

Concerns regarding the intersection of Child Support and Family Tax Benefit

Introduction

Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people on their social security issues and rights. Our members across Australia have provided people with free and independent information, advice, education and representation in the area of social security for over 40 years.

This briefing outlines key intersecting elements of the Child Support and social security systems, as background to policy analysis EJA is currently undertaking in this area.

EJA remains concerned about particular ways in which Child Support and Family Tax Benefit intersect, given:

- Those responsible for paying Child Support ('payers') are weaponising the Child Support system against ex-partners, regardless of the negative impact on their children. The prevalence of this type of financial abuse is partly due to the many ways perpetrators are able to manipulate the system – for example, they do not pay Child Support, pay irregularly, hide earnings, and/or delay lodging tax returns.
- Social security systems are not equipped to ensure primary carer parents receive their full Family Tax Benefit entitlements; or to prevent incorrect or unfair debts arising from late or non-payment of Child Support.
- Sole parents and their children are overrepresented amongst those living in poverty.

Purpose of the Child Support system

The Child Support system was introduced in 1988 to address poverty in single mother households, providing an administrative mechanism so that parents would not have to go to court to pursue child maintenance.

The aims of the Child Support system are consistent with the *UN Convention on the Rights of the Child*¹ (the Convention) which requires that member countries use their best efforts "to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of

¹ UN Convention on the Rights of the Child at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

the child” (Article 18), retaining “the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child’s development.” (Article 27 (2)). The Convention also states: “States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child” (Article 27 (4)).

Numerous inquiries² have identified non-payment of Child Support and its consequent effects through the social security system as an issue requiring reform. The need to minimise the perpetration of financial abuse through the Child Support system remains a priority.

Current collection of Child Support

→ The Child Support scheme directly affects more than one million people, many of whom also receive social security payments.

The Child Support scheme involves large numbers of people, including people who do not receive social security. Approximately half of Child Support cases are managed through Agency Collect (through the Child Support Agency under Services Australia), while the other half are managed through Private Collect (private arrangements between parents). A person can apply to change from Private Collect to Agency Collect at any time.

	<u>Total</u>	<u>Agency Collect</u>	<u>Private Collect</u>
Cases	628,000	318,750	309,250
Parents/Carers	1,149,065	600,625	601,500
Children	960,950	468,040	492,910 ³

Men make up the majority of payers, while women make up the majority of payees.

	<u>Total</u>	<u>Men</u>	<u>Women</u>
Payers	584,355	484,815	69,195
Payees	581,800	66,335	485,760 ⁴

² Key child support inquiries, reports and research listed at <https://www.dss.gov.au/child-support/child-support-scheme-history>

³ Child Support Program Data – March 2025 at <https://data.gov.au/data/dataset/child-support-program-information/resource/2e8862f3-7aef-4c64-8713-143c526c0400>

⁴ Child Support Program Data – March 2025 at <https://data.gov.au/data/dataset/child-support-program-information/resource/2e8862f3-7aef-4c64-8713-143c526c0400>

Impact of Child Support on social security entitlement

→ Child Support affects Family Tax Benefit Part A (and sometimes Rent Assistance).

Family Tax Benefit

Family Tax Benefit is a payment for low- to mid-income parents with children, including all people eligible for income support (such as JobSeeker Payment or Parenting Payment) and some people who do not receive income support. Family Tax Benefit is divided into Family Tax Benefit Part A (FTB A) and Family Tax Benefit Part B (FTB B). Child Support affects only FTB A. It does not affect FTB B or any other payments.

As at March 2025, 1,270,995 people were receiving FTB A.⁵

FTB A has two components: the base rate and the maximum rate. The base rate is currently \$71.26 for each child/fortnight.⁶ The base rate is not affected by Child Support income. The gap between the base rate and maximum rate is affected by Child Support.

Gap between Family Tax Benefit A base rates and full rates

Age of child(ren)	Max FTB A/fn ⁷	Gap between base rate and max rate/fn ⁸
0 to 12 years	\$222.04	\$150.78
13 to 15 years	\$288.82	\$217.56
16 to 19 years - meets study requirements	\$288.82	\$217.56
0 to 19 years - in approved care organisation	\$71.26	0

Effect of the maintenance action test on FTB A

- All people seeking FTB A who have an 'eligible child' are required to take action to seek Child Support under the maintenance action test (MAT).
- If a person is concerned that seeking Child Support may cause or exacerbate domestic violence, they may be exempted from the MAT.

All recipients of FTB A are required to take reasonable maintenance action for a child under the maintenance action test (MAT) if they are entitled to apply for Child Support and it is reasonable to do so. Decisions to apply a MAT exemption often involve social workers or Indigenous Liaison Officers.⁹

⁵ Benefit and Payment Recipient Demographics - March 2025 at <https://data.gov.au/data/dataset/dss-payment-demographic-data/resource/6de5b023-01b3-4562-b4a7-d7a4cc93df75>

⁶ Services Australia, FTB Part A payment rates - 3 June 2025 at <https://www.servicesaustralia.gov.au/family-tax-benefit-part-payment-rates?context=22151>

⁷ Services Australia, FTB Part A payment rates - 3 June 2025 at <https://www.servicesaustralia.gov.au/family-tax-benefit-part-payment-rates?context=22151>

⁸ Calculated by subtracting base rate (\$71.26) from max rate.

⁹ Section 3.1.5.100 Role of the ISO & social worker, *Family Assistance Guide* at <https://guides.dss.gov.au/family-assistance-guide/3/1/5/100>

A full exemption from the MAT is available where a person is collecting child support through the Child Support Agency, i.e. using Agency Collect.

The *Family Assistance Guide* outlines full exemptions from the MAT that may be granted where:

- a person fears that taking action to seek Child Support will cause the payer to react violently towards them or their family.
- seeking Child Support may have a harmful or disruptive effect on the person or the payer.
- the identity of the other parent of the child or children is unknown.
- the person has had legal advice that parentage could not be proven through a court.
- the person has been unsuccessful in proving parentage (such as failed attempts to locate a child's other parent).
- the child was born as a result of a surrogacy arrangement which is not recognised under the *Family Law Act 1975*.
- there are cultural considerations that adversely impact on the individual's capacity to take reasonable maintenance action.
- the payer in the Child Support case is deceased.
- there are other exceptional circumstances.¹⁰

A partial exemption from the MAT is available to people using Private Collect, or where there is no child support assessment in place but the other party is voluntarily paying child support. In such circumstances, Services Australia does not have oversight of the amount of child support being paid so the person must notify Services Australia whenever a change is made to the amount of child support received.

The *Family Assistance Guide* outlines that a partial exemption can be applied where:

- a person has a fear of violence.
- there is risk of harmful or disruptive effects.
- there are cultural considerations to take into account
- there are other exceptional circumstances that make it unreasonable for the person to pursue the collection of their full entitlement or to transfer collection method to Child Support (for Private Collect), or take formal maintenance action (no child support assessment in place).¹¹

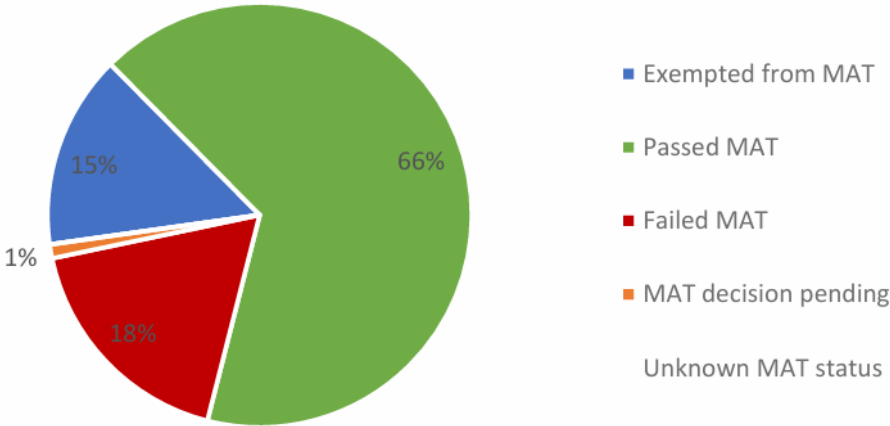
¹⁰ Section 3.1.5.70 Exemptions from the maintenance action test, *Family Assistance Guide* at <https://guides.dss.gov.au/family-assistance-guide/3/1/5/70>

¹¹ Section 3.1.5.70 Exemptions from the maintenance action test, *Family Assistance Guide* at <https://guides.dss.gov.au/family-assistance-guide/3/1/5/70>

Failure to meet the MAT

→ Child Support data reflects high rates of MAT ‘failure’, which immediately reduces FTB A to the base rate.

Child Support Program data shows that 66 per cent of the children of people subject to the MAT whose claims were processed during the January to March 2025 quarter, ‘passed’ the MAT, 15 per cent were exempted from the MAT, and 18 per cent failed the MAT.¹² It is unclear what circumstances the 18 per cent figure includes, including how SA interacted with parents regarding the MAT to ensure maximum rate FTB could be paid.



The Department of Social Services sets a key activity measure of at least 85 per cent of FTB A children of separated parents meeting the MAT, as a measure of the effectiveness of the Child Support Scheme ensuring that “children continue to receive support from their parents following separation”.¹³ That measure was not met in 2022-23 or 2023-24.

Percentage of FTB A children whose parent meet the Maintenance Action Test¹⁴

Target				
◆ 1.1.2-1A At least 85 per cent of Family Tax Benefit Part A children of separated parents meet the maintenance action test requirements.				
2023-24 Target	2021-22 Actual result	2022-23 Actual result	2023-24 Actual result	Outcome
≥85%	85.1%	83.8%	81.8%	Not Met

Further consideration of the MAT failure is required, including whether people want(ed) to seek it, people are pushed by the potential payer into not seeking it, or SA staff are not adequately engaging with people to explain it and the consequences of ‘failure’ to seek it. Consideration should include

¹² Child Support Program Data – March 2025 at <https://data.gov.au/data/dataset/child-support-program-information/resource/2e8862f3-7aef-4c64-8713-143c526c0400>

¹³ Department of Social Services, *Annual Report 2023-24*, at <https://www.dss.gov.au/system/files/documents/2024-11/dss-annual-report-2023-24.pdf>

¹⁴ Department of Social Services, *Annual Report 2023-24*, at <https://www.dss.gov.au/system/files/documents/2024-11/dss-annual-report-2023-24.pdf>

whether some people have chosen not to pursue maintenance because their ex-partner is on social security and surviving on minimal income and/or seeking Child Support would result in minimal benefit.

Effect of the maintenance income test

→ The maintenance income test (MIT) only applies to:

- the portion of FTB A between the base rate and maximum rate (i.e. the base rate of FTB A is quarantined from both the MAT and MIT), and
- Rent Assistance, after FTB A reduces to the FTB A base rate.

Maintenance income free area

The maintenance income free area (MIFA) describes the amount of Child Support a person can receive without it affecting their FTB A. The amount depends on the number of children. The threshold is set at \$1960.05/year (approximately \$75/fortnight), increasing for each additional child by \$653.35/year (approximately \$25/fortnight). Where people are a member of a couple and both receive Child Support, the threshold starts at \$3920.10/year.¹⁵

Once Child Support exceeds the maintenance income free area, it reduces FTB A by 50 cents in the dollar until FTB A reduces to the base rate. If a person also receives Rent Assistance, it will then begin to reduce Rent Assistance at the same rate.

EJA estimates somewhere in the vicinity of one-third of people who receive FTB A are receiving Child Support below the MIT threshold, so their FTB A is not affected by their child support income.¹⁶

Maintenance income credit

Since 2006, people who receive maintenance through Agency Collect have been able to access Maintenance Income Credit, recognising that delayed Child Support payments are often the result of the payer delaying their tax return. If a person did not reach their maintenance income free area in a previous financial year, they can carry the balance of their MIFA over, and access it if they receive Child Support arrears.

¹⁵ Income Test for FTB Part A – 3 June at <https://www.servicesaustralia.gov.au/income-test-for-family-tax-benefit-part?context=22151#incometest>

¹⁶ Based on number of child support cases by annual rate payable, March quarter 2021 to March quarter 2025, in Child Support Program Data March 2025 at <https://data.gov.au/data/dataset/6379b974-e547-4303-a361-6edebbb52550/resource/2e8862f3-7aef-4c64-8713-143c526c0400/download/child-support-program-data-march-2025.pdf>

Services Australia's assessment of Child Support

There are two ways in which Child Support income can be assessed:

- **Entitlement method:** The amount of Child Support used to calculate social security entitlement is usually based on the amount of Child Support a person should receive based on their Child Support assessment or a court order. Maintenance income is annualised (concurrent with FTB A entitlement), with reassessment possible if maintenance entitlement changes. Reassessment can result in a debt or arrears.
- **Disbursement method:** Where a person does not know how much Child Support they are likely to receive, when they are likely to receive it, or where the amount is likely to be less than should be received, they can apply to have Child Support assessed via the 'disbursement method'. The disbursement method then applies the exact amount the person receives (calculated as annual income to enable assessment of FTB A entitlement) to determine their FTB A rate.

The disbursement method is only available to people receiving Child Support through Agency Collect unless a person using Private Collect or without a child support assessment has been granted a partial exemption from the MAT.

Treatment of debts

Calculation of debts and arrears

People usually receive social security debts when the ATO calculates an arrears of Child Support, often resulting from late lodgement of the payer's tax return. Many perpetrators delay returns intentionally, as a means of ongoing control and harassment.

The current process triggers a letter being sent to the payee soon after arrears have been calculated, raising a debt for any overpayment of FTB A. This letter often precedes the payer receiving outstanding Child Support from the payer, or consideration about whether or not those funds can be collected. A person who is supposed to be receiving Child Support through Private Collect can end up with a social security debt, and responsibility for chasing Child Support arrears from a perpetrator, including where the perpetrator will not pay.

Waiver of debts

Where a victim-survivor has an FTB debt due to abuse by a perpetrator, it may be possible to apply for debt waiver. The victim-survivor would need to demonstrate 'special circumstances' (additional to financial hardship) that are unusual, uncommon or exceptional, making it unfair or unduly harsh to have to repay the debt.

EJA members report some success using special circumstances debt waiver, however, this measure is neither particularly accessible nor guarantees success as the bar is high and decisions remain discretionary.