

Supporting children

*A summary of feedback
on the discussion document*

Hon Peter Dunne
Minister of Revenue



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Prepared by the Policy Advice Division of Inland Revenue

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CHAPTER 1

Introduction

On 2 September 2010, the Government released a discussion document on child support entitled *Supporting children*.

The document included various options for updating the child support scheme, including revising the current child support formula to better recognise shared care, and to take into account the income of both parents and the current expenditure for raising children in New Zealand. The current incentives for child support payments to be made – and made on time – were discussed, and various suggestions made about how these could be improved.

A dedicated website for online consultation summarised the main options considered in the discussion document and asked readers to answer a series of questions based around those options. Respondents were also able to provide comments in key areas. Written submissions on the same issues were also received through the normal policy submission process.

The purpose of this report is to set out the detailed results of the online consultation. It also provides a summary of the main themes and concerns raised in both the online consultation and in written submissions. These are supported by representative examples of actual comments received.

Broadly speaking, there is majority support for the main options canvassed, with the majority of submitters supporting, in particular, comprehensive change. There are, however, some areas where a significant minority opinion also exists, indicating that views on the specifics of any possible change do differ considerably. This is not surprising given the inherent potential for conflict in the child support area.

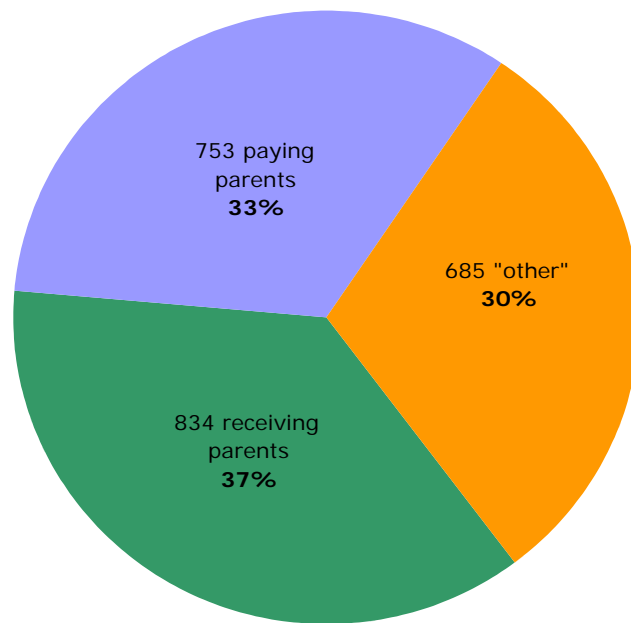
Some of the comments received did not fall strictly within the area of child support, but do have relevance when considering family relationships more generally and will therefore be referred to relevant Government departments and organisations for their consideration.

Who took part in the consultation?

Online consultation

There were **2,272** participants in the online consultation. They comprised:

- 834 receiving parents (37%);
- 753 paying parents (33%); and
- 685 “other” parties (30%), including those who both pay and receive child support, other family members, members of representative organisations and advocates in child support policy such as lawyers and academics.



Written submissions

A further **112** written submissions were received through the usual policy consultation process. These submitters included paying and receiving parents, special interest groups, lawyers, academics and other various interested parties.

As not all of these submitters were able to be identified as falling into one of the above three categories, they have not been included in the above chart. Likewise, given written submissions do not correlate with the questions asked in the online consultation, they are not included in the quantitative results contained in this report. They have, however, been well represented in the summaries of comments received highlighted in this report.

CHAPTER 2

Expenditure for raising children

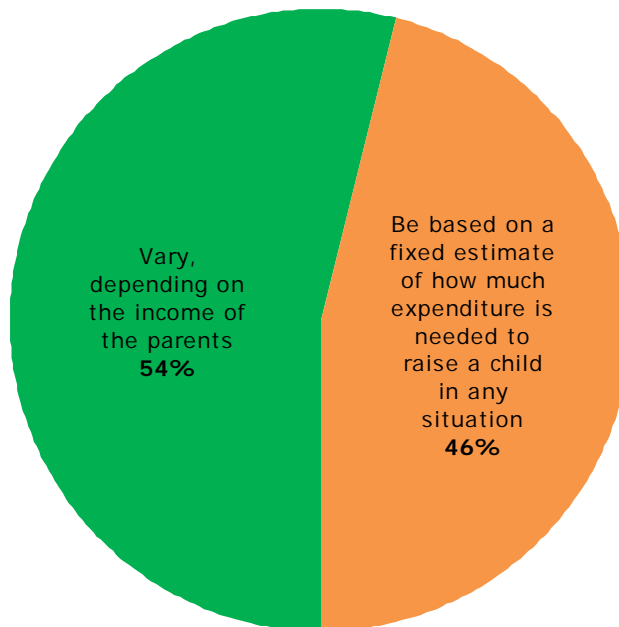
Under the estimates of expenditure for raising children in New Zealand outlined in the discussion document, child support payments would, under a revised formula, continue to increase in line with parental income to reflect the fact that people with higher incomes generally spend more on their children. A cap on parental income for child support purposes would also be retained.

Since the recent research undertaken indicates that raising teenagers is more expensive than raising younger children, a revised formula could recognise two main age categories – 0 to 12 years and over 12 years (as well as a mixed age category).

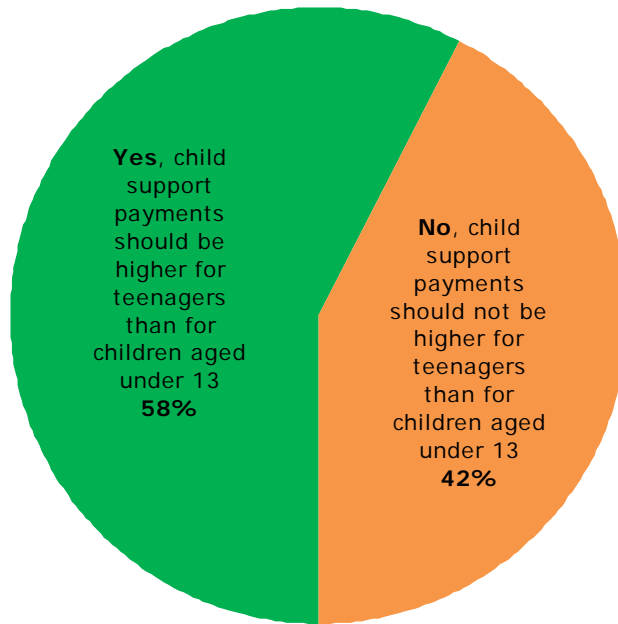
Results of online consultation

Q1: *Do you think that child support payments should:*

- *vary, depending on the income of the parents?*
- or*
- *be based on a fixed estimate of how much expenditure is needed to raise a child in any situation?*

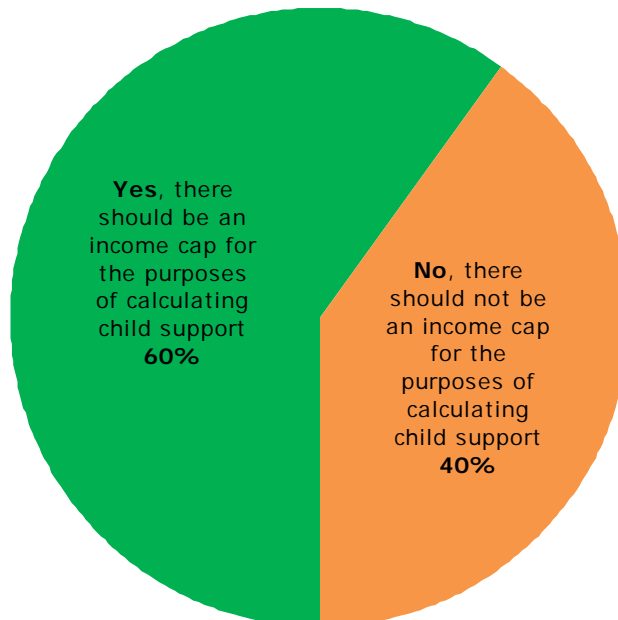


Q2: *Do you think child support payments should be higher for teenagers than for children aged under 13?*



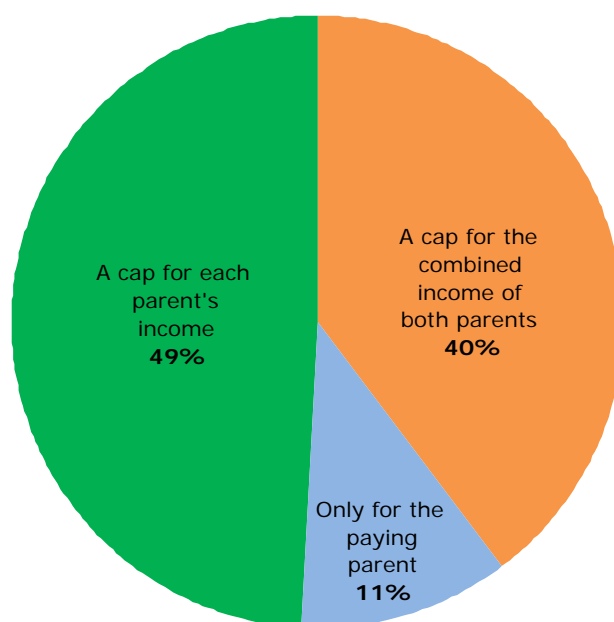
Note: The view that child support payments should be higher for teenagers than for children under 13 was particularly prominent amongst receiving parents, with 79% believing payments should be higher for teenagers, compared with 36% of paying parents.

Q3: *Do you think there should be an income cap for the purposes of calculating child support payments?*



Note: The view that there should be an income cap for the purposes of calculating child support payments was particularly prominent amongst paying parents, with 87% believing there should be a cap, compared with 32% of receiving parents.

Q3(a): If you think there should be an income cap, what do you think the income cap should be?



Summary of comments on expenditure for raising children

Estimated expenditures

The majority of responses supported the view that child support payments should vary depending on the income of the parents. However, a significant number also supported the view that payments should instead be based on a fixed estimate of how much it costs to raise a child. For those that held the latter view, some felt that this would offer parents the opportunity to make more discretionary contributions.

Commenting on using up-to-date information on the expenditure for raising children (in particular, using the “expenditure for raising children chart” provided in the discussion document)¹ in a revised child support formula, some submitters felt that the figures were either too high or too low. Several submissions noted the often high costs involved with maintaining contact with children, particularly when they lived in different locations. Also, there was concern that the types of expenditure used to compare households with equivalent living standards did not adequately reflect the variety of households’ lifestyles and how these might vary.

Some submitters also asked for clarification on the methodologies used in calculating the estimated expenditure figures, and how the calculations might interact with other Government payments. They recommended that welfare payouts such as Working for Families received by parents should be included when calculating income for child support purposes. On a similar theme, one submission suggested that while tax credits were taken into account in the expenditure on children calculation, who received those tax credits was not adequately taken into account when apportioning the expenditure between the two parents, as the receiving parent generally receives the credits as they are the primary caregiver.

¹ See page 46 of the discussion document.

Child support varying depending on the age of children

There was general agreement with the proposition that expenditure on teenagers was higher than for younger children. A number of comments, however, suggested that child support payments should be higher for children under 5 – owing mostly to costs associated with childcare for younger children, or alternatively owing to lost work opportunities in caring for the children directly. Some submitters therefore called for three different age brackets to be introduced.

An income cap

Many comments supported the retention of an income cap, reflecting the fact the additional spending becomes more discretionary as income increases. It was also noted that having a cap means that parents still have the incentive to earn extra income without fear that this will be taken into account for child support purposes.

Other themes noted

Some expressed concern that the paying parent often had no say in how child support payments are used by the receiving parent and that funds intended for the child could be diverted to the caregiver. On the other hand, many receiving (as well as some paying) parents commented that they often bear the vast majority of the costs in raising a child, and that this is not reflected in the child support payments they receive or are entitled to receive.

Some suggested that the child support scheme can result in power and control heavily favouring one parent at the expense of the other. This perceived imbalance appears to have a significant effect on the relationship between the parents and, in some cases, a child's relationships with his or her parents. Some submissions indicated that, as a default position, the amount of child support being assessed by the formula should be halved, leaving the rest as a mix of discretion, voluntary contribution and cooperation between the parents.

Other responses included:

- that the income of the family unit (when either parent has re-partnered) should be taken into account. Also, many paying parents (and their family members) felt that children from a new relationship are not sufficiently taken into account when calculating child support payments; and
- a recurring concern about the perceived ability of paying parents who are self-employed to manipulate their income for child support purposes in order to minimise payments.

Comments on expenditure for raising children²

Estimated expenditures

“The objective should be, insofar as it is possible, to afford the child the level of financial security they would otherwise have enjoyed had the relationship of their parents continued harmoniously. Consequently, fixed estimates of expenditure may drastically over- or underestimate the level of expenditure that is required. Furthermore, any such determination would have to be made by the State.”

“Support the comments about the costs the non-custodial parent has – eg, small children can share a bedroom but teenage boy and girl each need own bedrooms when staying with non-custodial parent. Children’s income should be congruent with the lifestyle of the parents, ie high income with high income parents otherwise they are socially economically dislocated from parent; reinforces that both parents have an obligation to support their children.”

“Child Support should be based on how much it costs to raise a child of a set age with each parent contributing their amount based on time spent with children and who is responsible for costs.”

“I believe costs do change/increase with the age of children but payment should be assessed on that and not how much the paying parent earns.”

“I pay child support, I also pay for school fees, clothing, piano lessons, doctors fees, sport fees etc. As I am the only responsible working parent these payments should be taken into account when calculating child support payments.”

“The parent that raises the child most of the time will always be paying more therefore their income should not be included in any child support formula.”

“The child support system proposed attempts to treat the parents as if they are still together allocating income earned by both to support their children. In some situations IR pays Working for Families tax credits to parents raising children. The amount of child support payable to be allocated between the paying and receiving parents should be reduced by the amount of Working for Families tax credit received by the receiving parent.”

“It is essential that the true cost of raising a child is factored into the support payments so that paying parents are paying for the child only and not the receiving parent’s lifestyle.”

“This assumes that both parents pay equally for the cost of raising children. Under many “shared care” arrangements including my own, the non-custodial parent makes no (not a single \$) contribution to any costs like school fees, uniforms, clothing, sports, hobbies, holiday care, after-school care, books, presents, doctor visits etc. How will this formula encourage shared costs?”

“Your cost of raising a child estimates are too high.”

“The current system is flawed in that the paying parent has no say in how the receiving parent spends the child support money. This money should only be spent on essentials for the child/children.”

² These comments, and those that follow in this report, are representative examples of comments received in the online submission and written submissions. Apart from where indicated by square brackets they are represented verbatim.

“While it is important to think about the over-arching costs of raising a child, the determination should also include who is actually paying the costs. In a perfect world both parents would contribute equally to the costs, but in my situation the non-custodial is assessed to pay the minimum and expects me to pay for everything, including the costs of access visits.”

“You can use the fixed expenditure. Some people just wouldn’t be able to afford it.”

Child support varying depending on the age of children

“The payments should be a fixed estimate providing it takes into consideration who is doing the caring and paying of expenses for the child/ren. Single parents like myself should not have our income included as the paying parent does not contribute to the expenses. The expenditure costs for a teenager increases and the payments should reflect that. There should be no income cap because those in high incomes would be able to provide [the] same opportunities as those who remain married.”

“I think that one of the most expensive age brackets is actually under 5, as babies need nappies, if they are in child care this often can cost a lot, and if you are unable to breastfeed you have to buy formula. I think that the cost of infants is often forgotten or underestimated.”

“3 AGE BRACKETS PLEASE! A bracket for children 0-5 and 5-12 years as well as children over 12. Once children start school the expenses increase considerably once the child requires school uniforms annually (kids 5-12 grow very quickly, requiring shoes and clothes far more often). Once a child is school age, they have costs for food, school lunches, school trips, sports etc. They are more expensive again than preschoolers.”

“I think under-5s are equally as expensive as over 13s, ie childcare costs, rate of physical/developmental growth and meeting associated needs, etc. I think where one parent is the primary caregiver it is not a full “shared care” arrangement/the caregiving parent's income should not be relevant for child support purposes as it's naturally distorted/different from that parent's true earning potential/there are opportunity costs/long-term career impacts for parents choosing to work part-time at home.”

“I'm not sure about how much more expensive it is to raise teenagers. On a basic level it is more expensive, however if both parents work (and don't qualify for childcare allowances) the cost of fulltime childcare can exceed \$300 per week.”

An income cap

“Having a realistic cap means that the contributing parent can work hard, get promotions, work overtime or generate any extra income without the fear that that extra income will simply be lost to Child Support. When I say realistic I mean that child support should never be calculated on more than twice the average wage.”

Other comments

“The expenditure should be based on the real cost of raising a child in whatever circumstances they live – ie, if they live with a mother who is married to a new partner and raising children in a shared environment, then the combined income of the new family should be taken into account.”

“What is not recognised in this formula is other dependants: the chart should not discriminate between your spend on a child living with an ex partner (for whom you pay child support) to children/ dependants you provide for post this relationship. The current system is divisive and one-sided, as a result it creates deep resentment not necessarily from the paying parent but from other family members that quite rightly recognise an unfair and unjust system.”

“Self-employed and business persons’ income should be assessed by a govt-approved accountant. Currently evidence of income is provided by [a] person’s own accountant and in my experience – very much down-scaled.”

CHAPTER 3

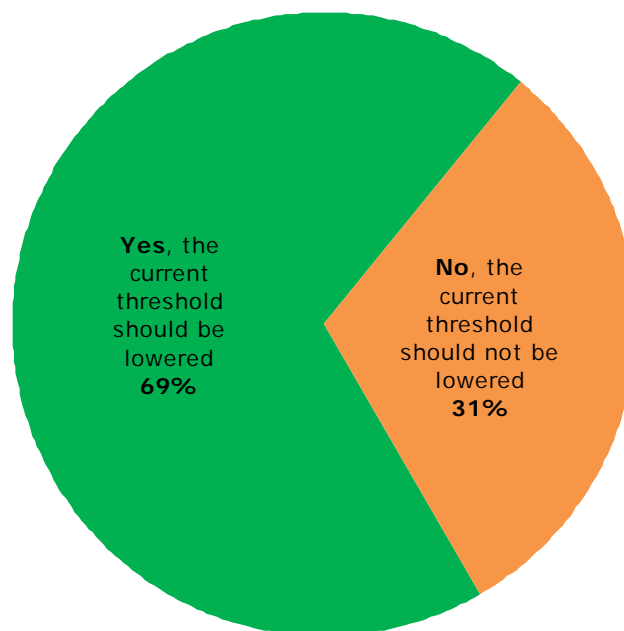
Shared care

The discussion document suggested a greater level of recognition being given to lower levels of actual and regular care of a child by paying parents. This could be achieved by lowering the current deemed shared-care threshold, which is based on care for 40% of nights.

Other issues considered included how best to measure the care of children for this purpose, and whether Inland Revenue should be able to rely on a parenting order from the Family Court or a parenting agreement between the parents.

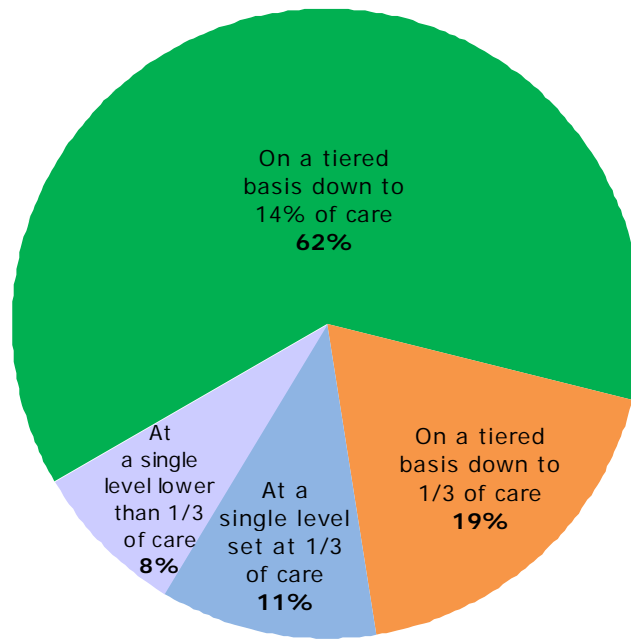
Results of online consultation

Q1: *Do you think that the current “40% of the nights” test for shared care should be lowered to include other levels of regular care?*

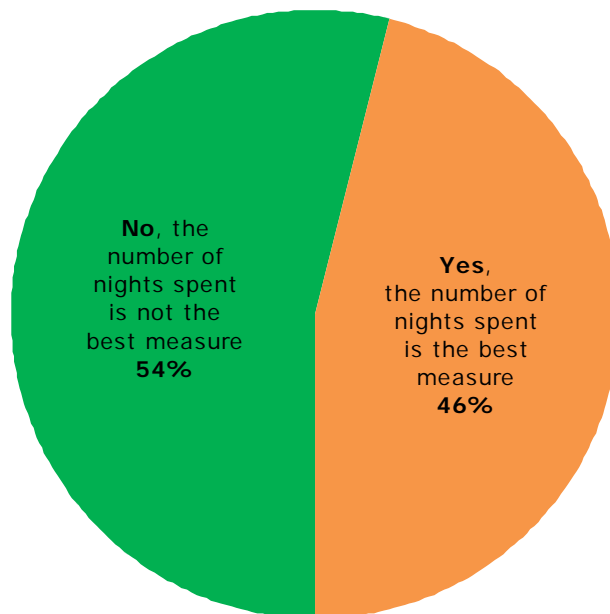


Note: The view that the current threshold should be lowered was particularly prominent amongst paying parents. Some 90% of paying parents felt that the threshold should be lowered, compared with 44% of receiving parents.

Q1(a): *If you think it should be reduced, at what level do you think care should be recognised?*

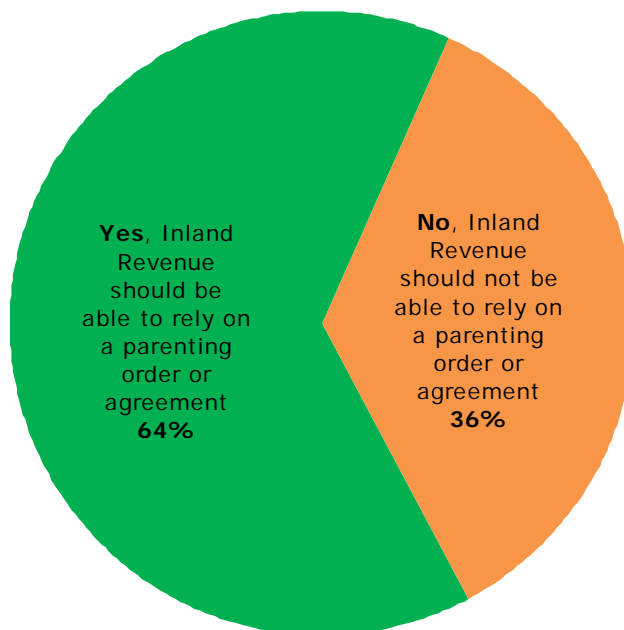


Q2: *Do you think the number of nights a child spends with a parent is the best measure for working out whether there is shared care?*



Note: Of the 54% who believed that the number of nights spent was not the best measure for working out whether there is shared care between parents, 73% felt that the total time spent with a child was the best measure.

Q3: *Do you think that Inland Revenue should be able to rely on a parenting order or a parenting agreement to establish the number of nights a child spends with each parent?*



Summary of comments on shared care

Reduction in the current shared care threshold

Most submitters agreed that the care threshold at which recognition is given for child support purposes should be reduced from the current deemed threshold of 40% of nights, although a small minority considered that anything less than equal care should not qualify for recognition. It was widely considered that paying parents are often incurring significant costs in caring for their children and these need to be recognised.

Various concerns were expressed about lowering the existing threshold, both in terms of the rates used and the way the threshold might apply. These included:

- That providing recognition at levels as low as 14% was too generous to the paying parent, in particular when the majority of everyday and other significant one-off costs were still being borne by the receiving parent.
- The fact that one of the options for shared care noted in the discussion document applies a single fixed percentage reduction over a range of levels of care. As costs are likely to vary within this range, it is argued that the recognition given should vary accordingly on a sliding scale.
- That use of a sliding scale would result in arguments between parents over who had care of their child for each day. In addition to creating uncertainty and animosity between parents, this could also result in significant administrative difficulties.
- The lack of alignment with the equivalent Working for Families threshold was also noted.

How to best recognise “care” for child support purposes

A large number of submitters still felt that the number of nights a child spends with a parent is the best method of establishing care levels. Not only does overnight care invariably necessitate the provision of care, travel and food, but it is also easy to establish (albeit conflict on this issue does still exist when parents do not agree).

A large number of submissions, however, commented that other factors, in addition to the number of nights a child spends with a parent, should be considered in establishing the best measure for working out levels of care between parents. In particular, the importance of the total time (and not just nights) that a parent spends with the child was stressed. Significant time spent with other caregivers such as grandparents and other family members was also mentioned.

Some suggested that a combination of other factors in addition to time spent could be taken into account when establishing shared care, for example, who makes key decisions in respect of the child and who usually bears the financial burden.

Reliance of parenting orders and agreements

Many submitters agreed that Inland Revenue should be able to rely on a parenting order or agreement to establish the number of nights a child spends with each parent, but considered that parents should be able to rebut such a presumption when it could be shown that the parenting agreement or order was not being followed in practice.

Presumption of shared care

Although beyond the scope of the discussion document, the question of paying parents' ability to have contact with their children, and a desire on the behalf of paying parents to automatically share care of their children, was evident in comments received on shared care.

Many comments were made to the effect that shared care should ideally be the default position for not only child support, but also for care more generally. Some concerns were raised, however, guarding against adopting this proposition automatically – in particular where there is a history of domestic violence between parents.

No child support payments if 50/50 care

A number of submissions commented that in cases of equal care (50% each) there should be no need for any sort of child support payment.

Comments on shared care

Reduction in shared care threshold

“With a fairer shared-care formula, perhaps a lot more non-custodial parents may have more input into the child or children's life.”

“Child support is not fair when you have your kids for 39.9% of the nights in a year and have to pay the other parent and don't receive any support back from them. I still have to feed, clothe, transport my children, I take them to the doctors when sick, to sports activities when required. I take a large active involvement in my children and spend a lot of money towards family activities. I also have to work, pay my mortgage, my power bills not to mention gas, telephone and HP payments. Where's my help!”

“It's fine to say oh yes, I have them x amount of nights and provide a room and dinner/breakfast BUT who is actually paying for the “other” costs of raising a child such as school fees, childcare, clothing, shoes, doctors and medicine, dentist, sports etc...”

“There are times when the level of day-time care is so significant it allows the main night-time carer to work full-time without incurring childcare costs, yet the lesser carer does not have “shared care”. However, these unusual situations are able to be addressed through the existing admin review process. I think unless care is 50/50 or very nearly and all costs are split 50/50, it is very difficult to have a fair shared-care arrangement where costs are split in proportion to care/income levels.”

“The 14 % from 52 to 103 is far too low. It should be about 33%. Also a legal parenting agreement between parents endorsed by a justice of the peace would be better, as this allows changes which reflect life changes without clogging up the court systems.”

“Many ‘unethical’ parents will do whatever it takes to maximise the child support they get from the paying parent. One way they can achieve this is by ensuring the paying parent never has the children enough to reach the threshold for shared care. Having a tiered system would go some way to ‘levelling the playing field’.”

How to best recognise “care” for child support purposes

“Children can feel more comfortable to sleep in ‘their own’ bed each night, however this doesn't mean that care isn't shared. Where do the kids go during the day? Who picks them up from school? Who gives them their dinner?”

“Overnight care is much more expensive than daytime care – as in order to provide overnight care, a parent must also maintain separate bedroom facilities for that child. Also, the majority of showering, food and laundry expenses will be paid by the parent who has the child overnight.”

“Although hard to monitor, I think total time spent with the child is relevant, but a parent can spend time with a child and still not incur the main costs of raising that child – clothing, schooling, sport fees, food, transport, medical, etc. The idea of the actual cost of the child being calculated and worked in to the formula is best.”

“Should not be based on just number of nights a child spends with a parent as the non-custodial parent often feeds the child before returning the child to the custodial parent’s in time for bed so to classify this as a night in the custodial parent’s care is wrong.”

“Shared care should be about that and not nights or days as each situation is different. There are parents that due to night shift cannot have their child during the night therefore care for them during the day and have the same or more expense as the deemed custodial parent. It should be about how much time each parent spends tending to the needs of the child.”

“Shared care needs to reflect how much time a paying parent actually spends with the child and based on the number of nights a child spends with that parent is the best measure.”

“I have 2 of my children 5 days a week after kindy for dinner and 1 night a week. I class that as shared care, it shouldn’t matter if they stay the night or not.”

“Also of great confusion is that Working for Families and child support shared care are calculated differently, as are the liable incomes for the two acts above.”

Reliance on parenting orders and agreements

“Parenting orders and agreements should be seen by the IRD as binding, unless the parties are proven not to be adhering to them. We have lost sight today when parents separate about the child or children. Too often it is now about who can get the most money. I question whether the children in some cases are benefiting. A formula should look at the income of both parents, the age and needs of the child and the number of nights the child spends with the parent.”

Presumption of shared care

“There should be a rebuttable presumption of shared care.”

No child support payments if 50/50 care

“Shared care where it exists should have no payments from either party as both parents have their expenses with their children, food, clothing and other support that they choose to provide on their income.”

“Shared care is the ideal situation for parents and children allowing them to benefit from growing up under the nurture and care of both parents. It is currently very unfair how responsibility for working and providing for the children is not equally distributed.”

“The whole methodology is wrong. When parents separate, 50-50 sharing should be the norm. In this situation no parent should pay child support since they both look after the children for the same time. Only when this arrangement is changed should child support be introduced and then dependent on access – that is, if a parent is preventing the other parent from seeing the child they should receive NO child support as this is abuse.”

CHAPTER 4

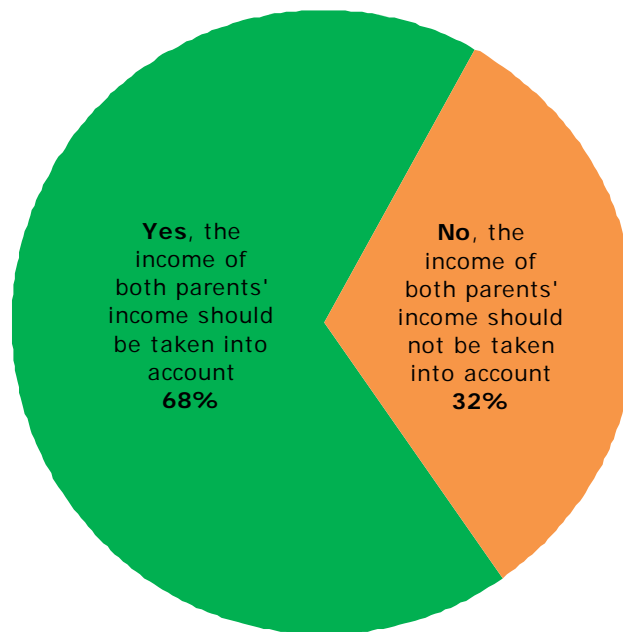
Taking both parents' income into account

On the basis that both parents should be financially responsible for raising their child, the discussion document outlined options for taking into account the combined income of both parents (as if the parents were living together).

Under this approach, the expenditure for raising the child would be divided between parents according to their respective share of that combined income and their respective levels of care of the child. A separate adjustment to a parent's child support income would be made to take into account other dependant children living in that parent's household.

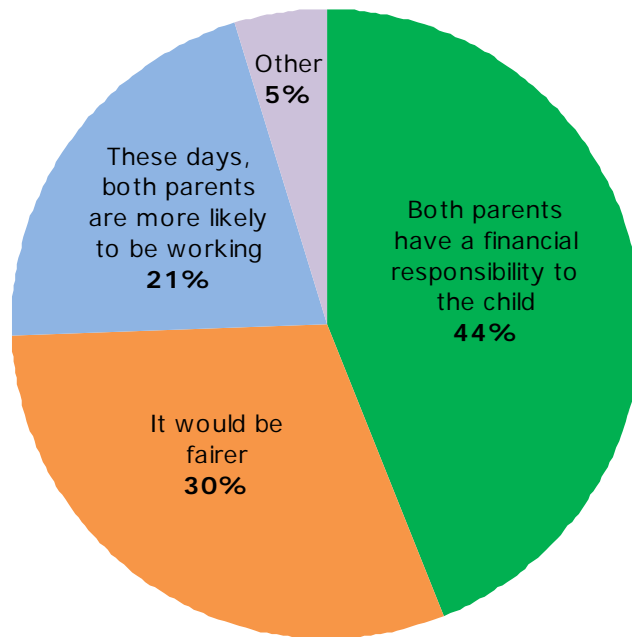
Results of online consultation

Q1: Do you think the income of both parents should always be included in working out the amount of child support payable?

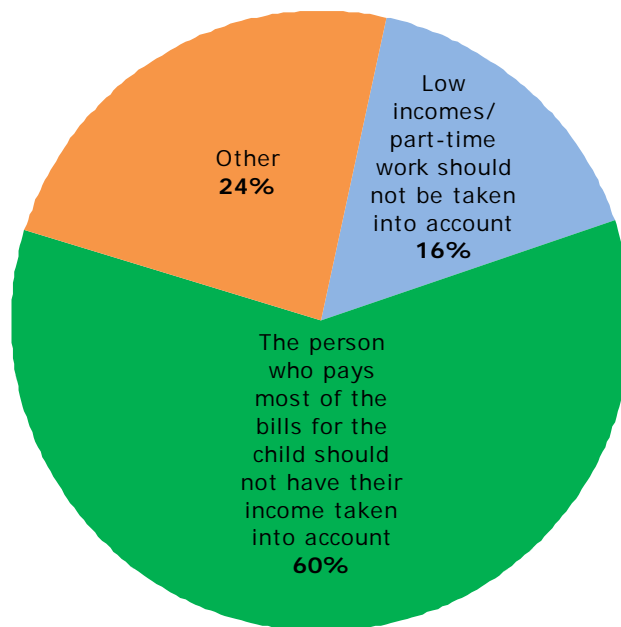


Note: The view that both parents' income should always be taken into account was particularly prominent amongst paying parents. Some 88% of paying parents felt that both incomes should be taken into account, compared with 37% of receiving parents.

Q1(a): *If you think that both incomes should be taken into account, why?*



Q1(b): *If you do not think that both incomes should be taken into account, why not?*



Summary of comments on taking both parents' income into account

Effect on work incentives

Many submitters expressed support for taking both parents' income into account, reinforcing the view that both parents should have financial responsibility for their children. One of the concerns raised about the "income shares" approach, however, is the impact that it could have on work incentives for parents. It is argued that including receiving parents' incomes will create a disincentive for them (in particular mothers looking after young children) to return to the workforce.

Many submitters – in particular receiving parents – also thought that the person who predominantly pays for the care for the child should not have their income taken into account.

Taking the income of the family unit into account

Although not recommended in the discussion document, comments were received as to whether the income of the whole family unit, including the income of a parents' new partner, should be taken into account. Many submitters thought that the income of a new partner should be included. The adequacy of the level of the living allowance suggested in the discussion document was also questioned, in particular for individuals with higher incomes.

Definition of income

Another recurring concern related to the definition of income – in particular, the perceived ability of paying parents who are self-employed (and others) to manipulate their income for child support purposes in order to minimise payments. To that end, various comments were received suggesting that all income sources including, for example, family trusts, be included.

Comments on taking both parents' income into account

General comments on taking both parents' income into account

"I believe this is only fairer if consideration of how much care is provided by either parent is also applied to the formula."

Effect on work incentives

"In my situation I have the children for the majority of the working fortnight – I act [as] a free childcare (to some degree for my ex-partner) which allows him to work whatever hours are needed at his work – this also allows him to further his career and take additional training opportunities that aren't anywhere nearly as easy for me to pursue. I consider I'm financially disadvantaged enough!"

"The custodial parent's income should not affect the non-custodial parent's responsibilities for their children. The paying parent's liability should be based on THEIR ability to pay, not on the recipient parent's income. Custodial parents would be discouraged by the fact that any increase in their own income, would cause a decrease in child support. This would create a disincentive to work, or to better themselves. It would create an incentive to work 'under the table'."

"This is the proposal of most concern to me. [It] disincentivises custodial parents to return to work and make a better life for themselves. For higher earning custodial parents this approach does not take into account the opportunity cost and other 'soft costs' associated with being [the] primary caregiver. Also, where do you draw the line with looking at partners of parents and their income? It's a slippery slope."

Taking the income of the family unit into account

"I would go further and say that where they have remarried / repartnered the total income of that family situation ought to be taken into account."

"I think a fairer approach would be to look at the "household income" when determining how much either parent should contribute to a child's welfare. Some cases show that a mother with the main care of her child has a low 'personal' income, thereby increasing the amount the other liable parent would be asked to pay, but she may be living in a situation where her income is substantially subsidised by a new partner... which is never obvious when looking at her income alone."

"I believe new partner's incomes should also be taken into account. Where the custodial parent takes on a new partner, that partner does and should accept the complete package, including the children of a previous relationship. In the case of [the] paying parent a new partner likewise, does and should accept the responsibility the partner has for children who reside elsewhere."

"Both parents should be equally responsible for the costs of raising their children. Irrespective of what income a person has, the basic cost of raising a child does not change, therefore what a person earns, any new relationships or children should have no bearing on the base rate that they pay."

Definition of income

“Why is the living allowance so low? Surely if you earn \$80k you would spend more on yourself per year than \$16,054? If you are basing child support payments on income, then shouldn't you base the living allowance on income too? This should be relative to income and not a set amount.”

“Income” should also include any Working for Families tax credits etc that either parent may be receiving (or this should offset any liability calculations).”

“All income should be looked at even when assets and such are placed in trusts to dodge tax systems.”

CHAPTER 5

Options for a revised child support formula

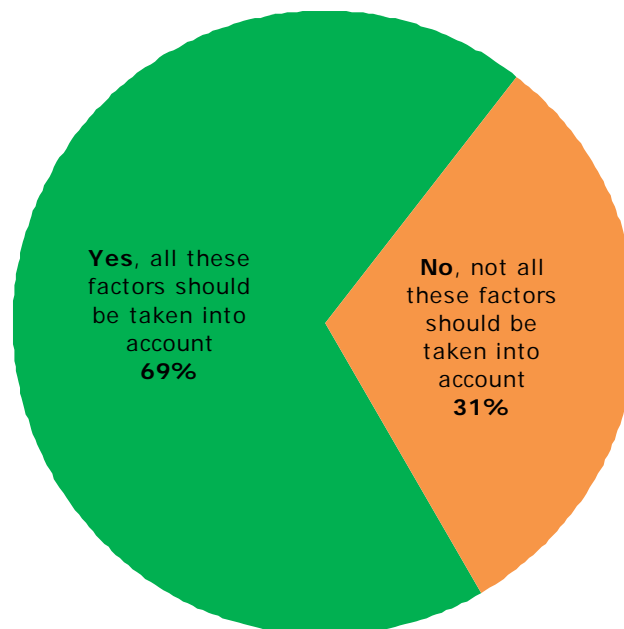
The discussion document asked whether the factors discussed above should be taken into account in determining child support payments. If so, a revised child support formula would incorporate:

- basing child support payments on estimated average expenditures for raising children in New Zealand;
- recognition for lower levels of care; and
- taking the income of both parents into account.

Respondents were asked whether all these factors should be taken into account. They were also asked, if only one of these ideas could be changed, which would they most like to see.

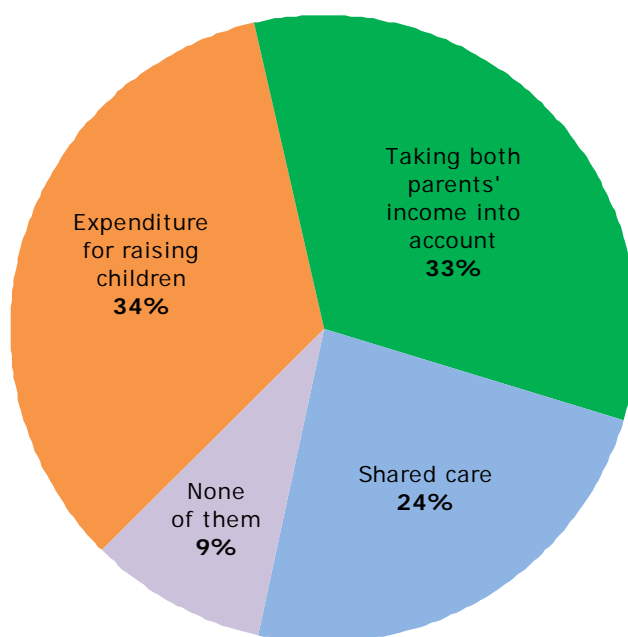
Results of online consultation

Q1: *Do you think that the factors mentioned so far (expenditure for raising children, shared care and taking both parents' income into account) should be used to work out child support payments?*



Note: The view that all the factors should be taken into account was particularly prominent amongst paying parents. Some 83% of paying parents felt they should all be taken into account, compared with 47% of receiving parents.

Q2: *If only one idea could be changed, which one would you most like to see?*



Summary of comments on options for a revised child support formula

The tone of written submissions generally indicates a preference for comprehensive change rather than change in just one issue.

CHAPTER 6

Payments, penalties and debt

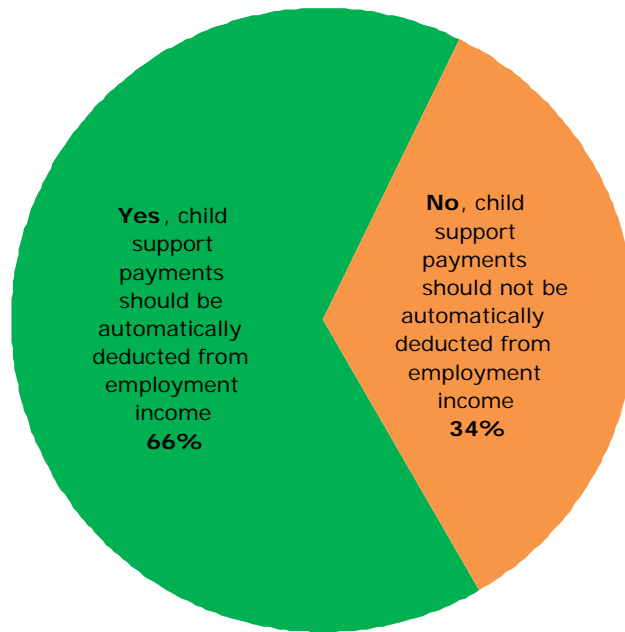
The discussion document sought feedback on whether incentives to pay child support can be improved by changing the rules relating to the payment of child support, the imposition of penalties, and the writing-off of penalties and debt.

The document suggests that the best way of dealing with child support debt is to stop the debt being created in the first place. Although penalties can be important in encouraging parents to pay their child support obligations, they can also, if excessive, lead to very high debt levels that discourage paying parents from contacting Inland Revenue and arranging payment. In attempting to strike a balance between these factors, the following options were suggested:

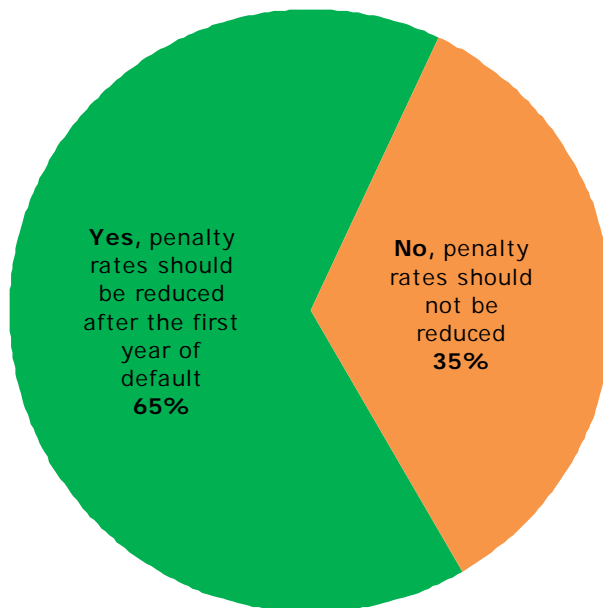
- making it compulsory that all child support payments be automatically deducted from a paying parent's employment income;
- reducing penalty rates after the first year of non-compliance (or alternatively capping penalty levels), while at the same time strengthening other non-financial enforcement measures – for example:
 - by paying parents facing more focused and intensive case management; or
 - by restricting paying parents' ability to travel overseas if they fail to pay child support; or
 - by offsetting the debt against refunds from Inland Revenue in more situations; or
 - in limited cases, by publicly identifying non-complying paying parents.
- having closer alignment with the penalties system currently in place for tax debts; and
- relaxing the circumstances in which penalties and child support debt can be written off by Inland Revenue in certain circumstances.

Results of online consultation

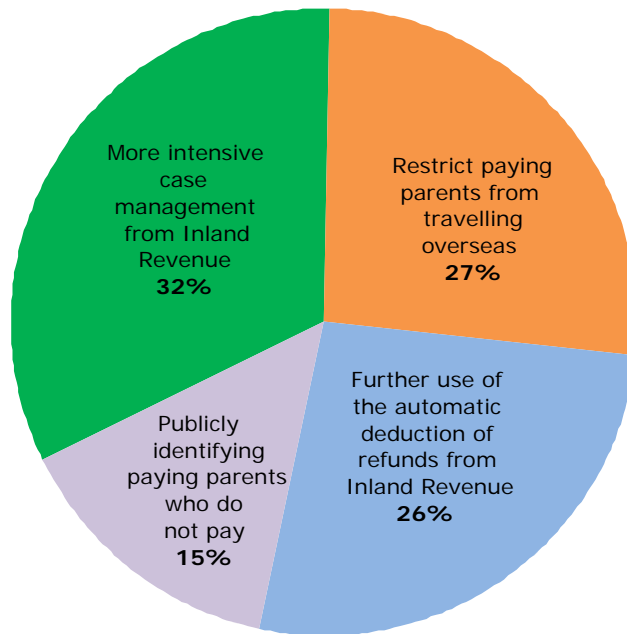
Q1: *Do you think that all child support payments should be automatically deducted from employment income?*



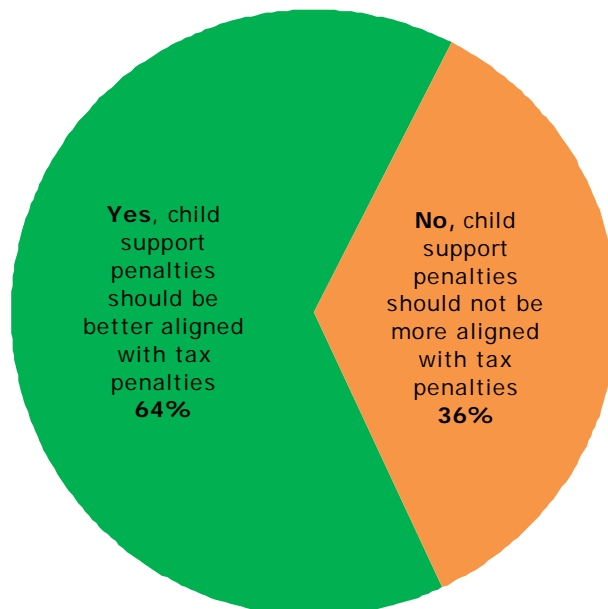
Q2: *Do you think that child support penalty rates should be reduced after the first year of default (or penalties capped) and other enforcement measures more widely used?*



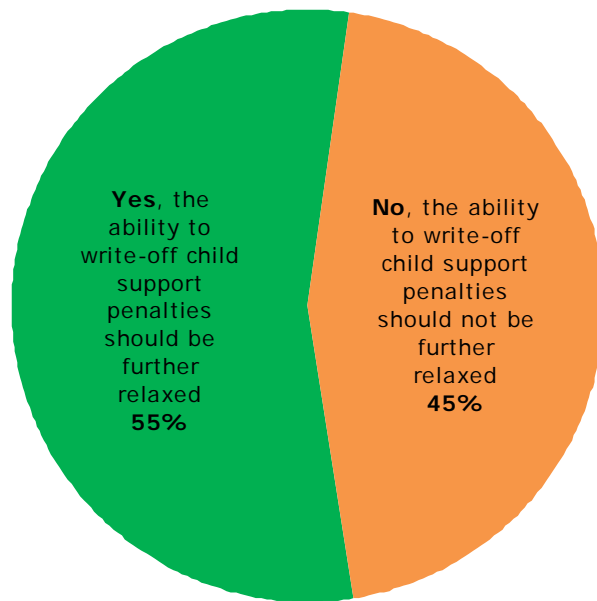
Q2(a): *If you think that child support penalty rates should be reduced after the first year of default (or penalties capped), which additional enforcement measures should be introduced at the same time for paying parents that continue not to pay?*



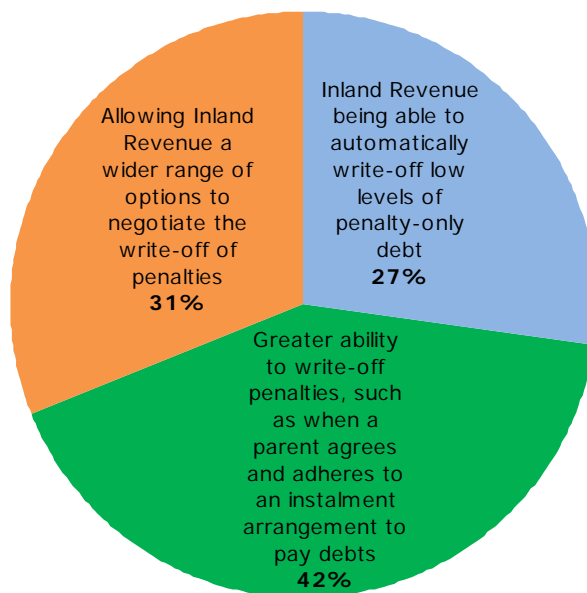
Q3: *Do you think that child support penalties should be better aligned with the penalty and use-of-money interest rules that apply for tax purposes?*



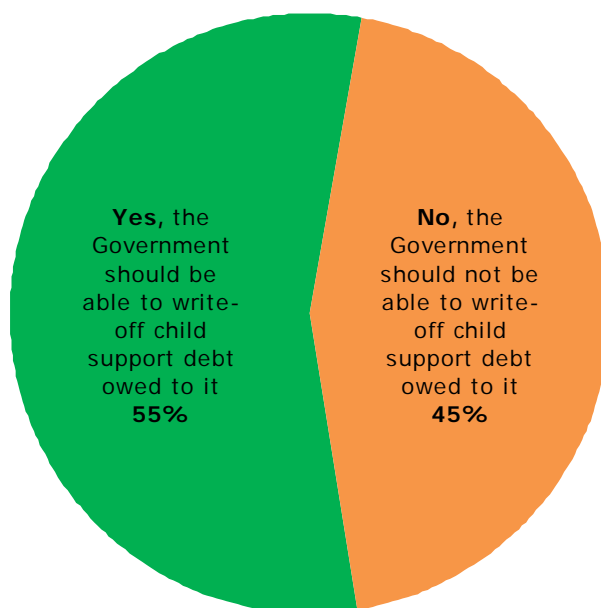
Q4: *Should the ability to write-off child support penalties be further relaxed?*



Q4(a): *If the ability to write-off child support penalties were to be further relaxed, which options should be considered to achieve this?*



Q5: *Should the Government be able to write-off child support debt owed to it on serious hardship grounds, for debts owed to it?*



Summary of comments on payments, penalties and debt

Automatic deduction of child support payments from employment income

Automatic deductions from employment income had wide support, although some concerns were raised in respect of privacy and compliance costs for employers. Submitters who did not support the option objected to the prospect of having a specific payment method imposed on them when they were compliant. They felt that they should be trusted to make their own arrangements, with this option only being used for non-compliant parents.

Some submitters noted that a similar measure does not extend to the self employed – an area where some believe manipulation of income for child support purposes is occurring.

Penalty rates, and other enforcement measures

Many submitters considered that, with the Government facing increasing levels of child support debt, it is imperative that the negative impact of the current penalties regime be addressed. This view can be summed up by one submission that contended that late payment penalty rates are far too harsh and overly penal to the extent of discouraging paying parents once they incur a debt, resulting in:

- an increase in debt problems; and
- discouraging voluntary compliance.

In terms of additional enforcement measures that could be imposed in lieu of reducing penalty rates, most of the options canvassed were supported. However, it was noted that these should be balanced against resourcing and privacy issues. The privacy implications of “naming and shaming” certain non-paying parents, especially if any disclosure were subsequently found to be incorrect, were of concern to some.

There was some support for better aligning late payment penalties for child support to those applying for tax on the basis that it would make things easier, therefore helping voluntary compliance and also reducing administration costs.

There was little support for applying use-of-money interest (UOMI) on unpaid child support. However, there was significant support for passing some or all late payment penalties on to receiving parents (who are not receiving the domestic purposes benefit) to compensate them for the fact that they have not received their child support on time.

Writing-off penalties and child support debt in certain circumstances

Support for this proposal tended to be conditional on amounts only being written-off if this resulted in payment of core child support debt or, in the case of amounts owed to the Government, in extreme and proven cases of hardship.

A common comment was that any changes should not be seen to be diluting the disincentive effect of penalties – therefore they should not be written-off too easily. A greater level of discretion in writing-off penalties in genuine cases when this would result in payment was, however, generally seen to be helpful. Additionally, some felt that paying parents who otherwise comply should not be unduly penalised for making an occasional error or omission.

Comments on payments, penalties and debt

General comments on payments, penalties and debts

“The debt issue is secondary to actually ensuring that parents receive the money they are entitled to.”

“The system needs to be fair. Families need to be encouraged to sort things out for themselves and I believe government agencies need to keep out of these situations as much as possible as they are often very complex. I think the first option should always be for a private arrangement to be made (with guidelines available), and the child support system should only be a fall-back if an agreement by the parties can't be reached.”

“PLEASE PLEASE AMEND THE PENALTY REGIME! Most of the largest amounts/periods of debt are uncollectible, due to [an] individual's circumstances, but no ‘discretion’ is given or provision made to ‘assist’ debtors, and many become embittered with their dealings with IRCS, leaving them LESS compliant, and destroying any possibility of remaining involved with or caring for their children – the children suffer because of the very financial support that ‘punishes’ one or both of their parents.”

“It’s grossly unfair. It’s punitive and ultimately money going to the penalties and interest is money not going to the children. It’s not in the best interests of the children and if it was so successful at achieving the aim of getting parents to pay why is there so much owing.”

“If CS was fair in the first place, I think a lot more people would pay. For those that do pay, CS is a financial burden designed to support an ex's life style (not the child) and this does not create an environment for good compliance.”

“Penalties and debt should be at the discretion of the parent caring for the child/ren as to whether it should be written off.”

Automatic deduction of child support payments from employment income

“Without a doubt this should be compulsory.”

“[It] enables a ‘hassle free’ option and is able to be a special tax code. [It] doesn't work as well for variable wage earners but is good for salary earners.”

“By doing [it] this way it saves the ‘he said, she said’ situations that occur with private arrangements. Also, for those that currently go through the IRD system, it will hopefully mean that the payments will come through more regularly and no longer be reliant on the honesty of the “paying” parent. In my situation, the paying parent has done all he could to avoid paying, including stating to a recent employer that he was making payments directly to IRD when he wasn't.”

“I think the liable parent should be able to have a choice as to how they pay. Currently if the liable parent does not make their payments then there is the auto option of placing the deduction onto the employer. You need to give the liable parent the benefit of the doubt to be able to deal with their own finances and not assume that payment will not be forthcoming as a number of people would not like their employer to know of their personal circumstances which is private to them.”

“Child support payments should only be automatically deducted from employment income if an individual fails to pay two consecutive monthly payments. There are plenty of us ‘paying non-custodial parents’ (sharing care 50% of the time) that actually pay child support on time as we are led to believe it is in the best interest of our children.”

“It’s a privacy matter. IRD should not be the watchdog to this. [The] paying parent should pay the other parent directly.”

“When I had wanted to have child support deducted from my income before I received it, IRD was unable to accept my voluntary request. I found this illogical as I pay tax via PAYE, why not just up PAYE at a special tax rate and apportion the child support out of the PAYE that is received. That way I avoid missing a payment and IRD gets the money in a timely way. Having to manually set up separate payments for child support is stupid and it was a major hassle for me remembering to pay on time.”

“Child support is a private and personal affair which employers have no need to know about. It also creates an additional burden on an employer, and if the employer does not subtract the correct amount, the paying parent may end up with an additional bill (and extra penalties?) to manage through no fault of their own. Essentially, child support is a personal responsibility that an employer has no business in.”

“What about self-employed people?”

“It is not fair to have a person's private life made public at work. Plus the employer would have to meet the cost of administering this additional deduction.”

“This only targets PAYE earners – what about all the self-employed parents who minimise their income to avoid CS?”

Penalty rates and other enforcement measures

“More intensive case management from IRD would be fantastic, instead of it being based on the ‘dripping tap’ scenario which happens currently. By using other enforcement measures rather than solely penalty rates it may act as an incentive for the paying parent to keep up to date with their payments.”

“Capped when it becomes apparent they aren't going to pay... no point adding fines on top of fines that then become bigger than the initial debt and don't show a true representation of unpaid child support, but rather unpaid fines with some unpaid child support.”

“The 10% penalties are fair but not the 2% penalties. The liable parent is never happy to suddenly see a debt of \$100,000 which includes all the penalties when the original child support portion is only a few thousand dollars. This makes it very hard to collect the outstanding child support.”

“If the system was fairer there would likely be less defaults.”

“I don't see the point in penalising people on a monetary level. It just adds to the problem. Majority of people don't pay because they are unable to, the situation with the receiving parent is difficult or they think the calculation is unfair (shared care etc). I think if a paying parent defaults, then IRD should apply for an attachment to wages/benefit.”

“I think penalising people is not going to make them pay any quicker. I think helping paying parents pay on time might help.”

“First off penalties should be reduced, ie if payment is missed by one day or so or if there have been regular payments but for some reason a payment is suddenly not made. Take longer to impose penalties but then be more forceful after attempts have failed to get that parent to pay.”

“Once penalties get high they are ignored. Increased management via personal contact would be beneficial.”

“Parents who choose to ignore their responsibilities should be encouraged to face their responsibility. They know the consequences of avoiding childcare so removing penalties, in my view, won't necessarily make them pay if they've continually avoided their responsibilities in the past.”

“Penalty payments fail to benefit children as they are not passed on. Penalties cripple paying parents' ability to get back to a level score card and to feel good about contributing even if it is in a purely financial way to the lives of their children – paying parents are penalised in many other ways – your terminology reinforces winners and losers – the fact they are not passed on to the children adds insult to injury.”

“Failure to pay child support should be like in America, ‘a criminal offence’ and an arrestable offence. There is no excuse for not paying.”

“Penalties need to be actually enforced! Any parent with late payments should not be able to leave the country regardless of the amount. This is a principle that should be enforced. If the paying parent has the money to travel overseas they have the money to pay child support. If the paying parent has to travel for work, then it is a stronger incentive to pay on time so as not to affect their employment. Payment should be deducted from their wages and there would not be a problem in this area.”

“I don't support publicly identifying non-paying parents – this is pretty ‘out there’.”

“I don't see the point in penalties – it just puts people further into debt. I would understand if the money got passed on to the custodial parent as we generally incur costs when the child support doesn't get paid – but the money doesn't get passed on – it goes into the Government coffers.”

“Tougher measures need to be brought in for recovering money from self-employed people, including taking money from their personal, company and trust bank accounts.”

“You identify non-paying parents and you humiliate a child.”

“Penalties should be removed altogether. Why punish the paying parent further? And if compulsory deductions are introduced this will be a minor problem which can be addressed case by case.”

“I would suggest that instead of the 10% lump sum penalty, that a say 1% or 2% (min \$5) amount be immediately added and that would increase if the amount was still unpaid say 7 days later (depending on how quickly notice was given of the missed payment). This would mean there was incentive for the paying parent to pay up as soon as possible. IRD should also be able to make the payment to the receiving parent between normal payment dates.”

“I think the penalties should be high at first and then reduce if it is demonstrated that the person pays on time has an issue/communicates with IRD. If the person defaults/is late and has one chance to redeem themselves it goes back to the initial penalty. If penalties were capped after a certain point then [there is] no incentive for someone who has reached that point to clear their debt.”

“I want to see interest on the outstanding money be added to the amounts and collected and given to the parent who has been supporting the child, while waiting for the other parent to ‘get around’ or completely avoid paying child support.”

Writing-off child support penalties in certain circumstances

“If the penalties are contributing to the non-payment (due to stretching [a] paying person’s income more) then they should be able to be written off as long as the payer enters into a contract to pay regular CS.”

“Greater ability to write-off penalties if agreement made and adhered to...for the full term of the debt repayment...not for 6 months and stop paying again... Anything long-term should incur additional debt... Encourage fast payment, quick resolution, avoiding long-term debt. But severe penalties for long-term non/erratic payment. And penalties written-off for quick repayment of any arrears and those who show a long-term good history of payment.”

“Empathy for both parties is paramount – an error once in a blue moon simply doesn't justify your penalties.”

“Penalties were supposed to be a way of getting someone to comply. From the CS debt figures released recently it [is] clear that it is making some people hide under a rock as the amount has got out of control. And the only person that suffers is the child especially since the child does not see any of the penalties if they are ever paid.”

“IRD needs to have options available to the paying parent who has incurred penalties, especially if there is a payment arrangement in place. It would encourage them more to stick to the arrangement and feel better about it as they see the amount reducing further faster.”

“Increase IRD's options and discretion to write off penalties, but don't actually make write-offs easy to obtain or assumed. The main point of penalties is to be a disincentive to default on payments, so the penalties need to be believable while not driving people to despair if they are genuine in their intent to pay and their reasons for not.”

“Maybe review at some future stage after impact of this review and any changes implemented can be evaluated.”

“The aim is to make a paying parent compliant so any incentive to get them to pay can be an advantage. At present waiting 26 weeks to write off penalties is too long. A liable parent’s circumstances can change frequently so one missed payment can result in the earlier repayment arrangement being invalidated. Is it possible to have an ongoing regime where write-off is effected relative to the amount paid?”

“Having relaxed policy and legislation provides Inland Revenue with greater negotiation movement. Any penalty should only be written off or wiped once full payment is made though. Not before. Being able to write off smaller debts will also reduce the huge amount of Child Support debt.”

“All penalties should stay, otherwise they aren't penalties. The problem is not in the write-off, the problem is in the penalty imposed in the first place.”

“Only if the receiving parent agrees to it.”

“Some of the penalty should be paid to the custodial parent as quite often they go without if child support is not paid so that the child does not miss out.”

Writing-off child support debt owed to the Government (note, not amounts owed to receiving parents) in certain circumstances

“It is not going to affect the receiving parent so makes no difference to them, however I wouldn't like to see this happen to every liable parent, it would have to be on serious hardship grounds. I would also like to see terminally ill liable parents considered as a child support debt write-off.”

“They should have it deducted at \$10 a week, it may take them a long time to pay off but I know heaps of people that have had to do it.”

“Child support debt should never be written off, whether it be owed to the custodial parent or Government. The responsibility should always remain, even if it is paid off with a minimal weekly payment.”

“Only if wasting time chasing a non-payer is never going to produce results.”

“This would see paying parents treated differently depending on the circumstances of the custodial parent.”

“Any write-off provisions likely to be abused. We have [the] option to suspend collection and should take that step if [there is] no income through ill health.”

CHAPTER 7

Other issues

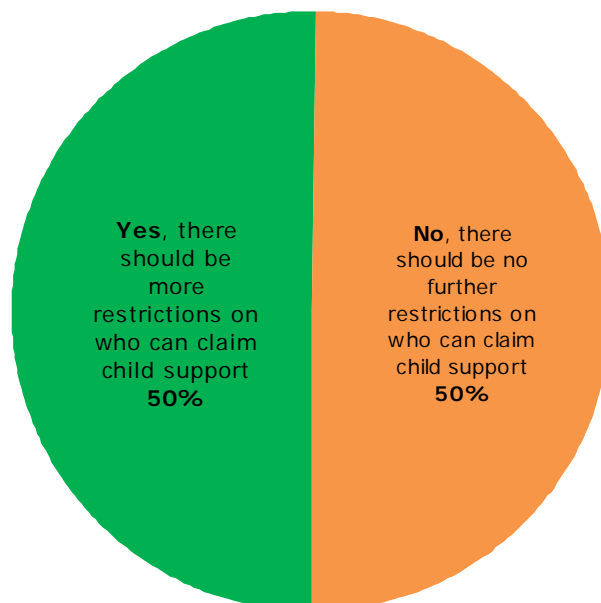
A number of other issues were considered by the Government as part of its review of the current child support rules. These included:

- whether the ability to claim child support should be restricted to either a parent of a child, someone who has legal custody of a child, or someone who is entitled to receive a Government benefit in respect of a child;
- whether parents who earn additional income after separation in order to meet set-up costs (such as a new home or furniture) should be able to apply to have this additional income exempted from their overall income for the purposes of the child support formula;
- whether paying parents who meet certain costs of the child directly (for example, for school fees, school uniforms, medical/dental services for the child) should, in some circumstances, be able to get a “credit” for this against their child support payments; and
- whether child support payments should stop when the child turns 18, unless the child is still in full-time secondary education, in which case the payments would stop when the child left school.

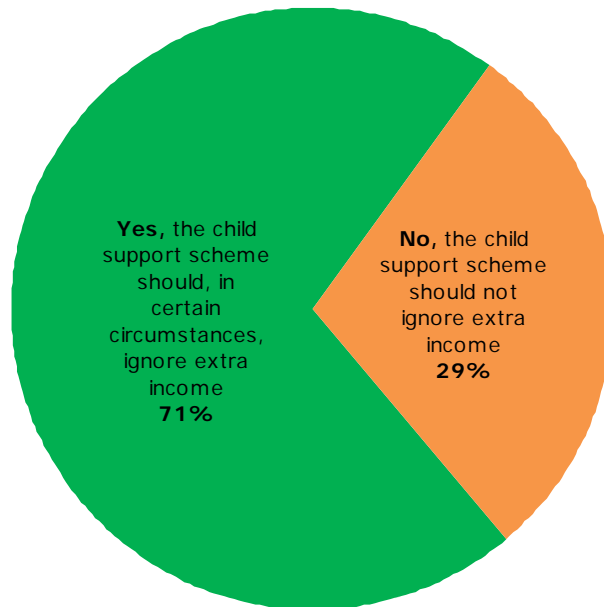
Results of online consultation

Q1: *Do you think that the ability to claim child support should be restricted to either:*

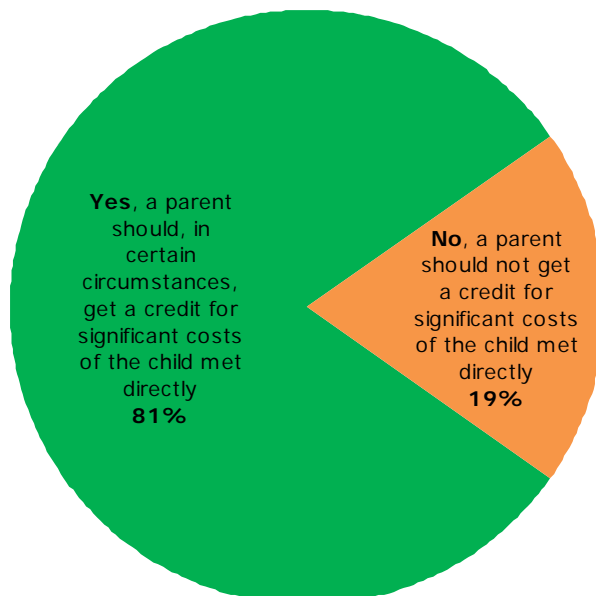
- *a parent; or*
- *someone who has legal custody of a child; or*
- *someone who is entitled to receive a Government benefit in respect of a child.*



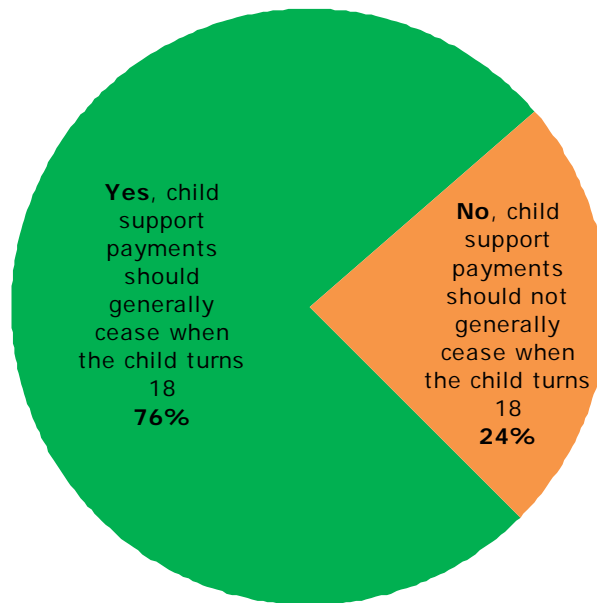
Q2: *Do you think that the child support scheme should, in certain circumstances, ignore certain extra income (for example, from overtime or a second job) for a finite period to allow a parent to set up a new home following a relationship break-up?*



Q3: *In certain circumstances, do you think that a parent should be able to obtain a credit against their child support liability by meeting significant costs of the child directly (for example, medical bills)?*



Q4: *Do you think the age that child support payments cease should generally be when the child turns 18 (unless they are still in secondary education)?*



Summary of comments on other issues

Who should be able to claim child support?

Results were divided over whether the ability to claim child support should be restricted. Of those that made submissions on this, a recurring theme was that unduly restricting child support to certain groups could have significant adverse implications for those situations when children were being looked after by extended family members.

More generally, some felt that anyone who can prove that they are caring for the child and have the child's best interests at heart should be able to make a claim for child support. On the other hand, some submitters felt strongly that when children leave home without their parents' consent, then the person looking after them should not be able to make a claim for child support.

Recognising re-establishment costs

There was general support for recognising re-establishment costs, with many submitters feeling that, if allowed for a finite period of time, this would allow parents to adequately set up a stable home to allow them to look after their children. Others, however, stressed that all income should be recognised and that allowing re-establishment costs could complicate matters, would require detailed guidance, and could potentially be open to abuse.

Prescribed payments

Although this idea was very well supported, and was raised in many comments (often in conjunction with the issue of accountability for child support payments), the associated practical issues were also well canvassed – for example, that ideally there should be agreement between parents of what represented acceptable expenditure for such purposes.

Age at which child support should cease

Although most submitters were supportive, a number of comments were also received that suggest that payments should continue for longer if the child continues in tertiary education. A small number of submitters, on the other hand, thought that child support should cease at an age before 18.

Other issues

Other issues were submitted as part of the consultation but fell outside the scope of the online questions and the discussion document. They are, however, relevant when considering family relationships and interaction with the child support scheme more generally and include:

- That parents' child support contributions should be paid into a trust account for the children, and that all subsequent expenses could then be withdrawn from that account.
- Concerns were raised about the ability of paying parents, in certain circumstances, to have contact with their children. When this issue was raised, it was often noted that this lack of contact could act as a disincentive to make payment.
- Ways of better recognising the interests of the child. This was sometimes raised in conjunction with a view that there is a need for a more holistic approach to reform relating to the care of children.
- The practical difficulties faced by many victims of domestic violence when interacting with other parents or when dealing with Inland Revenue.

Comments on other issues

Who should be able to claim child support?

“... someone who can prove that they are caring and providing for a child because it is in the child’s best interests regarding health and safety to do so.”

“Those who meet the criteria for caring for a child legally and are accountable and meet the terms of caregiving and any guardianship or parenting orders.”

“Someone who has entered into a voluntary agreement to care for a child where the agreement indicated that child support would be the way to make payments. Parents who object to their child being cared for by a person chosen by the child, without the parent's consent should not be required to pay child support simply because the child ‘ran away’ from home. This should be considered a care and protection issue and CYFS or [the] Family Court should be involved and determine obligations.”

“Also grandparents, step families.”

“The concept of access to child support is always going to be a contentious issue. Each case will need to be reviewed against a set of guidelines. However once any guidelines are published, there is always a risk that custodial parents will attempt to arrange their affairs to maximise any benefits.”

“I feel the Child Support Act needs to recognise ‘Whangai’ situations. Although this is a Māori term for an adoption that has not been processed by the proper legal authorities, it is common amongst most cultures. If the child has been given to another person at birth to raise, I feel that the biological parent should not be made liable, or be able to object and provide supporting evidence that for all intents and purposes, the caregiver is in fact the parent.”

“Someone who is actually taking care of the child; it should be the paying parent and custodian's liability to make sure the child is in good care, and to inform police or CYFS as soon as they think the child is being mistreated, and [take] action on it.”

“I think that if a child has left home without parental consent and that parent has filed a complaint with the police then no claim can be made for that child. So, if the child continues to disobey their parents there is no financial incentive for other adults to support that child against the parent's wishes.”

“There are situations where extended families are brought in to take care of the children such as [a] grandparent because neither parent is able to take care of the child. In these circumstances they should be allowed to receive child support payments to meet their costs.”

Recognising re-establishment costs

“When my ex partner did overtime for extra income it seemed that really I got the extra not him. That's why we have moved to a private arrangement, if he has income fluctuations it doesn't matter. In the same token if he was to lose his job or take a massive pay cut we would obviously need to change the arrangement.”

“Only in circumstances where [the] parent [is] accepting their responsibilities already.”

“Sometimes the extra income is intended specifically for that purpose – [to] help get on their feet following a break-up. Why take more from the paying parent when they are working hard to earn more – leave it at main income.”

“Only for a capped period.”

“If the assessment is fair to begin with this should not be necessary. But some families and non-custodial parents cannot get ahead because they are either trying to re-start ... or pay for two families as in our case.”

“As long as this can be viewed as beneficial to the child, ie if there is shared care and they need to buy furniture for the child to use when visiting. If they have no shared agreement then no.”

“Absolutely. Parents who have put their careers on hold to care of their children should not be disadvantaged when a relationship breaks up. A relationship break up for many parents and their children means a huge change in circumstances. If an individual is willing to work to help their children/family re-establish they should be applauded not penalised.”

“For a restricted period, eg 3 months, as often the receiving parent has costs also in setting up a home as well as providing for children.”

“Must be criteria or guidelines around this.”

“It would overcomplicate matters, and would probably disadvantage less-educated parents who would be less likely to make special applications to exempt their ‘extra income’. It would also be likely to result in fraudulent claims.”

“Income is income. It should be a percentage of all income.”

“Overtime is income and is taxed as such. There is no tax relief for someone needing to set up a new home. Why should the children subsidise it. If the levels of child support are too high, they should be dropped, particularly where the other parent is on a benefit. In those situations it is next to impossible for a liable parent to feel they are contributing to the welfare of the children and, in middle income earning situations, it is difficult to contribute further.”

“The overtime option would make it too easy for the employers to help the liable parents to ‘fiddle’ the figures. I do think redundancy pay outs should not be included though.”

“Surely both parents are trying to re-establish at this time? The children still need day to day expenses covered, and I'm sure they have re-establishment costs too!”

“It depends on circumstances. Again, the child should not be penalised for a parent leaving.”

“There is currently admin review if there are circumstances out of the norm. Everyone is entitled to half their matrimonial settlement so this would be allowed for in that.”

“This is what the separation agreement is for. Separation agreements and the breakdown of marital property is nothing to do with care of the children.”

Prescribed payments

“Absolutely. Isn't that what child support is for? To pay toward costs of raising a child – which includes medical and schooling.”

“This way paying parents who also contribute directly can have that contribution recognised.”

“It would be a way of encouraging more non-custodial parents to be more involved with their child.”

“Depends on the expense. These costs should be shared by both parents on top of the child support liability. These should include one-off costs like new school uniforms and medical or dentistry bills. These are necessary expenses for the child’s benefit. I do not think it should include new computers or luxury items, or sports costs that can get out of hand when one parent thinks is important and the other cannot control.”

“Only if the costs are warranted.”

“It [is] all about the child, and if a person is contributing directly to the child's care and living, then that person should have a credit for it.”

“These purchases need to be agreed by both parties otherwise the paying parent determines what the money is spent on rather than leaving the care-giving parent with discretion to get what is actually needed.”

“I do not think this could be administered properly and fairly. I can see a system like this open to abuse.”

“This would be very hard to monitor, if paying parents were allowed to get a credit, there would have to be strict criteria.”

Age at which child support should cease

“I agree that child support should cease when the child turns 18 unless the child is in secondary education, child support is required to be paid. But after this period, the child either starts to work or is eligible for student loans or government benefits. If the child leaves school before 18 to start employment or tertiary education then child support should also cease.”

“Should be capped at 18 or younger if they leave school and support themselves in employment.”

“As long as they are at secondary school that’s only fair, once working or on some benefit child support should stop.”

“My son no longer receives child support as he is 18 and working fulltime, however next year he is studying fulltime and I believe that both parents’ incomes come into account in regards of him receiving a student allowance. Unless his father is paying child support then his income should not be counted for anything. If it is counted then the child support needs to continue until it no longer is.”

“Nowadays society expects parents to support their children past secondary school (aka tertiary education), and as such I feel that if a child is undertaking additional education past high school then child support should continue until 21.”

“Up to 25 if still in education. This is when student allowance kicks in without parental income assessment.”

“I think that given that tertiary students are not considered independent till they are 25 for allowance purposes, then child support should be paid to tertiary students until they reach this age.”

Use of trust accounts

“As the system is right now the money is paid in to the CP account and [there] is no control over how the money is spent. Also [it] is not clear how much the CP contribution to the child support is and what are the real expenses with the child. Instead if both parents’ contribution is paid into a trust account for the children’s benefit all the expenses can be withdrawn from that account. This way the children can benefit more and any money not spent will accumulate for them.”

“The Government should look at setting up trust accounts for children “receiving” child support to ensure it is actually used on the child for school fees etc and not by the parent for luxury items such as cigarettes and alcohol. Receipts can be submitted to the trust for reimbursement at month's end (like any tax return). Anything not spent can stay in the account for future use. When the child turns 18 they should be able to get that money directly to help them out in life.”