



Paying more or accepting less child support: Parental compromises in CSA Private Collect

Maria Vnuk,^{*} Bruce Smyth[†] and Prem Aleema[‡]

We extend our two earlier articles in this special issue by conducting a detailed cross-case analysis of the reason(s) that individual payers and payees gave for paying more or taking less child support than required. We focus on apparently consensual arrangements occurring in the context of private transfers because the 'black box' nature of these transfers means that the presence of financial abuse may be hidden. Data were collected in 2008 (ie, pre-child support reform). The analytic sample (n=107) comprised: (a) 64 female payees who reported accepting less child support than was due; (b) 43 male payers who reported paying more child support than was due. Among those who reported private transfers of child support, we found evidence of both cooperation and possible financial coercion. Future research needs to explore potential gender differences in the language of financial 'pressure' and 'intimidation', and examine the nature of private child support arrangements struck as a result of intimidation and/or pressure.

Introduction

In Australia, as elsewhere, families and relationships are becoming increasingly complex and fluid. A fundamental challenge for the child support system is how to address this complexity in an administratively practical and balanced manner. Utilitarian principles ('greatest good for the greatest number') seek to address this challenge through general-case scenarios (administrative formulae) for families (a) with different incomes and income disparities between parents; (b) of different composition (most notably, the number and ages of children); and (c) with different parenting time arrangements — with provision for deviation (eg, Change of Assessment).

While most child support liabilities are determined by administrative assessment, a significant feature of the Child Support Scheme is for parents to make a written child support agreement and to apply to have that accepted by

^{*} BA, MPolAdmin, PhD; Adelaide, South Australia.

[†] BA, PhD; Professor, ANU Centre for Social Research and Methods, Australian National University, Canberra ACT 2601, Australia.

[‡] LLB; Solicitor in Charge, Child Support Service, Legal Aid NSW, Parramatta, Australia. This research was conducted with financial support from the Australian Research Council (Grant: LP 0989558), with additional support from the Department of Families, Housing, Community Services and Indigenous Affairs, and the Child Support Agency. The views expressed in this article may not reflect those of any affiliated organisations involved in this research. We are especially grateful to the 5,000 respondents who participated in the original study (conducted by Smyth, Rodgers and Temple). We are also indebted to Richard Chisholm, Alexandra Crampton, Marian Esler, Lawrie Moloney and Ruth Weston for their valuable feedback on an early version of this paper. Any errors or shortcomings, of course, are ours alone.

the Child Support Agency ('CSA').¹ Part 6 of the *Child Support (Assessment) Act 1989* (Cth) contains complex formal requirements for binding and limited child support agreements, which are only enforceable once accepted or 'registered' by the CSA.

Child support agreements are one of the most common child support matters that Australian parents seek legal advice about. Yet, the most recent official figures indicate that registered child support agreements comprised less than 4% of the total CSA caseload in 2008.² Many parents who seek legal advice about child support agreements will not be able to negotiate mutually suitable terms with their former partner. Some may find that their proposed child support agreement will not meet legislative requirements for acceptance. Others may decide against a child support agreement once they understand the risks of being unable to change or terminate it if their circumstances materially change. Some payees may decide against signing a child support agreement when they are advised about the possible unanticipated financial consequences for their Centrelink payments, which will be worked out on a 'notional assessment' of child support, rather than the agreed amount, in order to protect the taxpayer.³

However, even if parents do not make a written child support agreement and have that accepted by the CSA, they can still make compromises about child support. Parents whose 'official' child support case is based on a formula assessment still have scope to negotiate and compromise on the amount of child support that is actually transferred, particularly where the CSA is not responsible for collecting the payments. It is even possible for parents who have made a written child support agreement and had that accepted by the CSA to nevertheless privately transfer a different amount of child support than was agreed.

Private child support arrangements

The potential for there to be a difference between the official and actual child support paid is the 'black box' of informal or private child support arrangements, which likely occurs in the shadow of the official caseload of the CSA.⁴ We have used the term 'private child support arrangement' (abbreviated to 'private arrangement' or 'arrangement') throughout this article to refer to any compromise the respondents in our sample reported about their official child support amount, noting that the sample was drawn from the CSA's active caseload.

1 As noted by the Australian Law Reform Commission ('ALRC'), when talking with child support clients and the general public, DHS used the terminology 'the Child Support Agency' ('CSA') to refer to the Child Support Program. We also use the language of the CSA for brevity. See: ALRC, *Family Violence and Commonwealth Laws: Improving Legal Frameworks* (Final Report No 117, November 2011) 288.

2 CSA, *Facts and Figures 2008–09* (Report, 2009) 17, Table 2.6.

3 For a more detailed explanation of the formal requirements of child support agreements and their interaction with Family Tax Benefit, see *Child Support Guide: DSS, '2.7 Agreements'* (10 August 2020, Web Page) <<https://guides.dss.gov.au/child-support-guide/2/7>>.

4 Prem Aleema, Bruce M Smyth and Maria Vnuk, "'Private' Child Support Arrangements in Australia: A Brief Primer" (2020) 33(3) *Australian Journal of Family Law* 213.

Private child support arrangements are not subject to the formal requirements of child support agreements,⁵ and do not require the CSA's approval or oversight. Smyth, Vnuk and Aleema⁶ recently noted that there is a dearth of empirical data on the dynamics surrounding private child support arrangements. Drawing on a random national sample of male payers who reported paying more child support than their official child support liability, and female payees who said they accepted less, Smyth, Vnuk and Aleema suggested that private child support arrangements may be more widespread than previously thought. They also suggested that coercion may underpin a number of private child support arrangements, and that some male payers may be privately paying extra child support in order to have regular contact with their children. Their data, however, were presented in aggregate form and are likely to be hiding a more complex backstory around bargaining and negotiations over money. One way of exploring this potential complexity is through the use of cross-case analysis, which examines themes, clusters, and patterns of similarities and differences *across* cases. To our knowledge, this analytic approach has not been applied to private child support arrangements despite its potential value.

Cooperation, coercion or compromise?

A little explored area in Australia is the degree to which private child support arrangements are likely to co-occur in the context of co-parental cooperation or coercion, or simply reflect compromise (ie, adjustment in the light of one or both former partners' preferences)⁷ by one or both parents. Indeed, bargaining over money post-separation need not necessarily represent disagreement or conflict between parents.⁸ An axiom of family law and conflict resolution is that the best arrangements are generally those that parties negotiate for themselves — assuming, of course, such arrangements are made freely and without duress.

On the darker side of emotionally-bonded relationships, an increasingly recognised serious social problem is that of financial abuse — ie, 'where financial control, exploitation or sabotage are used to control a person's ability to acquire, use and maintain financial resources'.⁹ Until recently, financial abuse has been largely invisible within the domestic violence literature due to

5 That is, a child support agreement under pt 6 of the *Child Support (Assessment) Act 1989* (Cth). Any other form of 'agreement' has no legal effect on the official child support obligation, which continues to be as per the CSA's administrative assessment.

6 Bruce M Smyth, Maria Vnuk and Prem Aleema, 'Bargaining in the Shadow of the Child Support Agency? Cooperative versus Coercive Private Agreements' (2020) 33(3) *Australian Journal of Family Law* 226.

7 Kathy Hamilton and Miriam Catterall, 'Cooperation and Conflict in Family Decision Making' (2008) 8 *European Advances in Consumer Research* 43.

8 Bruce Smyth and Bryan Rodgers, 'Strategic Bargaining over Child Support and Parenting Time: A Critical Review of the Literature' (2011) 25(3) *Australian Journal of Family Law* 210.

9 See also definitions by: Adrienne E Adams et al, 'Development of the Scale of Economic Abuse' (2008) 14(5) *Violence against Women* 563; Elizabeth Branigan, "'Who Pays in the End?'" The Personal and Political Implications of Financial Abuse of Women in Intimate Partner Relationships' [2007] (44) *Just Policy* 31.

it being classified as a form of psychological abuse.¹⁰ There also appears to be a general ‘lack of awareness, understanding and recognition in the community’ about the nature and impact of financial abuse on women.¹¹

Although financial abuse can also be experienced by men, there is ample evidence that women are predominantly the victims.¹² As noted by Branigan:

Women in intimate partner relationships may experience financial abuse in a variety of forms. It may involve being denied access to bank accounts, information and decision making rights regarding family finances or having severely curtailed choice regarding purchases. It may involve being financially dependent or not having enough money to buy food, nappies, baby formula and sanitary products or to pay essential bills. Women can be forced to account for every penny with receipts or to pay off debts accrued by their partners. Following relationship breakdowns, financial abuse is commonly experienced through the withholding or manipulation of child support entitlements.¹³

Child support effectively continues the financial relationship between separated parents. As Branigan observes, it can be a means of exerting control and financial abuse experienced before separation. Some might say that withholding parent–child contact to obtain more child support is also a form of financial abuse. Financial abuse is also known to frequently occur with other forms of family violence and abuse.¹⁴

As we noted in the prior articles in this special issue,¹⁵ child support payable under an administrative assessment is legally enforceable either by the payee or CSA. The collection method is chosen by the payee when they apply and may change throughout the life of the case. However, the CSA encourages separated parents to manage the transfer of child support between themselves through private collection (‘Private Collect cases’).¹⁶ If parents cannot organise child support payments directly between themselves, the payee can ask the CSA to collect payments on their behalf (‘Agency Collect cases’).¹⁷ Payees in Private Collect cases are assumed to be collecting the correct

10 Marie Eriksson and Rickard Ulmestig, “‘It’s Not All about Money’: Toward a More Comprehensive Understanding of Financial Abuse in the Context of VAW” (2017) (December) *Journal of Interpersonal Violence* <<https://doi.org/10.1177/0886260517743547>>.

11 Prue Cameron, ‘Relationship Problems and Money: Women Talk about Financial Abuse’ (Research Report, WIRE Women’s Information, 2014) vii.

12 See eg, Nicola Sharp-Jeffs, *Money Matters: Research into the Extent and Nature of Financial Abuse within Intimate Relationships in the UK* (Report, 2015); *ibid.*

Dale Bagshaw et al, *Family Violence and Family Law in Australia: The Experiences and Views of Children and Adults from Families Who Separated Post-1995 and Post-2006* (Report, April 2010) vol 2, 192.

13 Branigan (n 9).

14 Judy L Postmus et al, ‘Economic Abuse as an Invisible Form of Domestic Violence: A Multicountry Review’ (2020) 21(2) *Trauma, Violence, and Abuse* 261; Eriksson and Ulmestig (n 10).

15 Aleema, Smyth and Vnuk, “‘Private’ Child Support Arrangements in Australia’ (n 4).

16 Services Australia, *2018–19 Annual Report* (Report, 2010) 111 <www.servicesaustralia.gov.au/sites/default/files/annual-report-191019-v2.pdf>.

17 In December 2019, there was a 50/50 split in collection type. See Australian Government Child Support Program information released by Department of Social Services (‘DSS’): ‘Child Support Program: December 2019 file’ at DSS, ‘Child Support Program Information’, *Data.gov.au* (Web Page) 1, figure ‘Percentage of Child Support Cases by Collection Method, December Quarter 2015 to December Quarter 2019’ <<https://data.gov>>.

amount of child support from the payer and their Family Tax Benefit ('FTB') is adjusted accordingly. However, parents are not required to demonstrate that child support is actually transferred according to the administrative assessment. If the payments fall behind, the payee can ask the CSA to start collecting at any time — but they are not required to do so. Indeed, some may be too afraid of the repercussions of the other parent if they did so.

In its 2011 Inquiry into Family Violence and Commonwealth Laws, the Australian Law Reform Commission ('ALRC') noted that

victims [of family violence] may elect to collect privately due to fear of, or coercion by, a person who has used violence. As a result of fear or coercion, victims may also collect less child support than they are entitled to — or no child support at all. Statistics of such cases may be 'hidden' as the CSA will consider them to be successful private collection cases, in the absence of any information to the contrary. This may lead to financial disadvantage for payees and their children.¹⁸

The Commonwealth Ombudsman expressed concern about reports 'that some payees with Private Collect arrangements acquiesce to payers' coercion and agree to hide the fact that they are not collecting their full entitlement to child support'.¹⁹

While it is possible for financial abuse to occur within or outside the CSA's reach, the 'black box' nature of Private Collect cases means that the presence of financial abuse may be hidden. We explore this possibility in this article.

Aims and research questions

The aim of the present study was to obtain a better understanding of payers' and payees' motives for agreeing or accepting to transfer more or less than their official amount of child support. Two research questions guided the study:

RQ₁. Do male payers and female payees in Private Collect differ in their reported reasons for paying more or accepting less child support than due?

RQ₂. Is there evidence of financial coercion occurring in the context of private transfers?

We note at the outset that no reciprocal interview questions were asked about payees agreeing to receive more money, or payers agreeing to pay less. The overall focus of the research was to examine whether parents bargained about child support with something more in mind than financial self-interest. To contextualise that aim, the research explored the reality underpinning the rhetoric of opposing parental interest groups at the time: that fathers wanted to spend more time with their children to minimise their child support liability; and mothers were refusing to allow that in order to maximise their child support entitlement.

au/dataset/ds-dga-6379b974-e547-4303-a361-6edebbb52550/details?q=child%20support%20program>.

18 ALRC (n 1) 314 [12.43].

19 Ibid 314–15 [12.44].

Method

This section mirrors the methodology set out in our preceding empirical article in this issue.²⁰ We repeat it here in simplified form so that this article can be read independently. Readers familiar with the research design and samples might prefer to skip this section.

We draw on pre-reform baseline data from the Child Support Reform Study ('CSRS') collected between February and April 2008. The CSRS collected information about separated parents' circumstances, experiences of, and attitudes to, the child support system prior to a revised formula being introduced on 1 July 2008. The legislation about child support agreements has also changed since our data were collected, but we consider the information about how parents bargain about child support is still relevant today.

Target population and samples

The in-scope population for the CSRS was separated parents who were registered with the CSA in 2006, and who had at least one biological or adopted child under 18 years living with either parent at the time of the survey.

Two independent target participant groups were subsequently sampled:²¹

- a) A *recently-separated* group: 1,002 new CSA clients who had separated between 1 July and 31 December 2006 (250 shared care, 750 sole care) (500 Private Collect; 500 CSA Collect);
- b) An *existing-client* group: 4,000 CSA clients who had separated prior to 1 July 2006 (1,000 shared care, 3,000 sole care) (2,000 Private Collect; 2,000 CSA Collect).²²

Data from the recently separated group are examined here to constrain the period of retrospective recall about 'ever' making a private child support arrangement (see below).

Sample selection

Computer-assisted telephone interviews ('CATI') of 25 minutes duration were conducted with 1,002 CSA clients who had separated in the second half of 2006 (447 male, 555 female). For conceptual clarity, (a) 215 separated parents were excluded because no child support was being paid due to non-compliance, nil liability, or some other arrangement was in place;²³ and (b) the 25 mothers who were payers and the 29 fathers who were payees were also excluded from analysis.²⁴ Thus the final sample of recently-separated

20 Smyth, Vnuk and Aleema, 'Bargaining in the Shadow of the Child Support Agency?' (n 6).

21 In total 5,046 interviews were successfully completed. The response rate was 67%.

22 For a detailed description of the rationale for the various sample sizes, and the use of proportionate and disproportionate stratified samples, see: Bruce Smyth et al, 'Separated Parents' Knowledge of How Changes in Parenting-Time Can Affect Child Support Payments and Family Tax Benefit Splitting in Australia: A Pre-/Post-Reform Comparison' (2012) 26(3) *Australian Journal of Family Law* 181.

23 Specifically: (a) $n=82$ no liability; (b) $n=70$ child support 'replaced by something else'; (c) $n=53$ noncompliance; and (d) $n=10$ 'Don't know'.

24 Maria Vnuk, 'Merged or Omitted? What We Know (or Don't) about Separated Mothers

parents who answered the private child support arrangement survey questions comprised 733 separated parents (327 male payers, 406 female payees), of whom 185 reported paying more or accepting less than their official child support amount (87 male payers, 98 female payees).²⁵

To tighten the analytic frame by focusing only on private transfers, we excluded data from: (a) 20 female payees in CSA Collect who reported accepting less child support than was due; (b) 31 male payers in CSA Collect who reported paying more child support than was due; and (c) 14 ex-couple dyad pairs in which the male payer said they paid more while the corresponding female payee reported accepting lower payments.²⁶

We opted to focus on Private Collect cases because the transfer of child support from the payer to the payee in those cases is assumed to be effective, and is not monitored by the CSA or Centrelink. The absence of an official record of the actual child support paid provides a 'black box' within which financial abuse may be hidden.

Respondents

Female payees with Private Collect arrangements who accepted less child support were more likely to have a degree and higher personal (but not household) incomes than were those in Private Collect who did not take less child support (43% vs 17%; \$36,949 vs \$33,322, respectively). They were almost twice as likely to report that their official child support was worked out by a child support agreement (either registered with CSA or unregistered) (47% vs 24%), and 1.5 times as likely to report conflict about money in the past 12 months as female payees who did not take less money (50% vs 32%).²⁷

By contrast, male payers with Private Collect arrangements who agreed to pay more were younger (Mean = 38.7 years vs 40.8 years), had fewer (Mean 1.9 vs 2.0) and younger biological children (Mean = 7.6 years vs 8.5 years), and had lived with their former partner for a shorter period (11.8 years vs 12.8 years) than other male payers in Private Collect. That said, the latter patterns for male payers were not statistically significant.²⁸

Survey content

The interview schedule comprised eight sections: (a) family type and relationship history; (b) children's living arrangements, and parent-child contact (eg, the frequency of face-to-face contact); (c) legal process; (d) child support (periodic and non-periodic; Prescribed Non-Agency Payments

Who Pay or Should Pay Child Support in Australia' (2010) 16(1) *Journal of Family Studies* 62.

25 Fourteen male payers and 14 female payees in this subset were from the same former union or marriage.

For an examination of female payers and male payees, see Maria Vnuk, 'Separated Mothers with a Child Support Liability in Australia: Does the Gender of the Liable Parent Matter for Compliance?' (PhD Thesis, School of Demography, Australian National University, October 2017) <<https://openresearch-repository.anu.edu.au/handle/1885/144280>>.

26 We excluded these dyads (28 respondents in total) because to include them would bias our results in favour of their non-independent shared characteristics, children and history.

27 Detailed socio-demographic characteristics for each sample are available on request.

28 $p > .05$.

(‘PNAPs’) and Non-Agency Payments (‘NAPs’);²⁹ (e) negotiations and strategic bargaining; (f) family dynamics; (g) parenting and family wellbeing; and (h) demographic information. The questions about ‘negotiations and strategic bargaining’ were placed after the PNAPs or NAPs questions in an attempt to distinguish between arrangements for child support to be paid ‘in kind’ as opposed to accepting less or paying more child support overall.

Responses to the following two survey questions (QI2 and QI3) from section (e) form the basis of the analysis presented in this article:

I2a [*If non-resident:*] There are a number of ways separated parents reach agreement about their parenting arrangements — including child support. Have you ever agreed to the any of the following: [Read out. Accept multiples. Probe for ‘Yes’/‘No’.]

- 1 agreed to pay more money to protect your contact with (target child)
- 2 agreed to pay more money to stop fights over parenting arrangements
- 3 agreed to pay more money because the child support amount didn’t seem fair
- 4 (None of these)

I2b [*If resident/shared-time:*] There are a number of ways separated parents reach agreement about their parenting arrangements — including child support. This next section contains questions about these negotiations. Have you ever agreed to the any of the following: [Read out. Accept multiples. Probe for ‘Yes’/‘No’.]³⁰

- 1 agreed to take less money to encourage (target partner)’s contact with (target child)
- 2 agreed to take less money to stop fights over parenting arrangements
- 3 agreed to take less money because the child support amount didn’t seem fair
- 4 (None of these)

I3a [*If non-resident:*] Was your decision to pay more child support affected by any of the following?

I3b [*If resident/shared time:*] Was your decision to take less child support affected by any of the following? [Read out. Accept multiples.]

- 1 Not wanting to upset (target partner)
- 2 Feeling pressured by (target partner)
- 3 Feeling intimidated by (target partner)
- 4 Being concerned for your safety
- 5 Being concerned for (target child)’s safety
- 6 Wanting to have as little as possible to do with (target partner)
- 7 Other (Specify _____)

Identifying bargaining

Since the focus of the present article is on private child support arrangements, we derived two groups of interest based on responses to QI2a/b (above):

- (i) male payers who reported as *ever* having ‘agreed to pay more’ child support (‘yes’ to QI2a);

29 Prescribed Non-Agency Payments and Non-Agency Payments are payments made by the payer of a registered child support case to either the payee or a third party. Those amounts may be credited in satisfaction of all or part of the child support debt otherwise payable to the CSA, provided other formal requirements are met (see *Child Support (Registration and Collection) Act 1988* (Cth) ss 71–71C).

30 It is possible that some respondents ‘agreed to pay more’ or ‘agreed to take less’ money for other reasons. However, question I2 response options did not allow for other reasons.

- (ii) female payees who reported as *ever* having ‘agreed to take less’ child support (‘yes’ to Q12b).

Asking payers if they had ever agreed to pay more child support and asking payees if they ever agreed to taking less money tap two independent domains. (An affirmative response to both questions can occur in the same case depending on the reference period.) It is important to note that Question Q12a/b asked if respondents had ‘*ever*’ agreed to paid more or take less child support. To minimise the risk that respondents might have been referring to having paid more or to have taken less child support many years ago, we restricted our analysis to the recently separated sample (ie, separations that occurred in the second half of 2006).

A question about the co-parental relationship was also asked: ‘Which of the words I’m about to read out, best describe your relationship with (target partner) over the past 12 months: friendly, cooperative, distant, lots of conflict, or fearful?’

A brief note about language: Agreement vs arrangement?

Although the survey questions used the terms ‘agree’, ‘agreement’ and ‘private agreement’ we have endeavoured throughout this article to only use the word ‘agreement’ when referring to a written child support agreement accepted by the CSA. However, some respondents reported having made a ‘private agreement’ about child support with the other parent that was not registered with the CSA. An agreement of that type, even if in written form, has no legal effect on the official child support obligation, which continues to be as per the CSA’s administrative assessment. We have identified these reported ‘unregistered private agreements’ separately, on the basis that the respondents nevertheless considered them to be the basis for their official child support amount.

Results

Results are structured in two parts: separately for female payees (Table 1) and male payers (Table 2). Each table includes: (a) method of assessment (CSA = formula assessment by Child Support Agency; CS agreement = child support agreement accepted (or ‘registered’) by CSA; Private agreement (not registered with the CSA); (b) the reason(s) the payee/payer agreed to take less/pay more; (c) what affected their decision to take less/pay more child support; and (d) co-parental relationship quality over the past year. The cases are sorted by the likelihood of financial coercion — as classified below.

Data display

Complex social phenomena yield complex data. A key challenge in a study of this nature is finding ways of simplifying such complex data but without masking important insights. In the present study, and with a specific interest in financial coercion, we sought to simplify the ‘reasons’ data by grouping

them into four categories of likely coercion based on responses to the two survey questions in combination, and the subsequent permutations of these: I2 (any or all three reasons) and I3.

- A *Unlikely to have experienced financial coercion in relation to child support*: I2 & I3 (none of I3&/OR not want to upset other parent &/or avoid contact) [no shading]
- B *Slight chance of financial coercion in relation to child support*: I2 & I3 (felt pressured but no safety concerns OR child safety concerns in the absence of pressure) [very light shading]
- C *Moderate chance of financial coercion in relation to child support*: I2 & I3 (intimidation OR safety concerns) [slightly darker shading]
- D *Strong chance of financial coercion in relation to child support*: I2 & I3 (intimidation AND safety concerns) [darkest shading]

An obvious shortcoming with the above typology is that by definition (ie, its focus on financial coercion), it ignores the possibility of cooperative child support arrangements. To try to identify such cooperative arrangements, we included data from the co-parental relationship quality question (see above). (These data are reported in the far-right column.) Participants who reported *friendly* or *cooperative* relationship quality,³¹ in the absence of reported fights over parenting or feeling pressured and/or intimidated, were taken to have reached a potentially cooperative child support arrangement.

Female payees who agreed to take less child support than was due

Table 1 presents data for each of the 64 female payees in Private Collect who reported accepting less child support.

³¹ For simplicity, we combined the 'friendly' and 'cooperative' responses and reported the co-parental relationship as 'cooperative'.

Table 1. Reasons why female payees in Private Collect took less, and what affected their decision to do so

Row no.	Case type Assessment type	Why accepted less?				Decision affected by...					Relationship quality over past year	
		Encourage contact	Stop fights	Seemed fair	Not want to upset ex-	Felt pressured	Felt intimidated	Own safety	Child safety	Avoid contact		
<i>Category A: Unlikely to have experienced financial coercion</i>												
1	CSA	•										Cooperative
2	CSA	•										Cooperative
3	CSA	•									•	Cooperative
4	CSA			•								Cooperative
5	CSA			•								Cooperative
6	CSA			•								Cooperative
7	CSA			•			•					Cooperative
8	CSA		•									Cooperative
9	CSA		•				•					Cooperative
10	CSA		•									Distant
11	CSA		•				•					Lots of conflict
12	CS agreement		•									Cooperative
13	CS agreement		•									Cooperative
14	CS agreement		•									Cooperative
15	CS agreement		•								•	Cooperative
16	CS agreement			•								Cooperative
17	CS agreement			•								Cooperative
18	CS agreement			•								Cooperative
19	CS agreement			•								Cooperative
20	CS agreement		•								•	Cooperative
21	CS agreement		•								•	Lots of conflict
22	Priv arrangement		•									Cooperative
23	Priv arrangement		•									Cooperative
24	Priv arrangement			•			•					Cooperative

Row no.	Case type Assessment type	Why accepted less?			Decision affected by...				Relationship quality over past year		
		Encourage contact	Stop fights	Seemed fair	Not want to upset ex-	Felt pressured	Felt intimidated	Own safety		Child safety	Avoid contact
<i>Category B: Slight chance of financial coercion</i>											
25	CSA	•				•					Lots of conflict
26	CSA		•			•					Cooperative
27	CSA		•		•	•					Cooperative
28	CSA		•			•					Lots of conflict
29	CSA	•	•	•	•	•					Distant
30	CSA	•	•	•	•	•					Cooperative
31	CS agreement			•	•	•					Cooperative
32	CS agreement		•	•	•	•					Distant
33	CS agreement		•	•	•	•					Distant
34	Priv arrangem ¹			•		•					Cooperative
<i>Category C: Moderate chance of financial coercion</i>											
35	CSA			•		•					Distant
36	CSA		•		•	•					Distant
37	CSA		•		•	•					Distant
38	CSA	•	•	•	•	•					Lots of conflict
39	CSA	•	•	•	•	•					Cooperative
40	CSA	•	•	•	•	•					Lots of conflict
41	CSA		•	•	•	•					Distant
42	CS agreement	•		•	•	•					Cooperative
43	CS agreement			•		•					Cooperative
44	CS agreement		•			•					Fearful
45	CS agreement		•	•	•	•					Cooperative
46	CS agreement	•	•	•	•	•					Cooperative
47	CS agreement		•	•	•	•					Cooperative

Row no.	Case type		Why accepted less?				Decision affected by...					Relationship quality over past year
	Assessment type		Encourage contact	Stop fights	Seemed fair	Not want to upset ex-	Felt pressured	Felt intimidated	Own safety	Child safety	Avoid contact	
<i>Category C: Moderate chance of financial coercion (continued)</i>												
48	CS agreement		•	•		•	•					Lots of conflict
49	CS agreement			•	•	•	•				•	Distant
50	Priv arrangement			•							•	Distant
51	Priv arrangement		•	•		•	•					Cooperative
52	Priv arrangement		•	•	•	•	•					Distant
53	Priv arrangement		•	•	•	•	•					Distant
<i>Category D: Strong chance of financial coercion</i>												
54	CSA	•				•	•		•		•	Distant
55	CSA			•		•	•		•		•	Lots of conflict
56	CSA				•	•	•		•		•	Lots of conflict
57	CSA				•	•	•		•		•	Distant
58	CSA				•	•	•		•		•	Lots of conflict
59	CSA				•	•	•		•		•	Lots of conflict
60	CSA				•	•	•		•		•	Fearful
61	CSA				•	•	•		•		•	Fearful
62	CSA	•				•	•		•		•	Cooperative
63	CSA	•			•	•	•		•		•	Lots of conflict
64	CSA				•	•	•		•		•	Lots of conflict

Notes: N=64; CSA = Formula assessment by Child Support Agency; CS agreement = child support agreement accepted (or 'registered') by CSA; Priv arrangement = Private agreement (ie, an 'agreement' about child support that the parents are following instead of the CSA's assessment, but has not been registered with the CSA).

The first group (Category A)³² in Table 1 comprises just over a third (38%; n=24/64) of all female payees who accepted less child support. These payees were coded as unlikely to have experienced financial coercion in relation to child support. Many reported that they took less to encourage contact and/or because the original amount of child support did not seem fair (n=12 and n=13

32 Rows 1-24.

respectively). One quarter ($n=6$) took less child support to stop fights over parenting arrangements.

More than half the female payees in Category A reported having either a child support agreement accepted by the CSA, or an unregistered private agreement. The majority described the co-parental relationship as cooperative; and only a few reported that their decision to take less child support was affected by wanting to avoid or not upset their former partner. One payee³³ in this group reported a distant relationship; another two reported highly conflictual relationships.³⁴

The second group (Category B)³⁵ in Table 1 comprised payees coded as likely to have experienced a slight chance of financial coercion ($n=10/64$: 16% of all Private Collect payees who agreed to take less). The majority of the 10 payees in this group reported that they accepted less child support to stop fights over parenting arrangements ($n=7$), half ($n=5$) because it seemed fair, and three did so to encourage father–child contact.

Although these Category B payees reported they had accepted less child support due to pressure from their former partner, five described their co-parental relationship as cooperative; three said the relationship was distant;³⁶ and two reported a conflictual co-parenting relationship.³⁷ Most ($n=7/10$) also reported not wanting to upset and/or wanting to avoid their former partner.

The third group (Category C)³⁸ comprises just under a third (30%; $n=19/64$) of all female payees who accepted less child support. All reported that their decision was affected by intimidation from their former partner. The majority reported that they accepted less child support to stop fights over parenting arrangements and/or because it seemed fair ($n=15$ and $n=12$ respectively); nine said they accepted less to encourage father–child contact. Most also reported being pressured, and not wanting to upset their former partner ($n=14$ and $n=15$ respectively). None reported safety concerns for themselves or their children. However, despite the reports that they had been pressured and/or intimidated to take less child support at some point since separation, seven payees described the co-parental relationship at interview as cooperative and eight reported a distant relationship. Some relationships might have improved since they decided to accept less child support. (Three had a conflictual relationship³⁹ and one was fearful.)⁴⁰

The final group (Category D)⁴¹ in Table 1 comprised 11 payees coded as having a strong chance of financial coercion in relation to child support (17% of all payees who accepted less). Few payees in this group took a lower amount of child support to encourage contact or because it seemed fair ($n=3$ and $n=2$ respectively). All had their official child support worked out by a

33 Row 10.

34 Rows 11, 21.

35 Rows 25–34.

36 Rows 29, 32–3.

37 Rows 25, 28.

38 Rows 35–53.

39 Rows 38, 40, 48.

40 Row 44.

41 Rows 54–64.

CSA assessment and, by definition, all reported being intimidated (and all but one pressured) to take less child support. They all reported that their decision to accept less child support was affected by safety concerns: three reported only being concerned for their own safety,⁴² two only had concerns for their child's safety⁴³ and five reported being concerned for both their own and their child's safety.⁴⁴ These payees generally reported lots of conflict with their former partner ($n=6$)⁴⁵ and two payees reported being fearful.⁴⁶ The one payee who described the co-parental relationship as cooperative did not report being concerned for her own safety, but was concerned about child safety.⁴⁷

The standout feature of Table 1 is that around half of payees ($n=30/64$) who took less child support reported that they did so in circumstances that appeared to involve a moderate or strong chance of financial coercion. This is somewhat concerning given that these were all Private Collect payees who were personally responsible for collecting their child support (ie, without the involvement of the CSA to officially monitor payments).⁴⁸ Although Private Collect payees always have the option of moving to CSA Collect, some may not do so out of fear or safety concerns.⁴⁹ There is also the option of some payees seeking an exemption from the Maintenance Action Test and stepping out of the formal child support system due to family violence.⁵⁰ However, doing so is likely to have adverse financial consequences for the household in which the child resides and it is not clear whether CSA routinely makes payees aware of such exemptions and the process for obtaining one.⁵¹

42 Rows 59, 63–4.

43 Rows 58, 62.

44 Rows 54–6, 60–1.

45 Rows 55–6, 58–9, 63–4.

46 Rows 60–1.

47 Row 62.

48 The CSA's website has the following information for payees about collecting child support:
Use Private Collect if you: want flexible payments; can talk with the paying parent or non-parent carer; don't need much help to work things out with the paying parent; can rely on payments being on time and in full; can rely on the other parent lodging their tax returns on time. ... Private Collect may not be right for you if: you're worried the other parent will make trouble for you or your children; the other parent makes you or your children feel unsafe or frightened.

See Services Australia, 'Private Collect' (Web Page, 22 October 2019) <www.servicesaustralia.gov.au/individuals/services/child-support/child-support-assessment/how-manage-your-assessment/compare-your-child-support-collection-options/private-collect>.

49 As noted by the ALRC (n 1) 306 [12.4], 'CSA-initiated actions against a person who has used violence may inflame, create or reignite conflicts, and open up possibilities for pressure and coercion'.

50 According to the ALRC: '[e]xemptions are the key protective strategy for victims of family violence in both child support and family assistance contexts. They enable victims to opt out of the child support scheme where obtaining child support would compromise their safety': *ibid* 332 [13.7].

51 For a discussion of the issues surrounding an exemption to take reasonable action to obtain child support, see *ibid*.

Male payers who reported paying more child support than required

Table 2 presents data for each of the 43 male payers in Private Collect who reported paying more child support than was due.

Table 2. Reasons why male payers in Private Collect paid more, and what affected their decision to do so

Row no.	Case type		Why paid more?			Decision affected by...					Relationship quality over past year	
	Assessment type	Protect contact	Stop fights	Seemed fair	Not want to upset ex-	Felt pressured	Felt intimidated	Own safety	Child safety	Avoid contact		
<i>Category A: Unlikely to have experienced financial coercion</i>												
1	CSA		•									Distant
2	CSA			•							•	Cooperative
3	CSA			•								Cooperative
4	CSA			•								Cooperative
5	CSA			•								Cooperative
6	CSA			•								Cooperative
7	CSA			•							•	Cooperative
8	CSA			•				•				Cooperative
9	CSA											Lots of conflict
10	CSA			•				•				Distant
11	CSA			•				•				Fearful
12	CS agreement			•							•	Lots of conflict
13	CS agreement		•	•								Cooperative
14	CS agreement		•	•				•			•	Cooperative
15	Priv arrangement ¹			•								Cooperative
16	Priv arrangement ¹			•								Cooperative
17	Priv arrangement ¹			•				•				Cooperative
<i>Category B: Slight chance of financial coercion</i>												
18	CSA			•							•	Cooperative
19	CSA			•							•	Cooperative
20	CSA			•							•	Cooperative
21	CSA			•						•		Cooperative
22	CSA			•						•	•	Cooperative
23	CSA			•						•	•	Cooperative
24	CSA			•						•	•	Cooperative

Row no.	Case type Assessment type	Why paid more?			Decision affected by...					Relationship quality over past year	
		Protect contact	Stop fights	Seemed fair	Not want to upset ex-	Felt pressured	Felt intimidated	Own safety	Child safety		Avoid contact
<i>Category B: Slight chance of financial coercion (continued)</i>											
25	CSA		•		•						Distant
26	CSA	•	•		•						Distant
27	CSA	•	•	•	•						Cooperative
28	CS agreement			•	•						Distant
29	CS agreement			•	•						Distant
30	Priv arrangement			•	•						Cooperative
31	Priv arrangement			•	•						Cooperative
<i>Category C: Moderate chance of financial coercion</i>											
32	CSA		•		•						Lots of conflict
33	CSA		•		•						Lots of conflict
34	CSA		•		•						Distant
35	CSA		•		•						Cooperative
36	CSA		•		•						Cooperative
37	CSA		•	•	•						Lots of conflict
38	CS agreement	•			•						Cooperative
39	CS agreement			•	•						Lots of conflict
40	CS agreement		•		•						Lots of conflict
41	Priv arrangement		•		•						Lots of conflict
<i>Category D: Strong chance of financial coercion</i>											
42	CSA	•	•		•						Lots of conflict
43	CSA		•		•						Lots of conflict

Notes: N=43. CSA = formula assessment by Child Support Agency; CS agreement = child support agreement accepted (or 'registered') by CSA; Priv agreement = Private agreement (ie, an 'agreement' about child support that the parents are following instead of the CSA's assessment, but has not been registered with the CSA).

The first group in Table 2 (Category A)⁵² shows the Private Collect male payers who reported paying extra who were coded as unlikely to have experienced financial coercion in relation to child support ($n=17/43$, 40% of all payers who agreed to pay more). Around two-thirds ($n=12/17$) described their relationship with the other parent as cooperative. Of the remaining payers who were coded as unlikely to have experienced financial coercion, two described the co-parental relationship as distant; two reported lots of conflict; and one reported the relationship as fearful.

Around half ($n=9/17$) of payers in Category A said they paid extra child support solely because the original amount did not seem fair, seven paid more

52 Rows 1-17.

to stop fights, and a minority ($n=3$) reported paying more to protect father–child contact.

The second group in Table 2 (Category B)⁵³ shows payers who reported paying extra and were coded as having a slight chance of financial coercion in relation to child support ($n=14/43$: 33% of all payers who paid more). More than half ($n=8$) agreed to pay more because the original amount did not seem fair, seven to stop fights over parenting arrangements, and two to protect contact with their child.

More than half of the payers in Category B ($n=8/14$) reported their decision to pay more was affected by pressure from their former partner.⁵⁴ Six payers reported that their decision was affected by concerns for their child’s safety.⁵⁵ No payers who reported child safety also reported being pressured — suggesting only a slight chance of financial coercion in the context of the child safety concerns. Further, most payers who had child safety concerns reported a cooperative co-parental relationship at interview. Five of the eight payers who reported being pressured also reported a cooperative relationship (three reported a distant relationship).

The third group in Table 2 (Category C)⁵⁶ shows Private Collect payers who reported paying extra child support who were coded as having a moderate chance of financial coercion ($n=10/43$, 23% of all payers who paid more). The majority ($n=8$) said they paid more to stop fights over parenting arrangements. Further, 8 of the 10 payers in this group reported that their decision to pay more was affected by intimidation from their former partner⁵⁷ and four by concerns for their child’s safety⁵⁸ (two reported both intimidation and child safety concerns).⁵⁹ No payers in this group reported concerns for their own safety.

The final group (Category D) comprised two payers who reported paying extra child support who were coded as having a strong chance of financial coercion ($n=2$, 5% of all payers who agreed to pay more). One payer agreed to pay more to protect contact and one to stop fights over parenting arrangements. Both reported that their decision to pay more was affected by intimidation and child safety concerns, and one also reported pressure and concerns for his own safety.⁶⁰ As might be expected, both these payers reported a conflictual co-parental relationship.

Discussion

There is a lack of published empirical data on the relationship dynamics surrounding private child support arrangements. Over the years, there have

53 Rows 18–31.

54 Rows 21–5.

55 Rows 18–20, 29–31.

56 Rows 32–41.

57 Rows 32–3, 35–9, 41.

58 Rows 34, 36, 39–40. Each respondent was asked during intake if they had any concerns for their own safety or the safety of any of their children. Fathers often reported that they had concerns about their child’s post-separation emotional wellbeing rather than specific safety concerns per se.

59 Rows 36, 39.

60 Row 43.

been anecdotal reports as well as piecemeal evidence of financial abuse in the context of private child support arrangements in Australia. The detailed cross-case analysis presented above sheds light on some of the financial dynamics likely to be occurring in the shadow of the CSA. But before summarising our key findings, several study limitations should be noted.

Limitations

All studies have shortcomings, and the present study is no exception. First and foremost, our data derive from a small, select sample of separated parents drawn from a much larger national random sample. No claim is made that these data are representative of the general population of separated parents more broadly, or of separated parents who have separated since 1 July 2008 (ie, post- child support reform). As we note elsewhere,⁶¹ a number of important legislative and policy changes affect child support agreements post-reform and the impact of these changes on private child support arrangements remains unclear. Second, we have no idea how small or large reported over- or under-payments were, or for how long they applied. It is possible that some payees might well acquiesce in instances where small under-payments are occurring to keep the peace ('It's just not worth worrying about' = 'I agreed to take less'), just as some payers might well see small extra payments as a compromise to sustain the parental relationship within a larger picture of staying connected with children. Quantitative survey data are unable to detect such compromises occurring at the margins of private arrangements. Third, ideally, we would have supplemented the survey data with qualitative data since in-depth interviews are much better suited to capturing complex family and financial dynamics. Qualitative data would enable more extensive exploration of any gendered and/or 'role' differences in the use of terms such as *pressure*, *intimidation* and *safety concerns* (in particular, child safety concerns). Fourth, two broad questions were asked about parents agreeing to pay more or take less child support. Direct questions are likely to be affected by social desirability bias. The potential for this bias in the present study cannot be ruled out. Finally, the sample does not include any cases where no child support assessment was made, or no child support was being paid. It therefore does not provide any insight into the private arrangements in cases where parents choose to entirely avoid the Child Support Scheme (ie, self-administration), non-compliance, or where nil liability has been assessed or 'agreed'.

Key findings

Our first research question was: Do male payers and female payees in Private Collect differ in their reported reasons for paying more or accepting less child support than due? The short answer seems to be 'yes'. Male payers more frequently said they paid extra to protect contact with their children, and because the original amount did not seem fair (cf, Table 2 with Table 1). Another key payer-payee difference was that safety concerns (especially for own safety) were generally more likely to affect a payee's decision to take less

61 Aleema, Smyth and Vnuk, "Private" Child Support Arrangements in Australia' (n 4).

child support than to affect a payer's decision to pay more (again cf, Table 2 with Table 1). Future research needs to explore potential gender differences in the language of financial 'pressure' and 'intimidation', and examine the nature of private child support arrangements struck as a result of intimidation and/or pressure.

Our second research question was: Is there evidence of financial coercion occurring in the context of private transfers? Again, the short answer appears to be 'yes'. A small but significant number of female payees who accepted less child support reported experiencing pressure and intimidation over child support in the context of concerns about their child's and/or their own safety. A smaller group of male payers also reported experiencing pressure and intimidation over child support, but concerns for their own safety were rarely raised. However, almost a third of male payers reported that concerns about their child's safety affected their decision to pay more.

Two key take-home messages suggest themselves. First, parental cooperation (specifically fairness about the quantum of child support, and the use of money to support father-child contact) was apparent, as well as possible coercion in some instances. Second, concern for their own and their child's safety appeared to motivate some female payees to accept less child support, whereas payers were more likely to report that their decision to pay more was affected by concerns about child safety. Future research should distinguish between concerns to promote child welfare as opposed to protecting children or a parent from harm. One of our own concerns, as well as that of the ALRC,⁶² is that some payees who have chosen to privately collect their child support may have been influenced by fear of, or coercion by, a former partner. Once having chosen Private Collect, the payee's decision may make them vulnerable to ongoing financial abuse which in turn makes them reluctant to switch to CSA Collect. Exploring this darker underbelly of relationship dynamics requires further research using well-constructed screening and assessment tools to identify the presence of coercion in its various — subtle and not so subtle — forms.

Parting reflection

The flexibility within the Child Support Scheme for parents to make their own private cooperative arrangements about the amount of child support and how to transfer it has benefits and risks. This flexibility is tightly coupled with eligibility rules for FTB aimed at ensuring parental compromises about child support do not shift the financial burden of supporting children from the parents to the taxpayer. In most cases, a payee who agrees to accept less child support will not be entitled to extra FTB to make up for the shortfall. The close but complex links between FTB and child support are most critical for low income households and can mean that a payee who accepts less child support as a result of coercion will suffer more serious financial consequences than a payer who is coerced to pay extra. It is also logical that a child is more likely to benefit from extra child support than a reduction.

62 See ALRC (n 1).

Nevertheless, child support arrangements that involve small compromises coupled with improved parental relationships may promote child welfare. Our hope is that this and our two prior articles in this special issue stimulate discussion about an important issue that has thus far attracted little academic and policy attention.