likely not to have included some necessary items, which will make the estimated expenditure for raising children lower than the actual costs. On the other hand, the estimated costs are also overstated because they use average retail prices. Lower income households are more likely to shop at discount stores and take advantage of sales. The magnitude of these two effects, and hence whether the costs overall are over-estimated or under-estimated, is unknown.

**Table 5: Comparison of results for a low-income household**

	Australia – Henman study*		Australia – Percival and Harding study	New Zealand cost study
	<i>Modest</i>	<i>Low</i>		
6 year old	17%	25%	18%	21%
10 year old	19%	28%	18%	21%
14 year old	22%	32%	28%	28%

\* Modest income households are also included given that they seem to fall between low and middle income households in the other two studies.

This comparison excludes very young children and focuses on ages when childcare costs are less of an issue.

3.40 There may be several reasons for the difference:

- The lower level of incomes in New Zealand would suggest that the proportion of income spent on children should be slightly higher given the general finding that the proportion of income spent on children declines as income rises.
- The data set used in the New Zealand estimation is smaller and so may be susceptible to greater variation.
- The underlying Australian HES survey data is around 10 years old so that people's expenditure mixes may have changed.
- Food and energy costs have increased relative to incomes since the Australian studies were undertaken.
- The New Zealand survey data is likely to include childcare costs for some couples, and possibly education costs. As illustrated in the Australian findings, and in particular Table 1, childcare costs can add significantly to the overall cost, particularly for very young children.

3.41 These variations reinforce the view that, in reality, there is no clear single cost and that a degree of judgement is required. On balance, however, a reasonable conclusion is that the New Zealand results are sufficiently in line with those of the Australian studies to support adopting the Australian approach to recognising the expenditure for raising children in the child support formula. What this might mean in practice is discussed in chapter 6.

3.42 An important point to consider is that the costs included in the child support formula should be net of the average tax benefits likely to be received.

## Impact of tax benefits

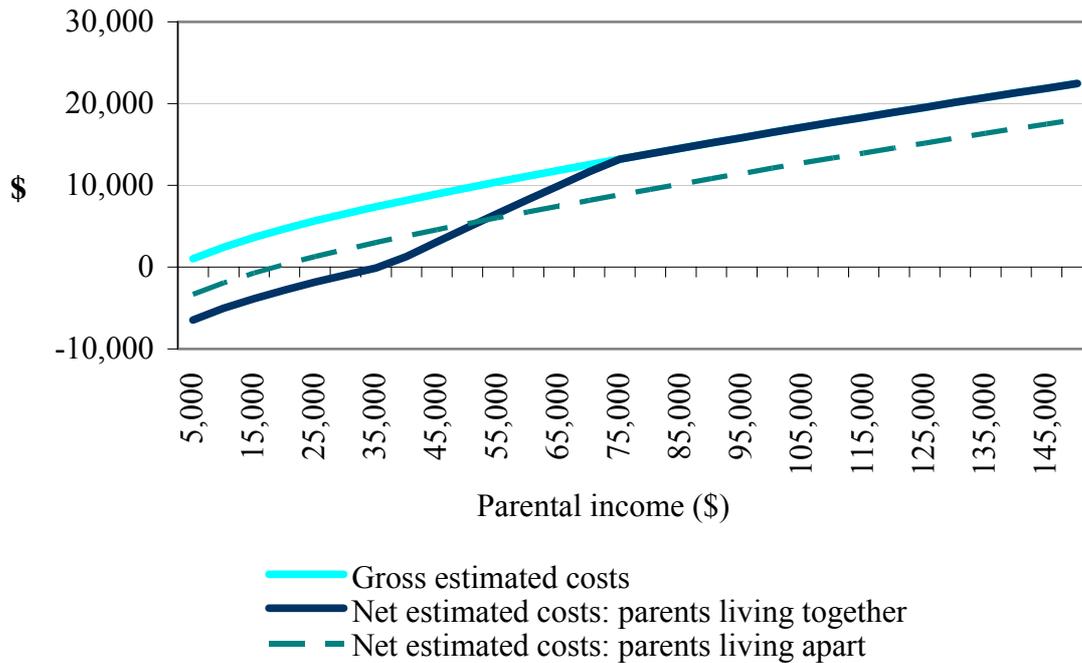
- 3.43 As in Australia, the tax benefits provided to New Zealand families have increased substantially since the child support scheme was introduced, and the benefits provided in both countries are not dissimilar. Accordingly, the expenditure for raising children as identified above should be adjusted to reflect the amounts that parents would normally need to pay from their own resources – that is, the aggregate costs less any tax subsidy.
- 3.44 The main benefits in New Zealand are the family tax credit and the in-work tax credit. The family tax credit is paid to the principal caregiver irrespective of whether the person is working or is a beneficiary. A payment is made for each child – in the one-child scenario this equates to \$4,487 per annum if the child is under 16 and \$5,198 if the child is 16 or over.
- 3.45 The in-work tax credit is also paid to the principal caregiver but only if that caregiver or their spouse, civil union or de facto partner works “full-time” and neither receives an income-tested or similar benefit. In most cases the payment is a flat \$3,120 per annum.
- 3.46 Tax credits are abated at 20 cents for every dollar of family income over \$36,827.
- 3.47 A separated parent would not qualify unless he or she was also a principal caregiver, in which case the tax benefits would be shared proportionately, according to the level of care, between the parents.<sup>23</sup>
- 3.48 Child support receipts may also affect the amount of tax benefits that a parent receives, as child support receipts are included as income when calculating Working for Families Tax Credits. This means that if income, including child support, is in excess of \$36,827, then for every additional dollar of child support received, the tax benefits received reduce by 20 cents. Likewise, for every dollar reduction in child support, the tax benefits received increase by 20 cents. Paying parents’ tax benefits may also change if they share care.
- 3.49 Figure 4 illustrates one example of the magnitude and spread of costs adjusted for the tax credits. Overall, the outcome will be very dependent on the circumstances of each parent, including the extent to which they participate in the labour force. In the example, however, one parent is the sole income earner and the other parent is the sole care giver for their one child, both when the parents are living together and when they are living apart.
- 3.50 Under this scenario, when the parents are living together, the family receives both the family tax credit and the in-work tax credit but the abatement applies as the family income rises. The estimated net cost in these circumstances is the solid dark blue line.

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<sup>23</sup> Both parents could, however, qualify in full for the in-work tax credit in their own right if they share care. For Working for Families Tax Credits purposes, shared care arises if the parent has the child in his or her care for at least one-third of the year.

3.51 When the parents separate, the receiving parent will continue to be eligible for the family tax credit because his or her income will be less than the abatement threshold of \$36,827, irrespective of how much the paying parent earns. However, because of the separation, the receiving parent will not usually be eligible for the in-work tax credit. The estimated net cost in these circumstances is the dotted line.

**Figure 4: Estimated expenditure for raising children adjusted for tax credits: one child under 12 years**



3.52 Rather than endeavouring to build into the child support formula an adjustment for tax benefits that reflects each parent’s situation, which would unduly complicate the formula, it seems to be more appropriate to follow the Australian approach of reducing the expenditure for raising children percentages for each income band by the average tax benefits likely to be received. This means that the expenditure for raising children matrix shown in Table 10 (chapter 6) is net of likely average tax benefits.

## CHAPTER 4

### Shared care

This chapter discusses how shared care is recognised under the current scheme and suggests alternatives to recognise other levels of regular care in line with levels of care adopted in Australia and the United Kingdom.

The options outlined in this chapter aim to address concerns that the financial burden of child support may not always fall fairly on parents who have regular care of their children, or substantial input into the care of their children.

The chapter specifically considers, and invites submissions on, the following sequence of issues:

- whether the single threshold for shared care (the current 40 percent of nights test) should be retained, but lowered (for example, closer to the one-third test used for Working for Families Tax Credits);
- whether a tiered system of shared care should be introduced and, if so, what tiers would achieve the fairest result in determining child support liability (tiers from 14 percent of nights are discussed); and
- how the additional costs arising from regular care should be split between parents.

Submissions are also invited on whether Inland Revenue, in taking account of shared care, should be able to rely on a parenting order or a parenting agreement to establish the amount of time a child spends with each parent.

### Background

#### *Greater emphasis on contact and care*

- 4.1 Societal changes to patterns of parenting have occurred since the Child Support Act was introduced so it is now more common for both parents to be actively involved in raising children.
- 4.2 In addition, there is now far greater emphasis placed under family law on both separated parents remaining actively involved in their children's lives and sharing responsibility for their welfare. The Care of Children Act 2004 highlights the responsibilities that both parents have towards their children rather than the rights they have as parents, emphasising that parents' responsibilities are ongoing, and that both parents should have a significant role in their children's upbringing. As such, parents are encouraged to co-operate and agree on arrangements for the care of their children.

- 4.3 Evidence indeed suggests there is a substantial degree of regular parental sharing of care. Thirty-six percent of respondents to the Families Commission's survey<sup>24</sup> said that paying parents look after their children overnight at least a few days a fortnight. Even when high levels of care did not occur, comments from parents suggested they would be willing to increase their levels of care if other hurdles, such as conflict between the parents, could be overcome or reduced.
- 4.4 This is a clear contrast with the current situation under the child support scheme where shared care provisions apply to only approximately four percent of children and five percent of parental relationships in the scheme.<sup>25</sup> As noted in the previous chapter, the sharing of basic costs occurs at a level of care significantly below the 40 percent of nights threshold.

#### *Why we have the current shared care test*

- 4.5 Before the introduction of the Child Support Act, the Advisory Committee on the Child Support Formula, in its 1990 report to the Ministers of Social Welfare and Revenue, recommended there be a modified child support formula for parents living apart who shared the care of their children.
- 4.6 The Committee considered the formula should take into account that in most cases both parents have to maintain, amongst other things, adequate accommodation to meet the needs of the children for the whole year when care is shared. While noting that the length of time chosen to denote a shared care arrangement was necessarily arbitrary, the Committee considered the (then) Australian definition of four nights out of 10 to be acceptable. The Committee further noted that this definition should be flexible but suggested that the length of time spent by children with each parent must be substantial, and that there must be a sharing of basic costs. These recommendations were incorporated into the current child support formula.

#### *What is the current adjustment?*

- 4.7 In addition to recognising the child as being a dependant when calculating the living allowance,<sup>26</sup> the child support percentage based on income is reduced, depending on the number of children involved, when the 40 percent of nights shared care threshold is met, as shown in Table 6.<sup>27</sup>

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<sup>24</sup> For details, see Appendix 4.

<sup>25</sup> As at 31 March 2009, 7,976 children and 6,950 parental relationships were covered by a qualifying shared cared arrangement, representing 3.9 percent of children and 4.6 percent of relationships in the child support scheme.

<sup>26</sup> The higher living allowance for shared care is of less relative benefit for higher income parents because it is set at a fixed level which does not take account of income.

<sup>27</sup> This simplified table does not reflect the fact that a parent may have some children with shared care and some without. An adjustment does occur in such circumstances.

**Table 6**

<b>No. of children</b>	<b>Child support percentage Sole care</b>	<b>Child support percentage Shared care</b>
1	18	12
2	24	18
3	27	21
4	30	24
5	30	25.5
6	30	27
7	30	28.5
8 or more	30	30

### **Summary of shared care concerns**

4.8 Chapter 2 outlined the key concerns that parents have expressed about the current shared care provisions, namely:

- that the 40 percent of nights threshold for automatic recognition of shared care is perceived as being too high and creates a “cliff” effect; and
- that the alternative test is considered to be too onerous as it may require at least 50 percent of care other than overnight care.

4.9 The Government is concerned that the current scheme provides disincentives to parents sharing the care of their children for the following reasons:

- It gives receiving parents an incentive to limit shared care to a level just below the threshold, which may not be in a child’s best interests. Receiving parents would in many cases receive materially less child support if a paying parent qualifies for a shared care adjustment.
- It does not recognise the significant costs some parents incur while trying to retain a significant role in their children’s upbringing, because those costs are not recognised under the standard child support formula. This may affect the paying parent’s willingness or ability to meet their child support obligations or to maintain any significant level of care.

4.10 Two further possible criticisms of the current approach to shared care are:

- Its administrative complexity. Establishing shared care in many cases involves asking each parent to complete questionnaires for consideration by Inland Revenue. Decisions, objections and appeals relating to shared care are time-consuming for parents, especially when attempting to reconcile conflicting information.

- It differs from how shared care is defined in other areas of the law. To qualify for Working for Families Tax Credits, a parent must have a child in their care for at least one-third of the year.<sup>28</sup> For entitlements to certain benefits, a parent must show that they have primary responsibility for the care of a dependent child for at least 40 percent of the time. This difference in definitions can lead to confusion.
- 4.11 As observed in chapter 3, when both parents have regular care of their children, costs for the paying parent increase with an associated, but disproportionately lower, reduction in the receiving parent's costs. This is because of a loss of the economies of scale that exist in two-parent families, and in many cases when care is shared, neither parent is able to maintain their former standard of living.
- 4.12 The key question to be addressed is whether the costs incurred by both parents can be borne in a more equitable way.

### **Suggested approach**

- 4.13 Any new approach to shared care should be evaluated by reference to the following criteria:
- that any change should be supportive and not act as a barrier towards parents sharing the care of their children;
  - any change should not exacerbate conflict between parents;
  - consideration must be given to the level of regular and shared care that starts to give rise to dual costs;
  - how the extra costs are borne by each parent;
  - the degree of complexity that the scheme should reasonably bear;
  - the financial impact of any change, as it affects children, paying parents, receiving parents and, when the child support offsets benefit payments, the Government;
  - the degree to which the approach encourages paying parents to comply; and
  - the costs involved in implementing the approach.
- 4.14 The Government is concerned that any reform to the child support rules which results in the paying parent's child support payments being decreased will, in some cases, amount to a decrease for receiving parents – even though the costs in the receiving parent's household may not have reduced by an equivalent amount.<sup>29</sup> Any change to the rules must, therefore, take account of this concern by providing the best possible reflection of the costs incurred by both parties when care is shared to a significant degree. Ultimately, this is not purely a mechanical exercise and a degree of judgement and compromise is required.

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<sup>28</sup> Note that this is not a test based on care for a number of nights, but instead a test based on care for 122 days a year.

<sup>29</sup> This is not an issue for parents who are receiving a sole-parent benefit as the child support payments are not passed on to them.

## **Options for changing the threshold**

4.15 In considering how the threshold might be changed, two options have been considered.

### ***Option one – reducing the shared care threshold***

4.16 Retaining a single, but lower, shared care threshold would maintain the simplicity of the current shared care rules. A lower threshold would allow more paying parents to benefit from the shared care rules, and better recognise their contributions towards raising their children.

4.17 Possible options for a revised single threshold are:

- a one-third test; and
- an even lower shared care threshold (possibly as low as 14 percent of nights).

4.18 The advantages of a one-third test are:

- more paying parents would be able to benefit from the shared care rules;
- the paying parents that would benefit from the change would likely be those who are incurring the highest additional costs;
- there would be no added complexity for parents; and
- it would not involve significant administrative costs for the Government.

4.19 The disadvantages of a one-third test are:

- the threshold would still be set at a relatively arbitrary level, and would not reflect overseas research that actual additional costs for paying parents arise at much lower levels of regular and shared care;
- the cliff effect described in chapter 2 would remain; and
- a relatively small number of paying parents would benefit from the changes.

4.20 A substantially lower threshold would retain the advantages of a one-third test and would have the key additional advantages of better reflecting additional costs, reducing the impact of the cliff effect and allowing a greater number of paying parents to benefit from the shared care rules.

4.21 On the other hand, a lower threshold may provide too great an adjustment. As already noted, although paying parents' costs rise at relatively low levels of care, receiving parents' costs do not tend to decrease noticeably at those levels. If all paying parents above the substantially lower threshold received the same proportionate adjustment in recognition of regular or shared care, it is likely that receiving parents who care for their children for at least 80 percent of the nights would bear too high a proportion of total costs. This would have a negative impact on their ability to care for their children. Accordingly, the threshold ideally needs to alter with the degree of shared care. This leads to option two.

***Option two – introducing a tiered set of thresholds***

4.22 The Australian reforms have resulted in a tiered cost recognition of regular and shared care, as shown in Table 7.

**Table 7**

<b>Number of nights of care annually</b>	<b>Percentage of annual care</b>	<b>Proportion of net expenditure for child considered incurred</b>
0 to 51	0 to less than 14%	Nil
52 to 126	14% to less than 35%	24%
127 to 175	35% to less than 48%	25% plus 0.5% for each night over 127 nights
176 to 182	48% to 50%	50%

4.23 Likewise, the United Kingdom's shared care recognition is calculated as shown in Table 8.

**Table 8**

<b>Number of nights of care annually</b>	<b>Percentage of annual care</b>	<b>Proportion of net expenditure for child considered incurred</b>
0 to 51	0 to less than 14%	Nil
52 to 103	14% to less than 28%	1/7 (14.3%)
104 to 155	28% to less than 42%	2/7 (28.6%)
156 to 174	42% to less than 48%	3/7 (42.9%)
175 or more	48% or more	50%

4.24 Under a tiered approach, paying parents would have the care they provide acknowledged at a given rate, with higher levels of care reflected in a corresponding increase in the child support liability adjustment, in recognition of the additional costs incurred.

- 4.25 The advantage of a tiered approach is that once regular or shared care is confirmed, subsequent small increases in levels of care would not give rise to major changes in child support for either parent – that is, there would be less of a cliff effect, and instead there would be a series of smaller incremental adjustments.
- 4.26 While this approach is more complex and would involve greater administrative changes (in particular, changes to Inland Revenue’s computer systems), it is likely to more accurately reflect parents’ relative costs. It would also provide consistent outcomes in similar situations while maintaining certainty for both parents about the financial implications of different care arrangements.
- 4.27 There is a question about whether it is appropriate to have a sizable reduction in child support liability for a relatively small amount of care. The Australian approach does this to reflect the apparent substantial set-up costs of providing care that can arise even for one night a week. The United Kingdom approach, on the other hand, assumes that care costs increase more gradually as the level of care increases.
- 4.28 If the tiered approach is adopted for New Zealand, it could be a compromise between these two approaches, for example, as set out in Table 9:

**Table 9**

<b>Number of nights of care annually</b>	<b>Proportion of net expenditure for child considered incurred</b>
0 to 51	Nil
52 to 103	14%
104 to 174	14% plus 0.5% for each night over 103
175 or more	50%

- 4.29 Submissions are invited on this approach.
- 4.30 It would be possible to commence the tiers from 33% – for example, if a higher minimum threshold for recognising shared care was considered more appropriate.

**Additional costs arising from shared care**

- 4.31 The analysis of the expenditure for raising children has been based on the costs for a two-parent family. A question is whether those costs be adjusted when parents are living apart and each has regular care of their children.

- 4.32 There is little direct analysis of the costs of care and how the expenditure for raising children is shared between separated parents in New Zealand. The Families Commission's survey results, however, indicated that parents are incurring increased costs because of regular care, with approximately 50 percent of the paying parents who responded saying that they incurred additional expenses in the past year (see appendix 4). It is also reasonable to assume that the increased costs of care and how they are distributed between the two parents would be broadly similar to the findings of the Henman study for Australia (see chapter 3).
- 4.33 There are two possible options for handling these costs.

***No direct adjustment for additional costs***

- 4.34 The first approach would be to establish the expenditure for a child for a two-parent family and apportion this cost in a way that reflects the relative costs already incurred by each parent in caring for the child. Although the expenditure for the child would be understated under this approach because it would not take into account the additional costs of shared care, both parents would bear this shortfall broadly in proportion to the level of care they provide. Given that parents' contributions are also influenced by their relative incomes, Australia has adopted this approach, in conjunction with sharing costs in accordance with each parent's share of total income (see chapter 5).

***Adjustment for additional costs***

- 4.35 Another option involves incorporating an inflated expenditure for raising children figure into the child support formula to reflect the additional costs generated by care being shared. This cost could then be distributed between the parents. This approach has the advantage that the additional costs would be specifically identified and recognised.
- 4.36 This approach would arguably generate more accurate results but would likely result in a more complex formula since it would have to incorporate different expenditures for raising children depending on parents' income levels and the level of care being provided by the parents. If the formula calculations were to be automated, this may be less problematic.
- 4.37 Of more importance would be the need to ensure that the cost uplift did not create a cliff effect between a shared care situation and one involving no regular care. Such an effect could deter regular care of the child or children concerned. Avoiding this effect, however, could be problematic. An additional arbitrary percentage of, say, 50 percent, would clearly create a cliff effect which would arise even using the graduated percentages implied by the Henman study which shows in Australia that aggregate costs rise by between 37 percent and 75 percent depending on the scenario.

## **Other issues affecting shared care**

### ***Use of number of nights as a test***

- 4.38 Shared care for child support purposes is determined by the number of nights of care a parent provides. For other purposes it is based on days or time in general. The “nights” test is used for child support to provide a clear-cut guideline which minimises confusion for parents and lessens administrative uncertainty. It is easily measured and understood and is, on balance, considered the best indicator of parental involvement and additional costs for the purposes of the child support scheme. This view is based on the likelihood that when a child spends a night with a parent, the parent will usually provide a bedroom, dinner, breakfast and transport.
- 4.39 Accordingly, it would seem appropriate to retain the nights test for child support purposes. The administrative review process would still be available to provide departures from the test on a case-by-case basis when justified.

### ***Costs of day-time contact***

- 4.40 Some parents may not have their children stay overnight but nevertheless may have extensive daytime contact. The costs involved with daytime care are likely to vary with the age of the child, with the costs being higher for older children. The Australian Taskforce acknowledged that parents in these circumstances should qualify for an adjustment if they can establish that they incur costs at least equivalent in aggregate to those taken into account in applying the nights-based test.
- 4.41 The Australian Child Support Registrar has the discretion, in the absence of agreement between the parents, to determine whether the level of daytime contact is sufficient to justify an adjustment. In the absence of additional housing costs, the expectation is that daytime contact would need to be substantially in excess of 14 percent of days to qualify.
- 4.42 Feedback is invited on whether the Commissioner of Inland Revenue should have a comparable discretion to adjust child support contributions if a parent can show that the costs he or she incurs through daytime contact are sufficiently substantial. This would be a simpler, more straightforward process than having the matter treated as grounds for an administrative review.

### ***Reliance on parenting orders and agreements***

- 4.43 A minor amendment is also suggested that would allow Inland Revenue to rely on the terms of parenting orders and agreements to determine a parent’s share of care for child support purposes.

- 4.44 Allowing Inland Revenue in the first instance to rely on the terms of parenting orders and agreements would result in more efficient processing of regular and shared care applications. It would also reinforce what the courts have determined to be in the best interests of the children.
- 4.45 Currently, decisions and objections relating to shared care are time-consuming for those affected and often involve reconciliations by Inland Revenue of conflicting information. Greater consistency in processing regular and shared care arrangements could be achieved if the terms set out in a parenting order could be relied on by Inland Revenue as an acceptable form of verification.
- 4.46 This initiative would extend to parenting agreements which, while not enforceable by the courts, nonetheless convey the intentions and expectations of both parents.
- 4.47 If Inland Revenue were able to rely more on the terms of parenting orders and agreements to determine a parent's share of care for child support purposes, a new administrative review ground would be needed to enable a parent to challenge this presumption. The onus of proving that the order or agreement was not being adhered to would rest with the parent making the challenge.

## CHAPTER 5

### Taking both parents' income into account

This chapter discusses the merits of taking both parents' income into account for the purposes of determining child support payments, and of providing each parent with a set living allowance as a deduction from their income.

Submissions are invited on these points as well as on whether, in the absence of a recognised shared care arrangement, there should continue to be a minimum child support payment.

- 5.1 Taking into account the income of both parents in determining levels of child support payments may better reflect the realities of modern-day parenting and parents' relative abilities to contribute towards the expenditure for raising their children. This is consistent with providing a better recognition of shared care and applying corresponding costs as discussed earlier.

#### Background

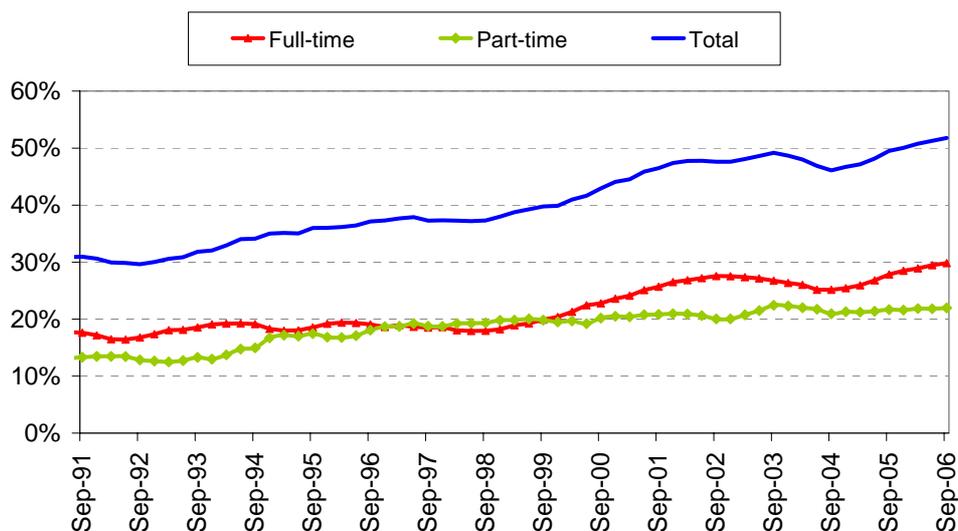
- 5.2 The standard child support formula takes into account the income of the paying parent only. Social and demographic changes in society since the introduction of the scheme mean, however, that it is more likely that a receiving parent is now also participating in the workforce.
- 5.3 Labour-force participation rates for women were at a record high of 62.5 percent in the year ending March 2009 compared with 54.3 percent for the same period in 1992.<sup>30</sup> Over the same period there was little change in the male labour-force participation rate. Women were more likely to be working part-time, with female workforce participation tending to increase as children grow older. It is therefore clear that an increasing majority of parents now depend on two incomes to support their children.
- 5.4 The percentage of sole mothers participating in paid employment has correspondingly increased since 1992, as shown in Figure 5.<sup>31</sup>

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<sup>30</sup> Statistics New Zealand – Household Labour Force Survey

<sup>31</sup> Ministry of Social Development, June 2007 – “The 2002 Domestic Purposes and Widows' Benefit Reform: Evaluation report”.

**Figure 5: Percentage of sole mothers employed part- and full-time 1991–2006**



Source: Statistics New Zealand: HLFS, customised tables, annual averages.

- 5.5 In view of the evidence, it seems reasonable to consider both parents’ financial capacities to support their children. This is consistent with trying to replicate, as far as possible, the financial arrangements that existed in providing for children before their parents began living apart (notwithstanding that separation may cause a decline in living standards).
- 5.6 Although both parents’ incomes can be taken into account under the current scheme where shared care exists by each parent cross-applying for child support, which involves the respective liabilities being offset to produce a net amount for one parent to pay, cross-application can be impractical for the parties involved and can also be administratively cumbersome. A more direct method may be needed.

### **Income-shares approach**

- 5.7 The essential feature of a child support scheme that directly reflects both parents’ incomes is that the expenditure for raising children are worked out based on the parents’ combined income, with those costs distributed between parents in accordance with their respective shares of that combined income and their level of care of the child. The Australian scheme discussed in earlier chapters adopts this “income-shares” approach as do a number of other jurisdictions, including Norway, Sweden and several U.S. states.
- 5.8 The Government seeks your feedback on whether this combined cost and income-shares approach should be adopted in New Zealand.

### *Advantages and disadvantages of an income-shares approach*

5.9 The main advantages of an income-shares approach are:

- It is more transparent. It provides an estimate of how much is being contributed by each parent towards the support of their child.
- It better reflects parents' relative abilities to financially contribute towards the expenditure for their children and parallels likely expenditure by those parents as if they were in a two-parent household where both parents have income.
- It makes processes around changes of financial circumstances clearer and simpler. If there is a reduction in the income of either parent, this can be automatically reflected in the contribution calculation, potentially removing the need for an administrative review.

5.10 Possible disadvantages of the income-shares approach are:

- If the receiving parent's income varies significantly – for example, to accommodate the needs of children, there is potential to increase conflict between parents as the paying parent's child support contribution would also vary.
- Some receiving parents could be discouraged from participating in the workforce because a portion of every dollar they earned over the self-support amount would be “lost” through a decrease in the child support they received. On the other hand, there may be a greater incentive for paying parents to earn higher incomes if they were paying less in child support as a result of both incomes being taken into account.
- The approach could make the level of payments less secure as a change in either parent's income may well result in a change in child support payable or receivable.

5.11 These arguments, however, need to be balanced against the reality that changes in either parent's work patterns do impact on their children and would do so if the parents were living together. Ideally, the formula should reflect this reality in which case the advantages of the income-shares approach would seem to outweigh the possible disadvantages.

### **Changing the definition of “income”**

5.12 Ideally how “income” is defined for child support purposes should align with how it is defined for tax credit purposes; that is, it should generally continue to be taxable income. Budget 2010 made an important change to the way that income is defined for tax credit purposes. From 1 April 2011, investment losses, including losses from rental properties, will be added back so that these losses cannot be used to reduce income when assessing eligibility for Working for Families Tax Credits. The Government is considering making a similar change for child support purposes on the basis that this would better reflect the real income that families would normally have available to them.

- 5.13 Budget 2010 also signalled that the Government would be introducing other measures in relation to Working for Families Tax Credits, including ensuring trust income is counted as part of a family's total income. These changes could be considered in the child support context too. In the meantime, the use of trusts can currently be taken into account under the administrative review process, including Commissioner initiated reviews.
- 5.14 Also relevant to this consideration is that means-tested benefits, such as the domestic purposes benefit and the unemployment benefit, are taxable income<sup>32</sup> but child support receipts and tax credits, such as the family tax credit, are not.

### **Living allowance**

- 5.15 New Zealand currently deducts from a paying parent's income an amount considered necessary to cover the parent's living expenses. Australia has a similar adjustment with two key differences.
- 5.16 The first difference is that in Australia there is just one living allowance amount, set at one-third of the average earnings for a male employee. It does not vary even if, for example, there are children from another relationship. Children from a current relationship are instead factored into the calculations in a similar manner to children who receive child support by applying the cost percentage for the relevant child support income band. This amount is then deducted from the relevant parent's income for child support purposes.
- 5.17 The second difference is that both parents qualify for the living allowance adjustment given that their combined incomes are used as the basis for calculating contributions.
- 5.18 The Government is considering this approach for New Zealand. Given that annual average earnings are \$48,162 in New Zealand, one-third of this would mean a living allowance of \$16,054, which is above the current living allowance for a single parent with no dependents (\$14,158). Under this approach, both parents' taxable incomes would be reduced by this amount. An example of what this would mean for parents with dependent children is provided in the next chapter.

### **Minimum payment**

- 5.19 The living allowance is of relatively more benefit to low-income earners. This means that in some cases parents with low incomes pay very little towards the expenditure for their children – perhaps less than if they were in a two-parent family situation.

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<sup>32</sup> The amount that beneficiaries receive is net of tax.

- 5.20 In developing the suggestions in this discussion document, consideration was given to whether the minimum payment should be set closer to the basic expenditure for raising a child, which would result in an amount of between \$2,000 and \$3,000. However, as shown in Figure 4 in chapter 3, for low-income earners the tax benefits foregone when they have little care of their children would essentially match this amount. A low minimum payment (currently \$815) would still seem to be justified.
- 5.21 If lower levels of regular shared care were recognised, this minimum payment could be waived on the basis that the costs incurred from regular care would be at least equivalent to the minimum payment.

## CHAPTER 6

### A revised formula for improving the child support scheme

This chapter brings together the key elements of the previous chapters to discuss how a revised child support formula might work, including how the formula would account for other dependent children. It also includes examples of how the amounts of child support payable might compare under that formula and the existing formula.

Submissions are invited on:

- whether all of the factors mentioned in this discussion (the expenditure for raising children, shared care and taking both parents' income into account) should be included in a revised child support formula; and
- if all elements of the formula were not included, which one idea should be given priority.

6.1 Chapters 3, 4 and 5 outlined how the child support formula could be updated to better reflect a greater variety of circumstances and the expenditure for raising children in New Zealand. This chapter brings these various strands together. Before doing so, it considers some remaining issues: whether contributions should just cover basic costs or rise with income, whether there should be an income cap and whether the formula should reflect any differences in costs for raising children at different ages.

#### **Should contributions just cover basic costs or rise with income?**

6.2 Costs and the associated child support contributions need not be expressed as a percentage of income. The alternative approach would be to have a flat child-support payment to reflect the basic expenditure for raising a child.

6.3 There are arguments for and against this approach. Having a flat amount would simplify the administration of child support, including the administrative review process, as there would be fewer grounds for variation. Given the discussion thus far, the payment would, however, need to be adjusted to reflect how care of the children was shared between parents. The payment may also need to be apportioned between the two parents based on their share of total income.

6.4 A flat amount could result in higher child support payments for those on lower incomes, possibly more than they would pay in a two-parent family situation after allowing for tax benefits. Conversely, those on higher incomes would pay appreciably less, but could voluntarily pay more than the basic amount if they wished.

- 6.5 A flat amount may be appropriate when the child support recipient also received a sole parent benefit. This is because the benefit amount is fixed and there is generally no pass-on of the child support payments to the beneficiary.<sup>33</sup>
- 6.6 In other cases, the state's role is to facilitate calculation of a child support amount and ensure that it is received by the other parent for the benefit of the child. In these cases a flat amount is not appropriate as children have a right to expect the amount to better reflect the income of their parents, as it would in the two-parent family.
- 6.7 A further reason for not having a flat payment is the research finding for New Zealand and elsewhere that expenditures on children increase, although at a declining rate, with income.<sup>34</sup> Higher income households generally have higher living standards and, all other things being equal, children tend to share in those living standards.<sup>35</sup> Consequently, other countries relate their child support payments to parental income and express the expenditure for raising children as a percentage of income.
- 6.8 Also, to the extent that children's expectations about living standards are not fulfilled because only a flat amount of child support is paid, relief may be sought for additional payments through the administrative review process or the courts. This would increase the overall costs to parents and put more pressure on both the administrative review process and the court system.
- 6.9 Financially, a flat amount is unlikely to be an adequate benchmark for separated parents who might otherwise avoid the court process by using the formula as a starting point for reaching a voluntary agreement on their child support arrangements.
- 6.10 For the reasons discussed above, the expenditure for raising children should continue to be expressed as a percentage of income in New Zealand too.

### **Should there still be an income cap?**

- 6.11 Australia recognises that, as household income levels rise far above the community average, it becomes increasingly difficult to measure further increases in expenditure on children. Spending becomes increasingly discretionary, so that costs tend to gradually flatten out.<sup>36</sup> Accordingly, an income cap for the purposes of calculating the payment was considered appropriate for Australia, at 2.5 times the total average earnings for a male. This equates currently to a child support income cap of A\$147,135. As child support income is net of both parents' living allowances, this means that in terms of taxable income the cap is equivalent to over A\$180,000.

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<sup>33</sup> Pass-on is discussed in chapter 9.

<sup>34</sup> One Australian study suggests that a reason why higher income Australian families spend a lower proportion of their gross income on children is because they pay more tax than lower income families. Consequently, spending on children as a percentage of after-tax income would likely be much closer across the income scale. See *AMP.NATSEM Income and Wealth Report Issue 18*, December 2007 by Richard Percival, Alicia.

<sup>35</sup> These studies tend to be based on two-parent family situations. Consequently, when parents live apart and care of the child is shared there is generally less income available to spend on the children relative to the two-parent situation. This makes the continuity of expenditure principle harder to achieve in practice unless parental income is high.

<sup>36</sup> Data from the Families Commission's survey also showed an appreciable fall-off in the percentage of income put towards child support payments as higher income rises, although the sample size was small.

- 6.12 For the same reasons, an income cap seems appropriate for New Zealand. It is recognised that it is difficult to measure when expenditure might flatten out and that, although the cap would need to be appreciably above the average income, how much above is likely to be somewhat arbitrary. New Zealand currently has a cap which, like Australia's, is 2.5 times the average income but it includes only the paying parent's income and there is no adjustment for the New Zealand living allowance.
- 6.13 If both parents' incomes were to be included in the child support liability calculation (see chapter 5), it would seem appropriate that the cap be raised to the same level as Australia's – that is, effectively 3.17 times the total average earnings before deducting the two parents' living allowances.<sup>37</sup>
- 6.14 A high-income paying parent who is a sole income earner could be disadvantaged by this change. However, there may be offsetting benefits from a child support percentage structure that progressively declines with each higher income bracket and that provides greater recognition of lower levels of regular and shared care.

#### **Should the child's age be taken into consideration?**

- 6.15 Given the findings from the study of the expenditure for raising children that costs increase significantly for older children, the question arises whether payments should increase after the child reaches 12 years of age. Both Australian studies found that older children are more costly, even after factoring in additional childcare costs for younger children.
- 6.16 Taking age into consideration would further complicate the formula. Australia nevertheless decided that this complication was necessary given the extent of the variation in age groups.
- 6.17 A contribution calculation that did not take into account a child's age could lead to material over- or under-payments, depending on how old the child was when child support was first paid and how long the child was in the scheme.
- 6.18 Accordingly, if the formula is to be amended to reflect the expenditure for raising children as suggested below, it is recommended that age should be taken into consideration, as in Australia, by having values based on two age categories: 0-12 years and over 12 years.

#### **A possible revised formula – option 1 – comprehensive change**

- 6.19 Having considered all of the relevant variables, the rest of this chapter brings these together in a revised formula. Under this formula, the three key initiatives would be:

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<sup>37</sup> This equates to 2.5 times the total average earnings for a male:  $3.17 - 2(0.333) = 2.5$ , with the living allowance being a third (0.33) of the male total average earnings.

- To deal with concerns about insufficient recognition of regular and shared care of children, the formula would incorporate lower levels of shared care. For the purposes of this chapter, this would be by way of tiered thresholds (see chapter 4). This would mean that the minimum regular care recognised would be 14 percent of nights (or its equivalent). Regular care of at least this level would remove the minimum annual child support contribution.
- To deal with concerns about the capacity to pay, both parents' incomes would be included in the formula, with payments being apportioned according to each parent's share of total income. For each parent, "income" would generally be defined as taxable income for Working for Families Tax Credit purposes, less a fixed living allowance set at one-third of the average earnings. If there were also dependent children, a parent's income would be further reduced for the assumed expenditure for those children, before calculating their child support contribution.
- To deal with concerns about payments not being in line with the expenditure for raising children, the formula would use a new scale of income percentages that reflected up-to-date information on the net (of average tax benefits) expenditure for raising children in New Zealand. These percentages would vary with:
  - the number of children;
  - the age of the children (the percentage would be higher for children over 12 years); and
  - the combined income of the parents.

Given the conclusion reached in chapter 3 that the expenditure for raising children in New Zealand is broadly in line with the findings in Australia, the new scale should broadly adopt the income percentages used in the new Australian scale, with the income levels reflecting average earning levels in New Zealand. The Australian table of costs for raising children incorporates six marginal child support income bands and the cost associated with each band progressively declines to reflect that expenditures on children as a proportion of income decline as income rises. Table 10 sets out how a similar table would look for New Zealand in these circumstances.

**Table 10: Expenditure for raising children matrix**

	<b>Parents' combined child support income (income above the living allowance amounts)<sup>1</sup></b>					
<b>Number of children</b>	\$0 – \$24,081 <sup>2</sup>	\$24,082 – \$48,162 <sup>3</sup>	\$48,163 – \$72,243 <sup>4</sup>	\$72,244 – \$96,324 <sup>5</sup>	\$96,325 – \$120,405 <sup>6</sup>	Over \$120,405 <sup>6</sup>
<b>Expenditure for raising children (to be apportioned between the parents)</b>						
<b>Children aged 0–12 years</b>						
<b>1 child</b>	17c for each \$1	\$4,094 plus 15c for each \$1 over \$24,081	\$7,706 plus 12c for each \$1 over \$48,162	\$10,596 plus 10c for each \$1 over \$72,243	\$13,004 plus 7c for each \$1 over \$96,324	\$14,689
<b>2 children</b>	24c for each \$1	\$5,779 plus 23c for each \$1 over \$24,081	\$11,318 plus 20c for each \$1 over \$48,162	\$16,134 plus 18c for each \$1 over \$72,243	\$20,469 plus 10c for each \$1 over \$96,324	\$22,877
<b>3+ children</b>	27c for each \$1	\$6,502 plus 26c for each \$1 over \$24,081	\$12,763 plus 25c for each \$1 over \$48,162	\$18,783 plus 24c for each \$1 over \$72,243	\$24,563 plus 18c for each \$1 over \$96,324	\$28,897
<b>Children aged 13+ years</b>						
<b>1 child</b>	23c for each \$1	\$5,539 plus 22c for each \$1 over \$24,081	\$10,836 plus 12c for each \$1 over \$48,162	\$13,726 plus 10c for each \$1 over \$72,243	\$16,134 plus 9c for each \$1 over \$96,324	\$18,302
<b>2 children</b>	29c for each \$1	\$6,983 plus 28c for each \$1 over \$24,081	\$13,726 plus 25c for each \$1 over \$48,162	\$19,746 plus 20c for each \$1 over \$72,243	\$24,563 plus 13c for each \$1 over \$96,324	\$27,693
<b>3+ children</b>	32c for each \$1	\$7,706 plus 31c for each \$1 over \$24,081	\$15,171 plus 30c for each \$1 over \$48,162	\$22,395 plus 29c for each \$1 over \$72,243	\$29,379 plus 20c for each \$1 over \$96,324	\$34,195
<b>Children of mixed age*</b>						
<b>2 children</b>	26.5c for each \$1	\$6,381 plus 25.5c for each \$1 over \$24,081	\$12,522 plus 22.5c for each \$1 over \$48,162	\$17,940 plus 19c for each \$1 over \$72,243	\$22,515 plus 11.5c for each \$1 over \$96,324	\$25,285
<b>3+ children</b>	29.5c for each \$1	\$7,104 plus 28.5c for each \$1 over \$24,081	\$13,967 plus 27.5c for each \$1 over \$48,162	\$20,589 plus 26.5c for each \$1 over \$72,243	\$26,971 plus 19c for each \$1 over \$96,324	\$31,546

<sup>1</sup> Calculated by adding the two parents' child support incomes, that is, adding each parent's adjusted taxable income minus their living allowance of \$16,054 (1/3 of Average Weekly Earnings (AWE)).

<sup>2</sup> .5 of AWE.

<sup>3</sup> AWE.

<sup>4</sup> 1.5 times AWE.

<sup>5</sup> 2 times AWE.

<sup>6</sup> 2.5 times AWE. Expenditure for raising children does not increase above this cap. Note that this equates to a cap at a combined adjusted taxable income of \$152,514.

\* The rates are the average of the two previous age categories.

## How this approach would work in practice

- 6.20 Under this new formula each parent would be allocated a standard living allowance which would be deducted from his or her respective taxable income.<sup>38</sup> The two net amounts would be summed up and expressed as a percentage of the total. These proportions would then be applied to the expenditure for raising children amount relevant for that child so the expenditure for raising the child or children is split between the two parents based on their relative net incomes.
- 6.21 Each parent's percentage of shared care would then be deducted from the result to produce a net liability for one of the parents. This would be the parent whose shared-care percentage is less than his or her share of total net income.
- 6.22 These steps are illustrated in the following example.

### **Example 1: How the formula would take into account income and shared care**

#### ***Situation A***

Parents Kenny and Clara, who are living apart, have two children, aged 15 and 10.

Kenny's taxable income is \$50,000 while Clara's is \$15,000.

Kenny and Clara would each be entitled to a fixed living allowance of \$16,054 reducing their respective incomes to \$33,946 and \$0, a combined child support income of \$33,946.

Kenny's proportion of child support income would therefore be 100 percent while Clara's would be 0 percent. Clara is the sole caregiver so there is no shared care adjustment.

In accordance with Table 10, the relevant expenditure for the two children of mixed ages is **\$8,897**.

Clara has no liability and Kenny must pay **\$8,897** to help support the children.

#### ***Situation B***

Kenny's taxable income is \$50,000 while Clara's is now \$25,000.

Kenny and Clara would again each be allowed a fixed living allowance of \$16,054 reducing their respective incomes to \$33,946 and \$8,946, a combined child support income of \$42,892.

Kenny's proportion of child support income would therefore be 79.14 percent while Clara's would be 20.86 percent. Clara is still the sole caregiver so there is no shared care adjustment.

In accordance with Table 10, the relevant expenditure for the two children of mixed ages is **\$11,178**.

Accordingly, Kenny must pay **\$8,847** to help support the children.

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<sup>38</sup> If the net amount was negative then it would be treated as zero.

### *Situation C*

This is the same as situation B except that Kenny now also shares some of the care, having the children every other weekend or one-seventh (14%) of nights.

If the compromise table for shared care (noted in Table 9) was used, Kenny would be considered to incur 14 percent of the expenditure for raising the children. Kenny's share of the **\$11,178** expenditure would be 79.14 percent less the amount (14 percent) he is assumed to have already paid out by caring for the children, a net amount of 65.14 percent, meaning that Kenny must pay **\$7,282** to help support the children. Clara would have no liability as her share of care (86 percent) would be more than her proportion of total child support income (20.86 percent).

Alternatively, if shared care was based on a minimum 33 percent of nights, there would be no shared care adjustment and the outcome would be the same as under situation B.

### *Comparison with current formula*

In all of situations A, B and C, under the existing formula Kenny would have to pay **\$8,602** (based on not living with a partner and no other dependent children living with Kenny).

### *Treatment of other dependent children and new partners*

- 6.23 Under this revised formula, adjustments would be made to take into account the expenditure for raising other dependent children. For this purpose, other dependent children would be treated the same way as children subject to child support. To recognise the care a parent provides for dependent children, an amount (in addition to the living allowance) would be deducted from the parent's adjusted taxable income before applying the basic formula.
- 6.24 The parent's care and cost percentages would be worked out for the relevant dependent child. For the purposes of calculating the expenditure for raising the child, the income of one parent only would be used. The expenditure for raising the child would be multiplied by the cost proportion. This would be the relevant dependent child amount, which would be deducted from the parent's taxable income, along with the living allowance, to determine their child support income. The basic new formula would then be applied to work out the level of payments for the children receiving child support.
- 6.25 The income of a new partner would not be taken into account in these calculations. In some cases, the new partner in effect becomes a parent, while in others parenting may remain primarily with the separated parents. It is not possible to reflect this variance in a formula, particularly if the new partner also has personal child support liabilities. The administrative review process would, however, continue to be available to parents who consider that the other parent's new partner's circumstances should be taken into account.

### **Example 2: How the formula would take into account other dependent children**

Stella pays child support for her daughter Belle, 17. She has two dependent children in her new family, Mick, aged 13 and Ailsa, aged 8. Mick and Ailsa live with Stella. Stella's income needs to be adjusted to reflect the two dependent children in her current relationship before calculating her contribution towards Belle's child support.

Stella's taxable income of \$50,000 is first reduced by the living allowance of \$16,054, giving \$33,946.

Stella's percentage of care for Mick and Ailsa is 100 percent. This means that her cost percentage for these two children is 100 percent – in other words, she is assumed to incur all of the costs associated with raising these children.

The expenditure for the dependent children is worked out using Stella's child support income only (see the mixed age category in Table 10). On an income of \$33,946 the total expenditure for raising Mick and Ailsa is **\$8,897** with each child costing \$4,449.

Each child's cost is multiplied by the parent's cost percentage for the child – in this case 100%.

Stella's income of \$50,000 is therefore reduced by both the living allowance of \$16,054 and the \$8,897 leaving an amount of \$25,049 to be used as her child support income for the purposes of calculating her child support contribution for Belle.

6.26 Further examples are provided in appendix 5.

### **Comparison of contributions under the old and new formulas**

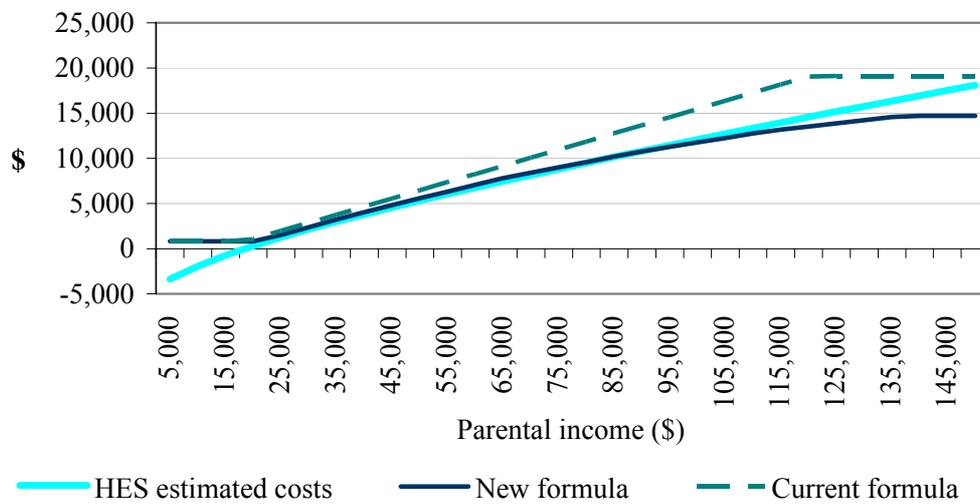
#### ***When a parent is the sole income earner and does not share care***

6.27 Figures 6 to 9 illustrate the impact of revised child support payments under a possible compromise formula as a percentage of different income levels. They do not factor in changes that could arise from including both parents' incomes or from taking into account instances of regular parental care. They are for the very specific situation when the paying parent is the sole income earner, has no dependent children and does not share care with the receiving parent. The estimated costs are after adjusting for tax benefits.

6.28 The greatest difference is in relation to a single child up to 12 years of age. The current formula appears to result in over-payments whereas the suggested new formula is very close to the estimated net cost. In part this is the result of the current formula using the same child support percentage irrespective of income, whereas it is envisaged that the new formula would, as discussed earlier in this chapter, use a scale of declining rates to reflect the declining proportion of income spent on children as income rises.

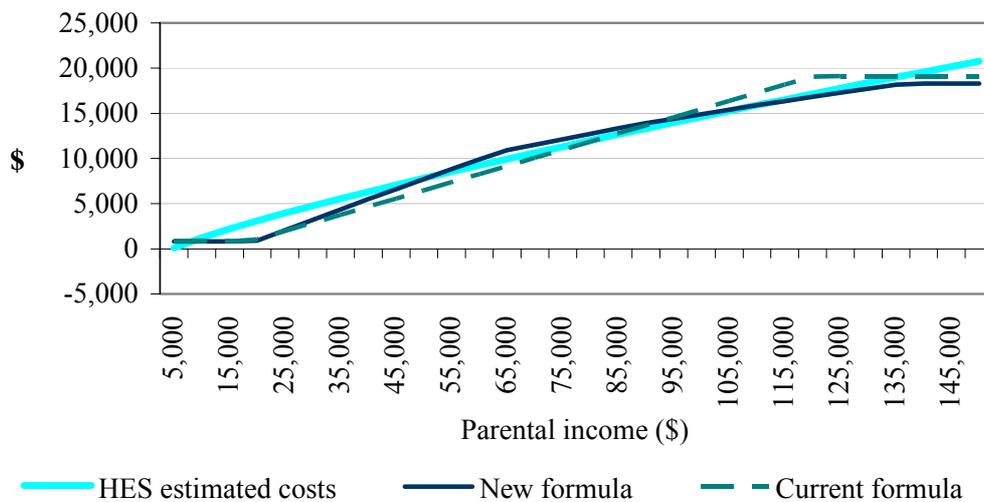
- 6.29 Conversely, the payments under the current formula for a child aged 13 years or over tend to be less than the net cost. Again, the new formula is close to the net costs. Figures 6 to 9 illustrate the merits of distinguishing between the two age bands.
- 6.30 The differences between the two formulas are far less for two and three children.
- 6.31 In all four cases the payments diverge from the estimated net expenditure for raising children once the income cap applies. The income cap would cut in, however, at a higher level than under the current formula, reducing the range of divergence.

**Figure 6: Payments for a single child, up to 12 years**



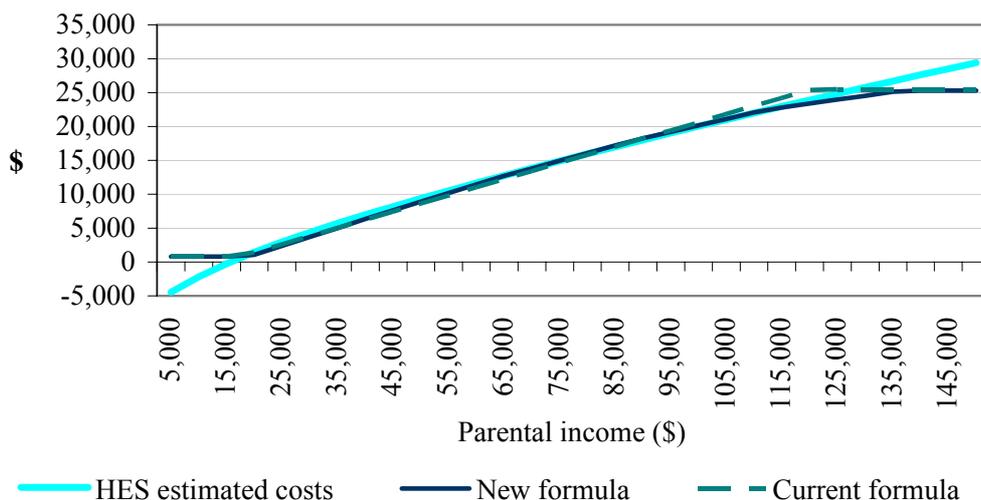
Note: The paying parent is assumed to be the sole income earner, has no other dependent children and does not share care with the receiving parent.

**Figure 7: Payments for a single child, 13 years or older**



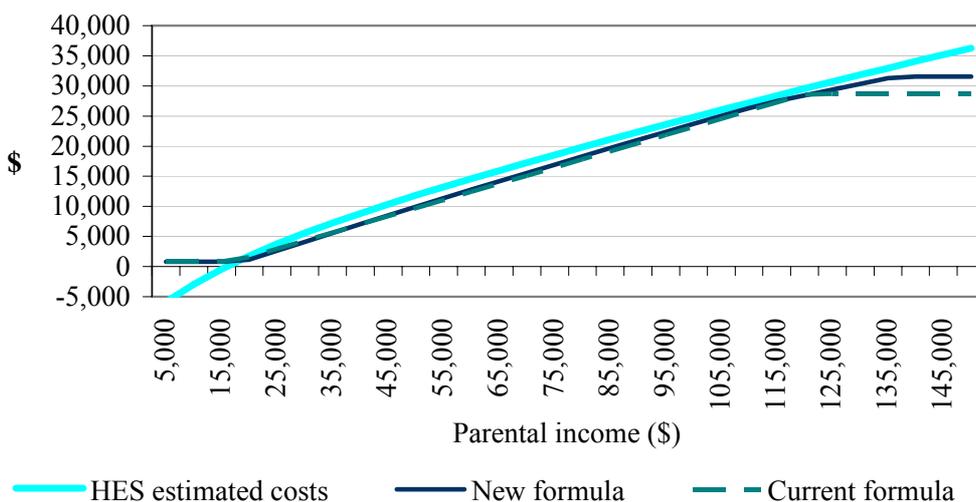
Note: The paying parent is assumed to be the sole income earner, has no other dependent children and does not share care with the receiving parent.

**Figure 8: Payments for two children**



Note: The paying parent is assumed to be the sole income earner, has no other dependent children and does not share care with the receiving parent.

**Figure 9: Payments for three children**



Note: The paying parent is assumed to be the sole income earner, has no other dependent children and does not share care with the receiving parent.

***Effect of potential changes taking into account both parents' incomes and shared care***

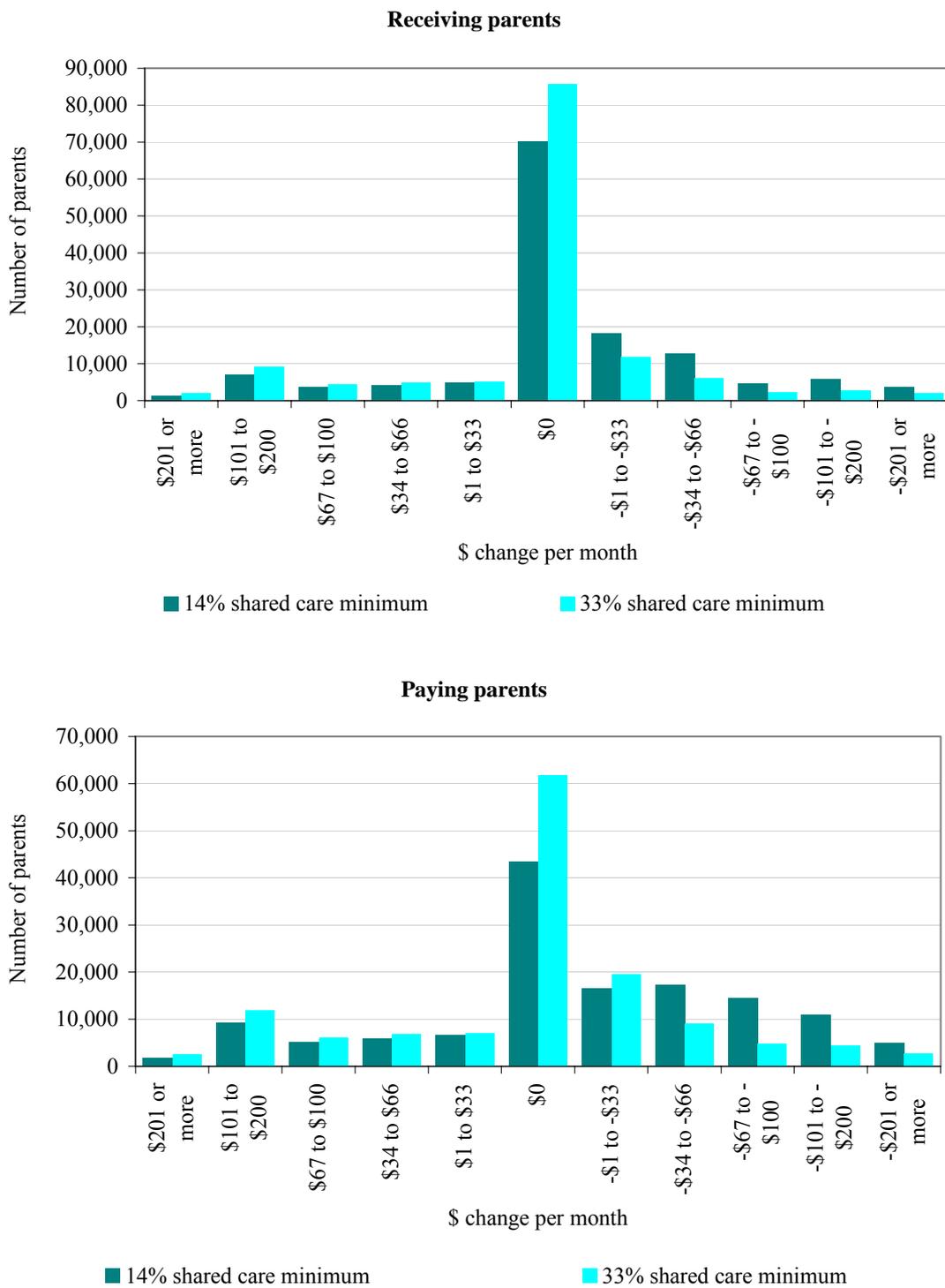
6.32 Figure 10 factors in the suggested changes that would arise from including both parents' incomes and recognising a wider range of regular parental care, as well as the estimated expenditure for raising children in New Zealand. In terms of shared care, two scenarios are shown. The first recognises shared care as low as 14 percent of nights (referred to earlier as the *compromise example*) and the second recognises shared care on the same tiered basis but only from when parental care is at least 33 percent.

- 6.33 A main finding shown in the charts in Figure 10 is that, for a large portion of both receiving and paying parents, the changes would not result in any change in the amounts parents received or paid. This reflects the fact that many parents will continue to either receive a sole-parent benefit (and therefore do not receive child support payments directly) or continue to pay the minimum contribution because their income level is below the minimum level for child support purposes.
- 6.34 In particular, it should be noted that, for many receiving parents, a reduction in the child support contribution from the paying parent will not result in any decrease in the amount of benefit that they receive.
- 6.35 Of those remaining parents whose child support will be affected, the change in child support receipts or payments for the majority is likely to be between plus or minus \$66 per month (plus or minus \$800 per year). Figure 10 indicates that over 80 percent of current child support receipts and around 70 percent of payments would either be unaffected or affected to the extent of plus or minus \$66 per month.
- 6.36 Parents who would qualify for any wider recognition of shared care would be most affected, with paying parents likely to pay less in such cases. Consequently, how and the extent to which regular care is recognised is important to the overall outcome. This is graphically illustrated in the differences between the outcomes of shared care commencing from 14 percent compared with commencing from 33 percent. Under a minimum of 33 percent care, there are just as many receiving parents who would receive more than would receive less, and the impact on paying parents is correspondingly less.
- 6.37 The recognition of both parents' incomes would generally have less of a financial impact unless the receiving parent earns around \$40,000 or more.
- 6.38 The above impacts may be reduced as in some cases changes in the amount of child support received or paid affects (in the opposite direction) the amount of Working for Families Tax Credits received.

### **Alternative option – option 2 – component changes**

- 6.39 An alternative option would be to incorporate just one or two of the key changes. The existing formula could be extended to include recognition of a wider range of regular care situations, just the up-to-date expenditure for raising children in New Zealand, just both parents' incomes, or a combination of some of these. This approach would likely reduce the overall impact of any change. It would, however, be a less comprehensive and transparent solution.
- 6.40 Any change could have a material impact for a minority of parents. Nevertheless, the overall question to bear in mind is whether any particular change would achieve a fairer outcome that would encourage more parents to pay their outstanding child support liabilities voluntarily.

**Figure 10: Estimated monthly change in child support receipts and payments**



**Notes:**

The estimates are based on current child support relationships – that is, where someone is currently paying child support. The number of receiving parents includes parents receiving the sole-parent domestic purpose benefit. For parents entitled to the domestic purpose benefit there is no impact unless payments currently exceed the benefit because the child support payments are not directly passed on and are instead retained by the Crown. They have, however, been included to show a complete picture.

The number of paying parents exceeds the number of receiving parents because of children who are cared for by a third person. Taxable income information for the year ended March 2008 is used for both parents. No net amount is calculated for parents with multiple child support relationships and for parents who cross-apply for shared care arrangements.

The receiving parent's child support income is slightly overstated in some cases because information is not available on how many dependent children they might have.

The age composition of the paying parent's other dependent children is unknown and randomly assigned; it is unknown whether this results in an over- or under-estimation of the projected child support payments.

## CHAPTER 7

### Automatic deduction of child support payments from salary and wages

To ensure payments are made as and when they fall due, this chapter suggests that child support payments be automatically deducted by employers from paying parents' salary and wages. Submissions are invited on this idea.

- 7.1 With the Government's commitment to streamlining the administration of the tax system, changes are planned for the administration of the student loan scheme, the Working for Families Tax Credit, the PAYE scheme, and the company tax return. As child support is one of the social policy schemes administered by Inland Revenue, there are obvious advantages in ensuring that child support administration evolves with changes to the administration of these other areas.
- 7.2 Changes to the administration of the tax system are focussed on:
- Increased use of electronic technology. Most Inland Revenue processes are currently paper-based. Processes and systems for online delivery of relevant services and information will, however, become the norm, allowing greater levels of customer self-management.
  - A wider range of self-management options for customers who do not have access to the web, such as interactive voice response and text phone services.
  - Increased reliance on accurate PAYE deductions each pay period and less need for end-of-year square-ups.
  - Legislation being updated to reflect the use of new technologies and processes by Inland Revenue.
- 7.3 The proposed reforms are the first step in transforming Inland Revenue to help protect the integrity of the tax system and the social programmes it administers, reduce compliance costs and deliver better services to customers.
- 7.4 Any changes to Inland Revenue's administrative functions are likely to have implications for the way that child support services are delivered – in particular, the making of payments and the approaches adopted when payments are not made. Allowing child support assessment periods to be spread more evenly across a year – an idea which could in future be considered – may also be consistent with future administrative reforms.

## Payment deductions

- 7.5 Paying parents currently have a range of options for paying their monthly child support liability. Payment methods include cheque, credit card, automatic payment or by cash. Employees, however, generally cannot choose to have direct deductions made by their employer from their pay. Deductions from pay only currently occur when parents default on their payments.
- 7.6 The absence of direct deductions may increase the risk of non-payment of child support which, in turn, adversely affects the wellbeing of the children involved. It can also unnecessarily inconvenience paying parents, especially those who are paid weekly or fortnightly. If they wish to make child support payments to match their pay cycle, they need to calculate the amount to be paid and set up a separate automatic payment arrangement with a bank to ensure their liability is met on their payday.
- 7.7 To address these problems, it is suggested that deductions from pay by employers be made compulsory for paying parents who receive regular employment income. This would be similar to the process currently applicable to KiwiSaver contributions. Paying parents would have their payments automatically co-ordinated with their pay periods, whether those periods were weekly, fortnightly or monthly.
- 7.8 It is recognised that some paying parents may have concerns about their employers knowing that they are making child support contributions. However, arguably the public interest in operating an effective child support scheme should outweigh these individual concerns.
- 7.9 There may be some, albeit marginal, increased compliance costs for employers from having to make deductions and record and pay the monies to Inland Revenue through the PAYE system. The increase in the number of deductions would, however, be very small relative to the volumes already being processed at the same time to account for PAYE, ACC and KiwiSaver contributions.
- 7.10 Additional compliance costs to employers should be mitigated if this change were incorporated as part of proposed changes to the PAYE scheme – in particular, in improving the design and functionality of the employer monthly schedule.
- 7.11 This suggested change would complement the legislation enacted in 2006 allowing Inland Revenue to review a child support assessment if an investigation into a paying parent's financial affairs shows the assessment does not reflect the parent's ability to provide financial support to the children involved. This is a very useful tool that enables Inland Revenue to counter the parent's use of vehicles such as trusts to shelter income for child support purposes.

## CHAPTER 8

### Child support payment, penalties and debt

This chapter discusses the child support penalty rules, and suggests possible changes that may assist with the prompt payment of child support and increased compliance by paying parents. It also considers the question of how the Government can deal with existing accumulated penalty debt.

It specifically seeks submissions on which of the following ideas should be considered further:

- reducing incremental penalty rates and improving enforcement;
- capping penalties;
- closer alignment with late payment penalties and use-of-money interest used for tax purposes;
- penalty write-off grounds;
- writing-off assessed child support debt; and
- passing on penalties to the receiving parent.

8.1 The child support scheme as a whole needs to be perceived as fair. Paying parents are more likely to pay child support if the way it is calculated is transparent and takes account of the right variables. The options described elsewhere in this discussion document are intended to address many of the concerns about fairness that paying parents have with the current scheme.

8.2 There is currently a very high level of accumulated debt relating to child support penalties, much of which has been in place for a long time. Ways of dealing with this debt need to be considered to ensure that payments are made for the care of the children or to offset the cost to the Government of providing benefits to receiving parents.

8.3 This chapter discusses child support penalties and looks at a range of options for change in this area to stop child support debt being created in the first place or, where it does exist, to reduce it as soon as possible.

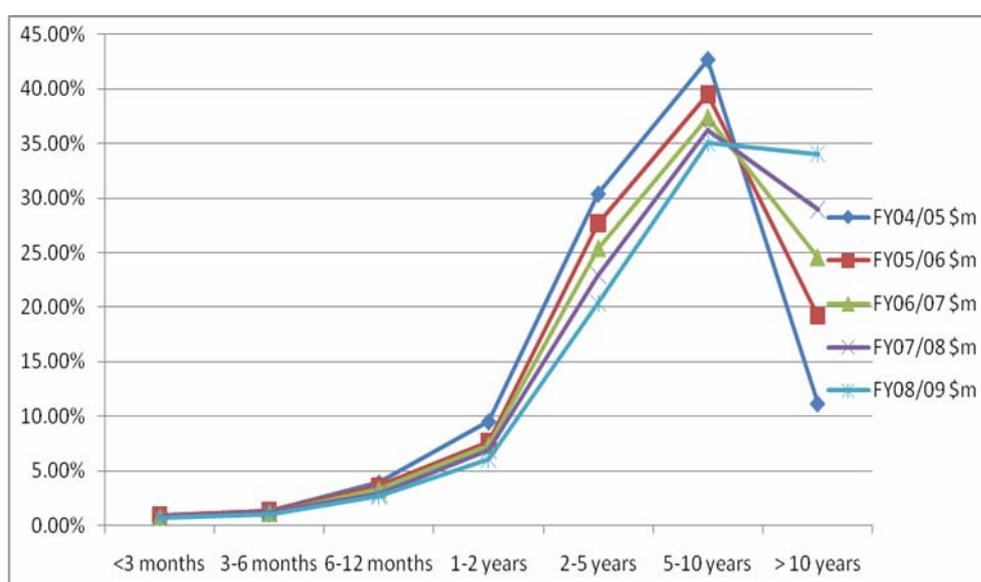
8.4 Improved administrative practices, in addition to the proposed automatic deduction of child support payments from salary and wages discussed in chapter 7, would be a significant step towards better addressing concerns of receiving parents and stopping child support debt being created.

8.5 In addition to any legislative measures, both parents need to have ready access to succinct and accurate information on child support and the consequences of non-payment so that ignorance of the law is not a barrier to compliance.

## Child support debt

- 8.6 On balance, the New Zealand child support scheme has been very successful in collecting assessed child support debt. Since the scheme's introduction in 1992, Inland Revenue has collected 89 percent of all the child support payments assessed by Inland Revenue. This rate compares very favourably internationally.
- 8.7 Despite the fact that the vast majority of payments are collected, the aggregate child support debt (assessed child support debt plus associated penalties) has continued to accumulate.
- 8.8 In addition to child support debt owed by parents living in New Zealand, a significant amount of debt is also owed from parents living overseas. Most of this overseas debt is in respect of paying parents living in Australia, but amounts are also due by parents living in other countries. New Zealand currently has a reciprocal agreement with Australia that allows Inland Revenue to pass child support cases to the Australian Child Support Agency for enforcement (and vice versa). Although it is more difficult for Inland Revenue to recover debt from other countries, child support debt collection in such circumstances may improve if the *Hague Convention for the International Recovery of Child Support and Other Forms of Family Maintenance* (in which New Zealand is a signatory) comes into force.
- 8.9 As at 30 June 2010, total child support debt stood at \$1.944 billion. Over 70 percent of this aggregate debt (or nearly \$1.368 billion) now consists of accumulated child support penalties.
- 8.10 Table 11 highlights how the age profile of debt has changed over time. Debt that is over 10 years old continues to increase as a proportion of total debt – it now represents approximately 35 percent of all debt.

**Table 11**



- 8.11 Penalties play an important role in encouraging parents to meet their child support obligations. They also help to fund the Government's costs of collecting this debt. If penalties are excessive, however, they can perversely discourage the payment of child support to the detriment of the children concerned. Striking a balance between these conflicting issues is essential.

### **Current penalties rules**

- 8.12 Currently, paying parents who fail to pay in full and on time incur an initial penalty of 10 percent of the unpaid amount. A further penalty of two percent of the unpaid amount (including the 10 percent penalty) is imposed on a compounding basis for each month that the amount remains outstanding. These penalties are retained by the Government and are not passed on to a receiving parent.
- 8.13 Since the introduction of the Child Support Scheme, various legislative changes have been made to encourage parents to pay more promptly and reduce debt levels, the most recent being in 2006. This 2006 change allowed Inland Revenue to remit the two percent incremental penalty when an instalment arrangement is entered into and payments under the arrangement are maintained.
- 8.14 Several concerns have been identified with the current penalty system, including:
- the size and nature of the penalties, in particular the two percent incremental penalty;
  - the relatively limited circumstances in which the two percent incremental penalty can be written off;
  - the restrictions on writing off assessed debt; and
  - whether penalty amounts paid should be passed on to the receiving parent.

### **Alternative options for imposing penalties**

- 8.15 The cumulative nature of the two percent monthly penalty means that penalty amounts can grow rapidly. These penalties continue to become an increasingly large proportion of the total outstanding child support debt.
- 8.16 At some point parents who would otherwise be willing to pay off their assessed child support liability may be reluctant to approach Inland Revenue because of the magnitude of the penalty sums involved, particularly if they are not aware they could qualify for some form of penalty remission. In other words, high levels of penalty debt could be acting as a disincentive to re-engage with the child support scheme and start or resume payment of child support liabilities.

8.17 Submissions are therefore sought on whether any of the following options outlined in this chapter should be introduced. The basis for any change should be that it would provide a better incentive for paying parents to comply with their child support obligations and make payment as soon as possible.

***Reduce current incremental penalty rate***

8.18 One option would be to keep the current structure of the existing penalty system in place, but to reduce the two percent incremental penalty.

8.19 Such a reduction could be introduced after a set period of non-compliance by the paying parent – for example, after non-compliance of one year. To counter perceptions that this could be a reward for non-compliance, it could be introduced at the same time as additional and more focussed enforcement measures, as discussed below. This would ensure that there were more effective sanctions in place for those that continue to avoid payment.

8.20 Reducing the two percent incremental penalty would help to prevent penalty debt from escalating at the current rapid rate. It would slow down the rate at which debt increases, helping to avoid debt from reaching levels where parents feel they are simply not able to be repaid (and which may be viewed as disproportionate to the original debt).

8.21 The effect that such a change may have can be seen from the example of a paying parent who has not paid a child support assessment of \$3,227<sup>39</sup> for five years. Under the current rules, the amount owing after five years, including core assessment and penalties (initial and incremental two percent amounts), would be in excess of \$11,500. Changing the incremental penalties to 1 percent after one year would have the effect of reducing this outstanding debt to approximately \$7,250.

8.22 This could be seen as a fairer outcome that might reduce the disincentive for paying parents to start making their child support repayments. Importantly, this reduction would not make any difference to the receiving parent other than in the sense of improving the possibility of payment.

8.23 However, if such a change were made to penalty rates, the Government would need to ensure that other offsetting enforcement measures were adopted. Additional measures could potentially include:

- The paying parent being subject to a more focussed and specific compliance effort from Inland Revenue (that is, being subject to more intensive case management).
- Further use of the automatic deduction of refunds due to paying parents from other Inland Revenue sources in order to offset any child support debts due (for example, in respect of unconfirmed personal tax summaries).

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<sup>39</sup> This amount represents the average annual assessment for a paying period for one year only. In reality, many paying parents who are in debt are likely to be liable for more than one year.

- The use, in extreme circumstances, of departure prohibition orders whereby paying parents could be restricted from travelling overseas until their child support liabilities are settled. Departure prohibition orders are used with some success in Australia.
- “Naming and shaming” paying parents, while being mindful of privacy concerns and the need to ensure a person is not improperly named.

### *Capping penalties*

- 8.24 Another suggestion is to cap the amount of penalties that could apply to a parent’s child support debt. This would stop the debt accumulating and reduce the potential reluctance parents might have to contact Inland Revenue.
- 8.25 On the other hand, once this cap is reached there may be limited further incentive for paying parents to continue to pay their child support liability. If this option were to be considered, the Government would need to ensure that other enforcement measures were also adopted to increase the likelihood of payment (similar to those previously described in this chapter). This could also include an option to increase the initial 10 percent penalty at the same time.

### *Aligning child support penalties to tax penalties and use-of-money interest*

- 8.26 Another question worth considering is whether to better align child support penalties with the penalty and use-of-money interest rules that apply for tax purposes. Using tax-based late payment penalties and use-of-money interest rates would allow for better alignment with the treatment of tax debts and could provide administrative efficiencies for Inland Revenue.
- 8.27 A tax-based penalties system is not fully relevant to the child support scheme, however. In addition to late payment penalties and use-of-money interest, tax penalties also contain shortfall penalties. These are determined in relation to benchmark standards of behaviour and care (for example taking an unacceptable tax position or being grossly careless) that are not usually relevant to the non-payment of child support.
- 8.28 In addition, use-of-money interest applied for tax purposes is not a penalty. Rather, it compensates the Government for receiving the tax revenue in a later period. Under the child support scheme, the Government is collecting child support from one parent on behalf of the other parent, and does not pass penalties on to the receiving parent. This is in contrast to the tax system, where the Government is the direct recipient of the money collected. Applying interest to a debt to which the Government is not directly entitled could be seen to be at odds with the purpose of use-of-money interest.
- 8.29 That said, some other jurisdictions (for example, Australia) do apply interest to late payments of child support and it would be possible to design a system so that child support penalties were *linked* to prevailing tax use-of-money interest rates (while also retaining a penal element). For example, the existing initial 10 percent non-payment penalty could be retained, but the incremental two percent monthly penalties could be replaced with a penalty equal to the tax use-of-money interest rate plus an additional penal rate (for example, an additional 1 percent per annum).

## Penalties write-off grounds

- 8.30 As noted previously, the vast majority of existing child support debt relates to penalties. This is in part because payments made by paying parents will always first be set off against assessed child support debt, not penalties.
- 8.31 Although the primary objective of any changes to the penalty rules should be to progressively recover any existing core debt and establish the regular payment of child support liabilities, writing off penalties should also be considered if this facilitates regular payment or is justifiable on hardship grounds.
- 8.32 Currently, there is a range of grounds under which penalties can be written off by Inland Revenue. In some cases write-offs are mandatory while others are at the Commissioner's discretion. Some write-off processes relate only to the 10 percent penalty, some only to the incremental penalties, and others cover both.
- 8.33 Despite the number of grounds that exist, the ability to write-off child support penalties is generally more restrictive than for the write-off of tax penalties because the Crown is holding the money for use towards the care of the child involved. Nevertheless, there seems to be some scope for improving the ability to write off penalties. In particular, although changes were made in 2006 that enabled the write-off of incremental penalties if an instalment arrangement had been entered into and adhered to for a minimum period of 26 weeks, the rules could be relaxed to allow a greater level of write-off.
- 8.34 Options that could be considered include:
- relaxing the circumstances in which penalties can be written off when a paying parent agrees and adheres to an instalment arrangement for ongoing compliance;
  - allowing Inland Revenue a wider range of options to negotiate the write-off of penalties;
  - allowing Inland Revenue to automatically write-off low levels of penalty-only debt below a certain value; and
  - introducing a child support penalty debt amnesty whereby penalties are automatically written off if a paying parent pays all their existing assessed child support debt during a set time period.
- 8.35 Submissions are sought on whether any of these options, described in more detail below, should be considered further. The main basis for any change should be that it would increase the incentives for paying parents to start meeting their child support obligations in full. Where this is not relevant (for example, when only penalty debt remains as all assessed debt has already been recovered) any change should enable the Government to collect the largest amount possible given the circumstances and the need to balance the likelihood of fully recovering the debt with the administrative costs involved.

### ***Relaxing circumstances when penalties can be written off for ongoing compliance***

- 8.36 The current rules stipulate that for any incremental penalties to be written off, an instalment arrangement for the repayment of core assessment debt must be entered into and adhered to for a minimum of 26 weeks. Any failure to meet this agreement, however minor, means that the penalties cannot be written off.
- 8.37 The strict way in which the current rules operate for writing off incremental penalty debt can be an impediment to its effectiveness, sometimes with serious implications for the goodwill and willingness of paying parents to continue repaying their outstanding (and ongoing) child support debt.
- 8.38 Applying less stringent conditions in certain circumstances, such as by continuing to allow a penalty-write off when the vast majority of agreed repayments have been made, and there are clearly justifiable circumstances why other payments have not been made, could have merit.

### ***Negotiated write-off of penalties***

- 8.39 Greater ability to negotiate with paying parents on an individual basis, even if some assessed debt remains, would allow Inland Revenue a wider range of options for the write-off of penalty debt. Inland Revenue would be able to balance a range of considerations in attempting to collect the highest amount of assessed child support and penalties over time. For example, it would take into account the integrity of the child support scheme, the promotion of voluntary compliance and the administrative costs involved.
- 8.40 The objective of any negotiated write-off would be to achieve the maximum possible recovery, taking into account the effect on the paying parent, the efficient use of resources, fairness to other compliant parents and parents who have already paid their penalties in full.
- 8.41 As currently exists for penalty-only debt (that is, when the assessed debt has been paid), such a write-off could be used if the paying parent would be placed in significant hardship or if it would be a demonstrably inefficient use of Inland Revenue's resources to collect the debt because the chances of collection are very low.
- 8.42 To ensure transparency and consistency, such a provision would be supported by published administrative guidelines or criteria.

### ***Allowing Inland Revenue to automatically write-off low levels of penalty-only debt***

- 8.43 Another option could be to allow Inland Revenue to automatically write-off certain low levels of penalty-only debt (when the assessed child support has been paid, and only penalty debt remains).
- 8.44 The discretion would allow Inland Revenue, once all assessed child support debt had been paid, to automatically write off all penalty-only debt below a certain value. This value would be determined by Inland Revenue, based on set published criteria or guidelines.

### ***Child support penalty debt amnesty***

- 8.45 A child support penalty debt amnesty could be introduced whereby if a paying parent paid all their existing assessed child support debt during a set period all associated penalties would be automatically written off.
- 8.46 Although an amnesty for existing child support debt would likely achieve a significant recovery of arrears in the short term, any gains would likely be short-lived. This is because an amnesty is not likely to change the long-term behaviour of errant paying parents. A greater concern is that compliant paying parents (and those that have already paid their penalties) would see persistent failure to comply by others being rewarded rather than punished. This could have an adverse effect on the future behaviour of compliant paying parents and create adverse perceptions about the fairness of the child support scheme more generally.

### **Write-off of assessed child support debt**

- 8.47 Inland Revenue cannot currently write off assessed debt because, in many cases, the debt is owed to the other parent for the care of the child. Receiving parents who are not on a benefit do, however, have the discretion to waive the assessed debt.
- 8.48 Inland Revenue does not have any discretion to waive assessed debt owed to it when a parent is in receipt of a benefit. The courts can order a debt to be written off but this is costly and time-consuming.
- 8.49 Arguably, assessed debt relating to beneficiaries should be able to be written off by Inland Revenue on serious hardship grounds. Similar allowance already exists in relation to tax debt – for example, when someone has a serious illness and is unable to work, or is otherwise unable to meet minimum living standards. Submissions are invited on the merits of allowing Inland Revenue to write off assessed debt in these circumstances.

### **Inland Revenue passing on penalties to the receiving parent**

- 8.50 Some receiving parents consider that penalty payments made by paying parents should be passed on to them so that they are compensated for the loss of funds and not, therefore, disadvantaged by the non-payment of child support.
- 8.51 Penalties for child support debt could be considered to have three purposes: a monetary sanction for not complying, compensation for the lack of use of funds, and compensation for the additional administration costs incurred in recovering overdue debts.
- 8.52 Passing on a component that is compensating for the lack of use of funds only to the receiving parent would make the child support scheme more complex to administer. Determining the appropriate rate to be passed on would also need to be regularly reviewed.

- 8.53 Passing on penalties may also create inconsistencies in treatment between receiving parents, as the approach adopted by Inland Revenue in writing off penalties could affect the amounts actually received. As a result, receiving parents who were in otherwise identical situations could receive different amounts of support.
- 8.54 The focus should therefore be on encouraging the prompt payment of child support, with the imposition of late payment penalties, and the ability to write off in certain circumstances, being the main method of achieving this.
- 8.55 For reasons discussed earlier, the Government is not currently in favour of penalties being passed on to receiving parents. Submissions are, however, invited on this issue.

## CHAPTER 9

### Other issues for future consideration

This chapter discusses a number of other issues for future consideration on which submissions are welcome:

- whether a test should be introduced restricting who can claim child support;
- whether paying parents should be able to receive “credits” against their child support liability by directly meeting significant costs of raising the child;
- whether re-establishment costs should be taken into account in establishing income for child support purposes in certain circumstances;
- whether child support payments should automatically cease when the child turns 18, unless the child is still in full-time secondary education, in which case payments would cease when the child leaves school; and
- passing on child support payments to the receiving parent.

9.1 This chapter discusses a range of other issues that affect the amount of child support paid or received.

#### **Determining who can claim child support**

9.2 Currently, a person can claim child support if they are the sole or principal provider of care for a child (or share that role equally with someone else). There are no other specific requirements or tests that must be satisfied. When an application for child support has been properly made, therefore, the Commissioner of Inland Revenue is initially bound to accept it regardless of circumstances (although the parent who is, on the face of it, liable for child support can object and lodge an appeal). A caregiver receiving certain Government benefits relating to a child must, under law, make an application for child support.

9.3 At times, views may differ about whether a person should be able to claim child support – for example, in certain circumstances when a child leaves home to live with a person, other than a parent or other legal custodian of the child, who is not receiving a benefit relating to that child.

9.4 A specific test could therefore be introduced that restricts who is able to claim child support. This could, for example, restrict the ability to claim child support to either:

- a parent of a child; or

- someone who has legal custody of a child; or
- someone who is entitled to receive a Government benefit for a child.

9.5 There could, of course, be disadvantages in introducing such a test, as there could likely be some individual circumstances when it would not be in the best interests of a child to prevent a caregiver from claiming child support when they do not meet these requirements. However, the question is finding the right balance between the two considerations.

9.6 Inland Revenue, being predominantly a collection agency, is not best placed to make judgements that determine who a child should ideally be living with. Any changes in this area would therefore have to be very carefully considered in conjunction with the Ministries of Social Development and Justice. However, views are sought as part of this review on whether such a change should be considered and, if so, who should or should not be able to claim child support for a child.

### **Prescribed payments**

9.7 In Australia, the Child Support Agency can credit certain payments towards a paying parent's child support liability. Credit can be given up to a maximum of 30 percent of the ongoing liability provided the balance of child support is paid as it becomes due. This facility is not, however, available to parents whose child support liability has been adjusted to reflect regular or shared care.

9.8 The types of payments that can be credited in this way are listed or "prescribed" by regulation. They are:

- childcare costs for the relevant child;
- fees charged by a school or preschool for that child;
- amounts payable for uniforms and books prescribed by a school or preschool for that child;
- fees for essential medical and dental services for that child;
- the receiving parent's share of amounts payable for rent or a security bond for the receiving parent's home;
- the receiving parent's share of repayments on a loan that financed his or her home; and
- costs to the receiving parent of obtaining and running a motor vehicle, including repairs and standing costs.

- 9.9 Views are sought on whether this option would be useful in New Zealand.
- 9.10 Prescribed payments may provide a greater incentive to pay child support as a paying parent may be more comfortable that the payment (or at least part of it) was directly benefiting the child according to the paying parent's desires for the child's upbringing. For a payment to be recognised, however, it would clearly need to have both parents' agreement as parents' views about expenditure choices may differ. For example, one parent may wish to send their child to a private school and be willing to pay the school fees while the other parent may prefer a state school.
- 9.11 Any prescribed payment system would not be available if the caregiver was solely receiving a sole parent benefit as the Government is already in effect providing contributions towards the payments as part of that benefit. In these circumstances, the making of prescribed payments by the paying parent would not offset the Government's costs of providing the benefit as currently occurs.

### **Recognising re-establishment costs through exempting some income**

- 9.12 Sometimes a paying or receiving parent may take on additional employment or overtime work to re-establish themselves after a relationship separation – for example, to assist in buying an alternative home where their children can live or stay.
- 9.13 Under the Australian child support scheme, parents who are paying or receiving child support have, since 1 July 2008, been able to apply for their assessment to be amended to exclude additional income from overtime or a second job for up to three years from their separation. Additional requirements are:
- that the income was earned in accordance with a pattern that was established after the parents first separated and is of a kind that it is reasonable to expect would not have been earned in the ordinary course of events; and
  - the excluded income is no more than 30 percent of the parent's taxable income.
- 9.14 Establishing that the pattern of workforce participation has changed can sometimes be difficult. A parent may, for example, have undertaken overtime from time to time before separation. In other cases, the change in pattern will be more obvious.
- 9.15 Furthermore, the adjustment is not done through the formula because parents' circumstances can vary substantially and a child support liability can run for substantially more than three years. Instead, the Australian child support scheme takes re-establishment costs into consideration as a ground for the equivalent of an administrative review.

- 9.16 Currently, in New Zealand, secondary employment and overtime are automatically included in the formula calculation. Re-establishing oneself is not an administrative review ground in itself.
- 9.17 Views are sought on whether, if both parents income is to be taken into account in calculating a child support liability, re-establishment costs should be made a ground for an administrative review on a similar basis to that adopted in Australia.

### **Qualifying age of children**

- 9.18 Views are sought on whether the maximum age at which child support ceases should be changed.
- 9.19 Child support is normally payable until a child reaches the age of 19 years but ceases earlier if:
- the child becomes financially independent (defined as either being in full employment, or receiving a state-supported benefit or a student allowance);
  - is living in the nature of marriage; or
  - ceases to be ordinarily resident in New Zealand and is not a New Zealand citizen.
- 9.20 Some receiving parents consider the cut-off age should be higher, say 25, to provide for students in tertiary education. They may feel that, in the absence of continued payments from the paying parent, they do not have the financial means to assist their children through tertiary education, even though they feel there is a real need for them to do so. Conversely, some paying parents consider that child support should automatically cease earlier – for example, when the child reaches 18 or leaves school.
- 9.21 The qualifying age was fixed at 19 because of the increasing number of young people who are continuing secondary education past their eighteenth birthday. (In 2008 over 22,000 young people turned 18 in year 13 of their schooling and went on to complete that year's education.) At that stage an individual is generally considered to be an adult (because they are eligible to vote, for example), and are no longer dependent on parental support.
- 9.22 The student loan and student allowances schemes are available to provide assistance after high school. Even if a student does not qualify for a student allowance because of his or her parents' combined income, a student loan would still be available.
- 9.23 There may, therefore, be a case for ceasing payment when students leave secondary school rather than waiting until they turn 19 in their first year at university.

- 9.24 The latest age at which child support ceases should not be before the latest age at which the sole parent benefits cease, the main benefit being the domestic purposes benefit which generally ceases when the child turns 18. The unsupported child's benefit (paid to carers of a child whose parents cannot care for them because of family breakdown) ceases when the child turns 19.
- 9.25 The Government is interested in submissions on whether the qualifying age should be changed so that it automatically ends at age 18 unless the child is still in full-time secondary education, in which case the child would cease to be a qualifying child upon leaving school.

### **Passing on child support payments to the receiving parent (“pass-on”)**

- 9.26 Government-provided welfare benefits give certainty to sole parents about the amount that they will receive to assist them in raising their children. However, in these circumstances some paying parents maintain that there is little incentive for them to pay child support given that their payments are generally retained by the Crown up to the amount of the benefit paid.<sup>40</sup> The children are no better or worse off as a result of the child support payment because the benefit is paid regardless.
- 9.27 “Pass-on” is the term used to describe the situation when some or all of the payments, instead of being retained by the Crown, are passed on to the beneficiary caregiver. A number of countries provide pass-on.<sup>41</sup> Pass-on, depending on how it operates in practice, can provide beneficiaries with more money to help raise their children. It has also been suggested that pass-on may increase the incentive to pay child support and improve compliance.
- 9.28 Another advantage is that there may be a greater incentive for primary caregivers who are beneficiaries to trace paying parents and to contest the level of contribution if this is considered inadequate or unjust.
- 9.29 Disadvantages with pass-on are:
- Passing on child support contributions to beneficiaries would involve a significant fiscal loss to the Government unless benefits were netted off on the basis that the benefits included an amount for raising children.
  - Netting-off benefit payments would create uncertainty, and in some cases hardship, for beneficiaries and the children involved, as the overall amount they received would be dependent on whether and how promptly the other parent paid his or her child support contribution.
  - It does not ensure that child support payments are used on the child, which may be crucial in increasing the incentive to pay. Tagged payments or vouchers would achieve this but are, with the exception of prescribed payments (discussed earlier), largely impractical.

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<sup>40</sup> There are about 2,000 cases where the child support contribution exceeds the benefit and, therefore, the surplus is passed on. This represents around 3 percent of the situations where the primary caregiver is a beneficiary.

<sup>41</sup> For example, Britain recently introduced partial pass-on as part of various reforms to its child support scheme and has noted an increase in compliance. In Australia, child support amounts are passed on but may result in a reduced benefit, depending on their magnitude.

- The costs that would be incurred by Government in administering the additional payments that pass-on would necessitate.
- 9.30 Changing to a system where a beneficiary receives some or all of the child support payment would be a major shift in the philosophical basis of New Zealand's child support scheme. Some countries that have pass-on have used it to emphasise the welfare of the children where child poverty has been the central concern. However, payment of higher benefits would seem to be an administratively less complex alternative in such circumstances.
- 9.31 It is not clear what effect pass-on would have on parents' decisions to participate in the workforce. Supplementing the benefit by passing on child support payments might discourage a receiving parent from taking up employment because the financial impact of moving away from a benefit would be greater. Under the current scheme, the receipt of child support payments partly cushions the loss of the benefit when the receiving parent takes up employment.
- 9.32 As noted earlier in this document, New Zealand's child support collection rate compares well with other countries, lessening the incentive to introduce pass-on without strong evidence to support such a change.
- 9.33 On balance, it is considered that the disadvantages of passing on child support payments outweigh any likely benefits and no changes are warranted at this time. It may be a matter best considered in light of further evidence and analysis on its likely impact.

## **APPENDIX 1**

### **Legislative history of child support in New Zealand**

#### **The Child Support Act**

The Child Support Act 1991 came into force on 1 July 1992. It revised the rules relating to child maintenance in cases where agreement proves difficult, or when the receiving parent is a beneficiary.

What differentiates the child support scheme from the previous arrangements under the Family Proceedings Act 1980 and the Social Security Act 1964 are its legislatively fixed standards, which set the level of financial support to be provided by parents for their children, and its coverage. Previously, many of the situations now covered by the child support scheme would have been determined by the courts.

#### **Pre-1981**

The Destitute Persons Act 1910 and the Domestic Proceedings Act 1968 created a statutory means by which women could seek maintenance orders against the fathers of their children. The court could, at its discretion, set the rate it thought appropriate for the father to pay the mother to support the child.

This kind of maintenance continued until the child reached the age of 16, but continued to be payable for a child over that age if the child was in full-time education.

Under the Social Security Acts of 1938 and 1964, and the Social Security Amendment Act 1973 (which introduced the statutory domestic purposes benefit), sole parents' access to benefit assistance was conditional on pursuit of maintenance through the courts.

Even though the legislation provided a means by which mothers could seek maintenance from the presumed father:

- a mother had to resort to the court to enforce the maintenance agreement or order when the father did not voluntarily comply; and
- an unmarried mother had to obtain a court order, an acknowledgement of paternity from the father or a declaration of paternity from the court which would entitle her to seek maintenance. Naming the father on the birth certificate was not enough to create an automatic obligation for maintenance.

## 1981–92

From 1981 to 1992 when a sole parent was in receipt of a domestic purposes benefit, the Social Security Act 1964 provided for the former Department of Social Welfare to make an assessment against the other parent of each child included in the benefit for a contribution towards the cost of the benefit. This was the Liable Parent Contribution scheme.

Sole parents not in receipt of a social security benefit could agree on maintenance of their children which could subsequently be registered in court for enforcement, or they could apply directly to the court under the Family Proceedings Act 1980 for a level of maintenance to be decided on.

Problems with this dual approach included:

- Complexity. Many parents escaped contributing and consequently the objective of recovering from liable parents a proportion of the cost of the benefits paid to sole-parent beneficiaries was not met in many cases. For the year ending 31 March 1990, only \$55 million was collected from paying parents, whereas expenditure on the domestic purposes benefit was \$1,136 million. The amount owed by paying parents was \$136 million, so the collection rate was very low at around 40 percent. The estimated cost of administering the scheme was \$27 million.
- Parents who could not agree on their child support financial arrangements had to go through the courts for a solution.

Consequently, it was decided to rationalise these two approaches into a single, unified child support scheme, open to both beneficiaries and non-beneficiaries, which would provide for administrative assessment of child support liabilities using a formula approach.

## 1991 reforms

In 1989 a working group was set up to establish principles and objectives for a new child support scheme and put forward possible options for reform. Early in 1991 the Government agreed on the broad principles for reform.<sup>42</sup> Those principles were:

- that children have a right to support (including financial support) from their parents, and parents have an obligation to provide support according to their capacity to provide, irrespective of whether they are living with their children;
- the State has a responsibility to ensure an adequate level of financial support for children and families and, if necessary, to supplement the financial support that parents can provide; and
- the State has an interest in ensuring that caregivers of children are not left without income. It has a role through an up-to-date child support scheme in ensuring that parents meet their obligations to provide financial support, thereby limiting dependency on the State.

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<sup>42</sup> Child Support Review 1994, Report of the Working Party, 8 November 1994.

At the same time the Government identified the key objectives of the reform which formed the basis for the objectives in the Child Support Act, as outlined below:

- To affirm the right of children to be maintained by their parents.
- To affirm the obligation of parents to maintain their children.
- To affirm the right of caregivers of children to receive financial support on behalf of those children from non-custodial parents of the children.
- To provide that the level of financial support to be provided by parents for their children is to be determined according to their capacity to provide financial support.
- To ensure that parents with a like capacity to provide financial support for their children should provide like amounts of financial support.
- To provide legislatively fixed standards in accordance with which the level of financial support to be provided by parents for their children should be determined.
- To enable caregivers of children to receive support on behalf of those children from parents without the need to resort to court proceedings.
- To ensure that equity exists between receiving and paying parents, in relation to the costs of supporting children.
- To ensure that obligations to birth and adopted children are not extinguished by obligations to stepchildren.
- To ensure that the costs to the State of providing an adequate level of financial support for children and their caregiving parent is offset by the collection of a fair contribution from paying parents.
- To provide a scheme whereby child support and domestic maintenance payments can be collected by the Crown, and paid by the Crown to those entitled to the money.

It was decided that the scheme should be administered by Inland Revenue, given its access to income information, and collection and enforcement capabilities.

Like its then Australian model, the New Zealand child support scheme was based on the application of a formula to the paying parent's taxable income but with important differences:

- The Australian legislation left existing court-ordered arrangements for child and spousal/partner maintenance intact, whereas the New Zealand legislation overrode some existing private and court-ordered agreements.
- The living allowances in New Zealand were changed to include new spouses/partners and stepchildren whether they were financially dependent or not.

## APPENDIX 2

### Administrative reviews

A child support formula result can be changed if a parent seeks an administrative review through Inland Revenue. In these cases, Inland Revenue appoints an independent review officer experienced in relevant court cases to hear the parties to the application.<sup>43</sup> The review officer then makes a recommendation on whether departure from the child support formula assessment is warranted. The Commissioner of Inland Revenue has the discretion to either accept the review officer's recommendation or conduct a rehearing.

This process not only ensures an independent decision but also provides parents with an inexpensive, informal and readily available mechanism for considering their case. No recourse to the courts is required. The entire process takes approximately 35 days until a decision is issued by the Commissioner and the decision becomes binding on both parties.

Either parent can apply or cross-apply to Inland Revenue under one or more of the following 10 grounds set out in the Child Support Act:

- The parent has a duty to maintain another child or person.
- It costs extra to cover the special needs of another child or person the parent has a duty to maintain.
- The parent has necessary expenses in supporting themselves.
- The parent has necessary expenses in supporting another child or person they have a duty to maintain.
- It costs more than 5 percent of the child support income amount to enable the paying parent to have contact with the child.
- It costs the parent extra to cover the child's special needs.
- It costs the parent more than normal to care for, educate or train the child in the way that was expected by either parent.
- The child support assessment does not take into account the income, earning capacity, property or financial resources of either parent or the child.
- The child support assessment does not take into account previous payments, transfers or property settlements made by the paying parent for the benefit of the child.
- The paying parent still has a financial interest in a property that the receiving parent is entitled to live in.

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<sup>43</sup> The review officers are generally lawyers practising in the area of family law.

These grounds can be distilled into three broad categories:

- grounds affecting the capacity of the applicant to provide support;
- grounds affecting the needs of the child; and
- residual grounds of fairness, based on the actions of the parties and their comparative positions.

If the ground(s) merit being taken into account, a new child support assessment will be made.

If neither parent is happy with the Commissioner's decision, they have several choices. They may seek an appeal to the Family Court, a judicial review, or they can seek another administrative review on new grounds.

## APPENDIX 3

### Estimated expenditure for raising children in New Zealand

#### Estimated expenditure for raising children

This appendix provides more detail on the results from estimating the expenditure for raising children in New Zealand. It is based on a paper, *Costs of raising children*, by Iris Claus, Geoff Leggett and Xin Wang which was presented at the New Zealand Association of Economists' 2009 conference in July 2009. For further detail on the data and methodology used, please refer to that paper on [www.nzae.org.nz](http://www.nzae.org.nz).

#### *Expenditure for a single child*

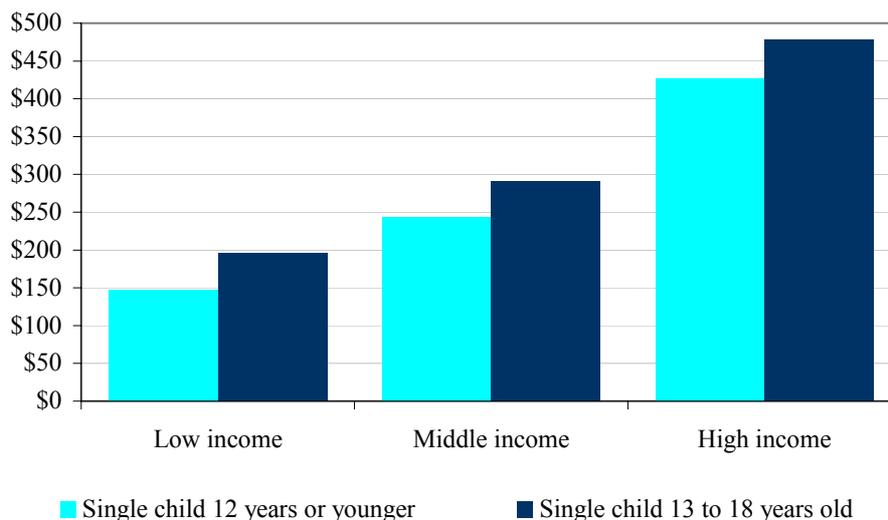
Table 10 and Figure 11 present the average estimated expenditure by households with different incomes on a single child aged 12 years or under, and a child who is 13 to 18 years old.<sup>44</sup> The results show that parental expenditures increase as household incomes rise, with high-income households on average spending more than twice as much on their child than low-income households. The costs of teenagers were found to be higher than those of children 12 years or under. On average, low, middle and high-income households spent respectively 33, 20 and 12 percent more on teenagers than on children aged 12 years old or under.

**Table 10: Average estimated weekly expenditure for raising a single child**

Level of income	Average weekly income	Age of child	
		0 to 12	13 to 18
Low income	\$704	\$147	\$196
Middle income	\$1,365	\$243	\$291
High income	\$2,838	\$426	\$477
Average income	\$1,552	\$268	\$316

<sup>44</sup> The reference to "average" in the tables and figures in this appendix relates to the average for the income band.

**Figure 11: Average estimated weekly expenditure for raising a single child**



***Costs as a proportion of income***

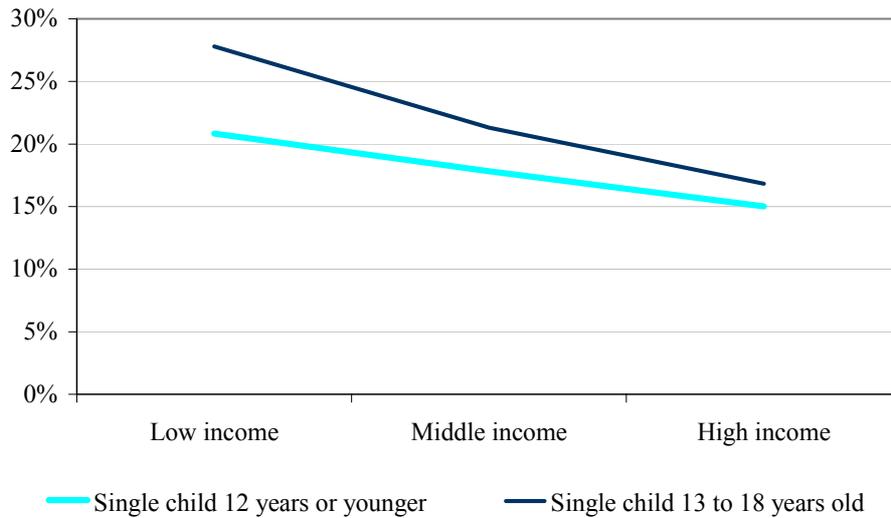
Although the estimated expenditures for raising the child rise with household income, the proportion of income spent on the child was found to decline (see Table 11 and Figure 12). Low-income households spent about 21 percent of their income on a 0 to 12 year old child and 28 percent on a teenager. This compared with, respectively, 15 and 17 percent for a high-income household.

High-income households with a child had on average about four times higher incomes than low-income households but spent less than three times as much as low-income households on a child 12 years or under, and less than two and a half times on a teenager. Also, the proportion of income spent on older children fell faster as income rose than did the proportion of income spent on younger children (falling from 28 to 17 percent compared with a fall from 21 to 15 percent).

**Table 11: Average estimated weekly expenditure for raising a single child as a proportion of households' weekly income (in percentages)**

Level of income	Average weekly income	Age of child	
		0 to 12	13 to 18
Low income	\$704	21%	28%
Middle income	\$1,365	18%	21%
High income	\$2,838	15%	17%
Average income	\$1,552	17%	20%

**Figure 12: Average estimated weekly expenditure for raising a single child as a proportion of households' weekly income (in percentages)**



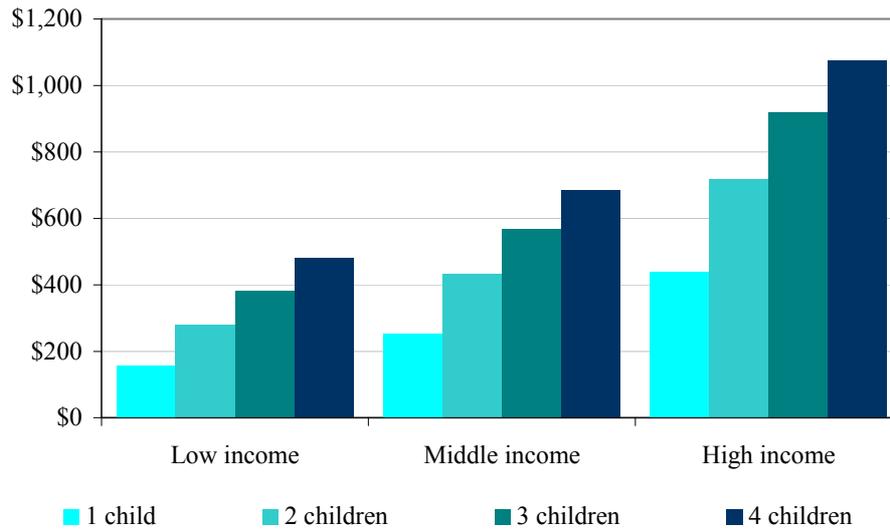
### ***Multiple children***

The estimated expenditure for raising children depending on the number of children in the household is reported in Tables 12 to 14 and Figures 13 to 15. These figures represent estimated parental expenditure on children averaged across both age ranges. The results show that estimated parental expenditure increased with the number of children and household income. As with single-child households, the proportion of income spent on children by high-income households was lower than that of low-income households (as shown in Table 13 and Figure 14). It fell from about 40 percent for low-income households with two children to 25 percent for high-income households. For households with four children, the decline in costs was even sharper, from around 68 percent to about 38 percent.

**Table 12: Average estimated total weekly expenditure for raising one to four children**

Level of income	Average weekly income	Number of children in household			
		1 child	2 children	3 children	4 children
Low income	\$704	\$157	\$279	\$381	\$479
Middle income	\$1,365	\$254	\$431	\$569	\$686
High income	\$2,838	\$438	\$718	\$919	\$1,075
Average income	\$1,552	\$279	\$471	\$617	\$740

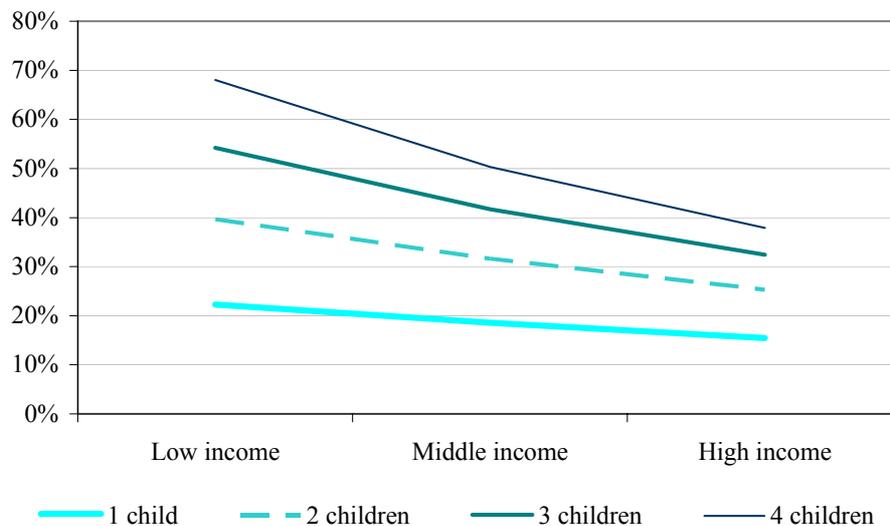
**Figure 13: Average estimated total weekly expenditure for raising one to four children**



**Table 13: Average estimated total weekly expenditure for raising one to four children as a proportion of households' weekly income (in percentages)**

Level of income	Average weekly income	Number of children in household			
		1 child	2 children	3 children	4 children
Low income	\$704	22%	40%	54%	68%
Middle income	\$1,365	19%	32%	42%	50%
High income	\$2,838	15%	25%	32%	38%
Average income	\$1,552	18%	30%	40%	48%

**Figure 14: Average estimated total weekly expenditure for raising one to four children as a proportion of households' weekly income (in percentages)**



### *Expenditure for an additional child*

Although the expenditure for raising children rises as the household size increases, the expenditure for raising an additional child is lower than for the previous child or children. This is shown in Table 14 and Figure 15.

For low-income households the expenditure for a second child is about 78 percent of the expenditure for the first child, the expenditure for a third child falls to about 65 percent of the first child, while the expenditure for the fourth child is marginally less at 62 percent.

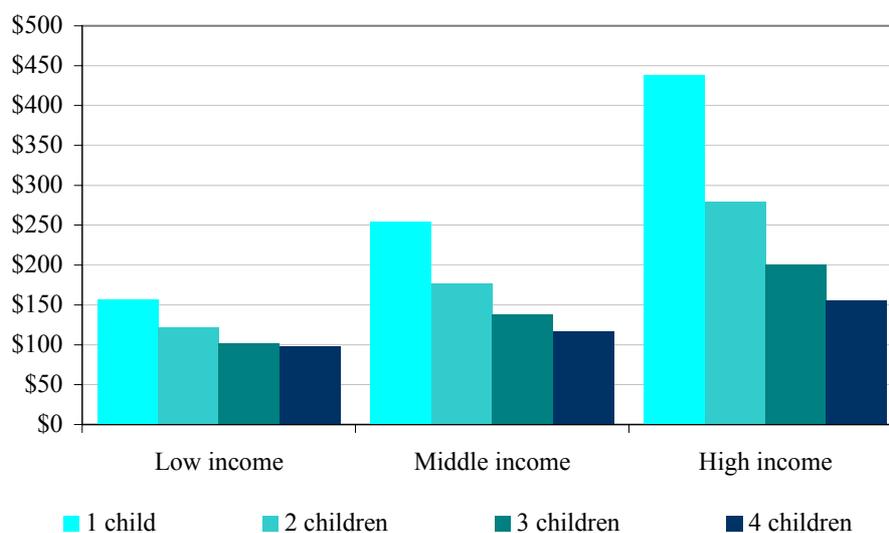
For high-income households the decline is more dramatic. The expenditure for raising the second, third and fourth child as a proportion of the first child's costs is, respectively, 64, 46 and 36 percent.

The reductions in the average expenditure for an additional child typically arise from the economies of scale associated with raising more than one child. They may also partly result from income constraints.

**Table 14: Average estimated additional weekly expenditure for raising the first, second, third and fourth child**

Level of income	Average weekly income	First child	Second child	Third child	Fourth child
Low income	\$704	\$157	\$122	\$102	\$98
Middle income	\$1,365	\$254	\$177	\$138	\$117
High income	\$2,838	\$438	\$280	\$201	\$156
Average income	\$1,552	\$279	\$192	\$146	\$123

**Figure 15: Average estimated additional weekly expenditure for raising the first, second, third and fourth child**



## APPENDIX 4

### Results of the Families Commission survey

#### Background

In August 2009, the Families Commission released an issues paper entitled “What separating parents need when making care arrangements for their children”. This paper notes that in 2008 the Families Commission commissioned Colmar Brunton to undertake high-level research into a number of issues relating to separated parents. The issues included:

- the different types of care and contact arrangements that separated parents make for their children and the factors that influence parents in making those arrangements;
- the financial arrangements that separated parents make for the care of their children and the factors that influence their decisions in that area;
- where applicable, an insight into how the expenditure for raising children can vary in different care and contact arrangements; and
- families’ views on the characteristics of an equitable child support scheme.

Ten thousand surveys were posted to Inland Revenue’s child support and Working for Families parents, resulting in 1,602 completed responses. In addition, 50 separate in-depth interviews were carried out with parents who are party to a child-support relationship to gain their views on what a fairer child support scheme would be for them.

#### Key findings

##### *Care and contact arrangements*

The research yielded the following information on care and contact arrangements:

- 51.9 percent of parents who pay child support (through voluntary arrangements as well as through the child support scheme) say they see their child at least a few days per fortnight, compared with 41.2 percent of receiving parents who say their child sees the paying parent at least a few days a fortnight (an average of 44.1 percent across both parent groups).
- 48.3 percent of parents who pay child support (again, through voluntary arrangements as well as through the child support scheme) say their child stays overnight at their house at least a few days per fortnight, compared with 32.0 percent of receiving parents who say their child stays overnight at the paying parent’s home at least a few days a fortnight (an average of 36.4 percent).

Care and contact arrangements vary enormously depending on personal circumstances. Where parents can achieve agreement on these arrangements, other arrangements between the parents, including financial decisions, are more likely to also be agreed upon. Parents who have reached their own financial arrangements are more likely to have greater care and contact with their children. In addition, parents who reach private arrangements are more likely to:

- take their child to school and also pick them up from after-school activities (47 percent, compared with 35 percent of those in the child support scheme);
- pick their child up from school (45 percent, compared with 36 percent of those in the child support scheme); and
- take care of their child while the other parent meets work commitments (43 percent, compared with 31 percent of those in the child support scheme).

This reflects the reality that the child support scheme, by its very nature, tends to deal with the more difficult situations when agreement cannot be reached.

### ***Child support financial arrangements***

Private arrangements for child support are often calculated by reference to the child support scheme formula. Thirty-two percent of parents making private arrangements say they gained assistance from Inland Revenue or used the formula to help work out their initial financial arrangement regarding their children, even though they did not take part in the child support scheme themselves.

### ***Main costs incurred when caring for a child***

The survey revealed the following information on the costs incurred when caring for a child:

- 89 percent of children stay in a separate bedroom (whether shared with another child or not) when in overnight care with the paying parent.
- Approximately 33 percent of receiving parents live more than 100 kilometres away from the other parent.

Other costs commonly incurred by both parents include food, bedroom furnishings, clothes, medical fees, school expenses, sports, music, hobbies, nappies, games or toys.

### ***Views on the characteristics of an equitable child support scheme***

The quantitative results on how satisfied parents are with their child support arrangement show:

- 71 percent of receiving parents and 24 percent of paying parents in the child support scheme consider that the scheme does not work very well or at all well; and
- 38 percent of receiving parents and 12 percent of paying parents in a private child support arrangement consider that their arrangement does not work very well or at all well.

Of those dissatisfied with the child support scheme, the research indicated that the current scheme does not adequately reflect the range of care arrangements parents enter into regarding their children (in particular, the costs incurred when care of a child is shared).

## APPENDIX 5

### Examples of contributions under the new formula

#### Duncan and Helen

Duncan and Helen have three children, all under 12. They separate. All of the children live with Helen. They stay with Duncan for 25 percent of the nights per year (generally alternate weekends and half of the school holidays).

#### *Step 1: Find Duncan and Helen's child support incomes*

Duncan has a taxable income of \$51,500 and Helen has a taxable income of \$27,000. Deducting the self-support component (\$16,054) from each gives Duncan a child support income of \$35,446 and Helen a child support income of \$10,946.

#### *Step 2: Calculate the expenditure for raising the children*

Duncan and Helen's combined child support income is \$46,392. The expenditure for raising the children is calculated by taking 27 percent of the first \$24,081 and 26 percent of \$22,311 (the remainder of the combined child support income).

27 percent of \$24,081 is \$6,502, and 26 percent of \$22,311 is \$5,801, giving a total of **\$12,303**. (In the Expenditure for Raising Children Table,<sup>45</sup> this is shown as \$6,502 plus 26 cents for each dollar over \$24,081.) This is the expenditure for raising the children.

#### *Step 3: Apportion this cost between the parents*

This cost is apportioned according to each parent's capacity to pay. A parent's capacity to pay is determined by the proportion that they have of the combined child support income. Duncan has 76.41 percent of the combined child support income, so Duncan is responsible for 76.41 percent of the cost and Helen is responsible for 23.59 percent of the cost.

If the compromise table for shared care (noted in Table 9) was used, Duncan would be considered to incur 14 percent of the expenditure for raising the children. Duncan's share of the \$12,303 would be 76.41 percent less the amount (14 percent) he is assumed to have already paid out by caring for the children, a net amount of 62.41 percent, meaning that Duncan must pay \$7,678 to help support the children. Helen would have no liability as her share of care (86 percent) would be more than her proportion of total child support income (23.59 percent).

Alternatively, if shared care was limited to a minimum of 33 percent of nights, there would be no shared care adjustment and Duncan would pay **\$9,401** (representing 76.41 percent of the total cost).

#### *Comparison with current formula*

Duncan would have to pay **\$10,082** under the current formula (based on not living with a partner and no other dependent children living with Duncan).

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<sup>45</sup> See chapter 6.

## **Simon and Kiri**

Simon and Kiri have one child, aged 15. They separate. The child stays with Simon for 153 (42 percent) of the nights per year (generally three nights a week) and the remaining time with Kiri.

### *Step 1: Find Simon and Kiri's child support incomes*

Simon has a taxable income of \$82,000 and Kiri has a taxable income of \$47,000. Deducting the self-support component (\$16,054) from each gives Simon a child support income of \$65,946 and Kiri a child support income of \$30,946.

### *Step 2: Calculate the expenditure for raising the child*

Simon and Kiri's combined child support income is \$96,892. The expenditure for raising the child is calculated by taking 23 percent of the first \$24,081 of this, 22 percent of the next \$24,081, 12 percent of the next \$24,081, 10 percent of the next \$24,081, and 9 percent of \$568 (the remainder of the combined child support income).

23 percent of \$24,081 is \$5,539, 22 percent of \$24,081 is \$5,298, 12 percent of \$24,081 is \$2,890, 10 percent of \$24,081 is \$2,408, and 9 percent of \$568 is \$51, giving a total of **\$16,185**. (In the Expenditure for Raising Children Table, this is shown as \$16,134 plus 9 cents for each dollar over \$96,234.) This is the expenditure for raising the child.

### *Step 3: Apportion this cost between the parents*

This cost is apportioned according to each parent's capacity to pay. A parent's capacity to pay is determined by the proportion that they have of the combined child support income. Simon has 68.06 percent of the combined child support income, so Simon is responsible for 68.06 percent of the cost and Kiri is responsible for 31.94 percent of the cost.

If the compromise table for shared care (noted in Table 9) was used, Simon would be considered to incur 39 percent of the expenditure for raising the children. Simon's share of the \$16,185 would be 68.06 percent less the amount (39 percent) he is assumed to have already paid out by caring for the children, a net amount of 29.06 percent, meaning that Simon must pay **\$4,703** to help support the children. Kiri would have no liability as her share of care (61 percent) would be more than her proportion of total child support income (31.94 percent).

### *Comparison with current formula*

Simon would have to pay **\$4,200** under the current formula (based on having shared care and hence one dependant child, and cross-applying for child support from Kiri).

## **Kahu and Vanessa**

Kahu and Vanessa have two children, one is 14 and one is 16. They separate. They share care of the children equally.

### *Step 1: Find Kahu and Vanessa's child support incomes*

Kahu has a taxable income of \$54,000 and Vanessa has a taxable income of \$67,000. Deducting the self-support component (\$16,054) from each gives Kahu a child support income of \$37,946 and Vanessa a child support income of \$50,946.

### *Step 2: Calculate the expenditure for raising the children*

Kahu and Vanessa's combined child support income is \$88,892. The expenditure for raising the children is calculated by taking 29 percent of the first \$24,081 of this, 28 percent of the next \$24,081, 25 percent of the next \$24,081, and 20 percent of \$16,649 (the remainder of the combined child support income).

29 percent of \$24,081 is \$6,983, 28 percent of \$24,081 is \$6,743, 25 percent of \$24,081 is \$6,020, and 20 percent of \$16,649 is \$3,330, giving a total of **\$23,076**. (In the Expenditure for Raising Children Table, this is shown as \$19,746 plus 20 cents for each dollar over \$72,243.) This is the expenditure for raising the children.

### *Step 3: Apportion this cost between the parents*

This cost is apportioned according to each parent's capacity to pay. A parent's capacity to pay is determined by the proportion that each has of the combined child support income. Vanessa has 57.31 percent of the combined child support income, so she is responsible for 57.31 percent of the expenditure for the children and Kahu is responsible for 42.69 percent.

If the compromise table for shared care (noted in Table 9) was used, Vanessa is given credit for incurring 50 percent of the children's costs by caring for the children. The balance of Vanessa's obligation must be contributed through her child support payment. Vanessa's payment is her total obligation (57.31 percent of the children's costs) less credit due to care (50 percent). Her payment is 7.31 percent of the expenditure for the children. 7.31 percent of \$23,076 is \$1,687. Vanessa is required to pay **\$1,687** to help support the children.

### *Comparison with current formula*

Vanessa would have to pay **\$2,340** under the current formula (based on having shared care, and cross-applying for child support from Kahu).

## **Jim and Phillipa**

Jim and Phillipa have two children, one is 8 and one is 15. They separate. Both the children live with Phillipa 100 percent of the time.

### *Step 1: Find Jim and Phillipa's child support incomes*

Jim has a taxable income of \$50,000 and Phillipa has a taxable income of \$24,000. Deducting the self-support component (\$16,054) from each gives Jim a child support income of \$33,946 and Phillipa a child support income of \$7,946.

### *Step 2: Calculate the expenditure for raising the children*

Jim and Phillipa's combined child support income is \$41,892. Since the children are of mixed age, the expenditure for raising the children is calculated by taking 26.5 percent of the first \$24,081, and 25.5 percent of \$17,811 (the remainder of the combined child support income).

26.5 percent of \$24,081 is \$6,381, and 25.5 percent of \$17,811 is \$4,542, giving a total of **\$10,923**. (In the Expenditure for Raising Children Table, this is shown as \$6,381 plus 25.5 cents for each dollar over \$24,081.) This is the expenditure for raising the children.

### *Step 3: Apportion this cost between the parents*

This cost is apportioned according to each parent's capacity to pay. A parent's capacity to pay is determined by the proportion that each has of the combined child support income. Jim has 81.03 percent of the combined child support income, so Jim is responsible for 81.03 percent of the cost, and Phillipa is responsible for 18.97 percent of the cost. Phillipa spends her share of the cost in paying for day-to-day expenses from her money and Jim pays Phillipa his share to meet the remaining expenses of the children.

81.03 percent of \$10,923 is \$8,851. Jim must pay **\$8,851** to help support the children.

### *Comparison with current formula*

Jim would have to pay **\$8,602** under the current formula (based on not living with a partner and no other dependent children with Jim).

## **Callum and Phoebe**

Callum and Phoebe have one child aged 9 years. They separate. The child lives with Phoebe 100 percent of the time.

### *Step 1: Find Callum and Phoebe's child support incomes*

Callum has a taxable income of \$26,000 a year. Phoebe has no income of her own and is paid the maximum rate of the DPB, giving her an estimated adjusted taxable income of \$16,794. Deducting the self-support component (\$16,054) from each gives Callum a child support income of \$9,946 and Phoebe a child support income of \$740.

### *Step 2: Calculate the expenditure for raising the children*

Callum and Phoebe's combined child support income is \$10,686. 17 percent of \$10,686 is **\$1,817**. (In the Expenditure for Raising Children Table, this is shown as 17 cents for each dollar.) This is the expenditure for raising the child.

### *Step 3: Apportion this cost between the parents*

This cost is apportioned according to each parent's capacity to pay. A parent's capacity to pay is determined by the proportion that they have of the combined child support income. Callum has 93.08 percent of the combined child support income, so he is responsible for 93.08 percent of the expenditure for the child. As Phoebe receives the DPB from the Government to help raise their child, Callum pays child support to the Crown to help offset some of this expense.

93.08 percent of \$1,817 is \$1,691. Callum must therefore pay **\$1,691** to the Crown.

### *Comparison with current formula*

Callum must pay **\$2,132** to the Crown.

## **Andy and Ali**

Andy and Ali have two children aged 6 and 4. They separate. The children spend some time in the school holidays with Andy, so that Ali's share of care is 90 percent.

### *Step 1: Find Andy and Ali's child support incomes*

Andy and Ali both have adjusted taxable income below the level of the self-support component (\$16,054). They therefore have a net child support income of zero.

### *Step 2: Calculate the expenditure for raising the children*

Andy and Ali's combined child support income is zero. There is therefore no cost to be apportioned between them.

### *Step 3: Calculating the child support obligation*

As Andy has less than 14 percent care of the children and no net child support income, he pays the minimum payment of \$815 a year in child support. As Ali is in receipt of a social security benefit, Andy must pay this **\$815** to the Crown to help offset some of this expense. Ali has no liability given her share of care.

### *Comparison with current formula*

No change, the same minimum payment of **\$815** to the Crown would apply.