

*Child Support Agencies in
Overseas Countries*

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EXECUTIVE SUMMARY

1. The United States (US), Australia, New Zealand and the United Kingdom (UK) have established a child support agency for assessment and collection of maintenance.
2. Child support assessment and child support collection are the main functions of the child support agencies in the four countries. The child support agencies of the US and the UK also perform the function of establishing paternity for children.
3. The child support agencies are given powers to perform their functions. For collection, the four agencies may deduct child support directly from income or assets of the defaulting non-custodial parents or take legal action against the defaulting parents. In addition, the child support agency of the US may report names of the defaulting parents to credit bureaux and to revoke licences and passports of those who fail to pay child support. The child support agency of Australia can stop the defaulting parents from leaving the country.
4. The child support agency of the US has wide powers in cross-matching information of various databases to locate non-custodial parents and/or the parents' employers, source of income and assets. The databases include federal databases, law enforcement databases, motor vehicle registration records, records of property, records of new hires and records maintained by public utilities and cable television companies etc.
5. The child support agency of the UK does not perform as well as its counterpart in New Zealand in terms of child support assessment. It takes much longer to complete child support assessment and the accuracy of assessment is much lower than that of New Zealand.
6. There is insufficient comparable data to conclude which is the best child support agency in terms of child support collection. This is due to the fact that all four countries have different approaches in calculating the collection rate.
7. The child support agency of Australia performs the best in terms of cost-effectiveness. The child support agencies of New Zealand and the US perform comparably but neither collects as much child support per dollar spent as their Australian counterpart. The child support agency of the UK collects the least amount of child support per dollar spent.
8. While Hong Kong does not have a child support agency, maintenance payees have various ways to enforce payment through the court such as direct deduction of maintenance from various income sources.

CHILD SUPPORT AGENCIES IN OVERSEAS COUNTRIES

PART 1 - INTRODUCTION

1. Background

1.1 Various organizations in the community have made representations to members of the Subcommittee on Attachment of Income Order Rules of the House Committee proposing the establishment of an intermediary body for enforcing maintenance payment. The Home Affairs Panel subsequently discussed the proposal at its meeting in March 1998. The Research and Library Services Division (RLS) was requested to carry out a research on the operation and effectiveness of overseas intermediary bodies responsible for the collection and enforcement of maintenance payment.

2. Objective and Scope

2.1 The objective of the research is to outline overseas experience in the operation and effectiveness of child maintenance bodies. Such organizations are commonly known as child support agencies overseas. The scope of the research is as follows:

- describe and analyze the structure and operation of child support agencies in overseas countries;
- describe and analyze the functions and powers of child support agencies in overseas countries; and
- analyze the effectiveness of child support agencies in overseas countries.

3. Methodology

3.1 Six countries/territory, Australia, New Zealand, Singapore, Taiwan, the United Kingdom (UK) and the United States (US) were initially selected for study in this research. However, only four countries, Australia, New Zealand, the UK and the US were found to have established child support agencies. Neither Singapore nor Taiwan has established child support agencies.

3.2 The currency adopted in this paper is US dollars unless otherwise stated. The conversion rates on 4 August 1998 were used. The conversion rates were A\$1 to US\$0.6061, NZ\$1 to US\$0.5164 and £1 to US\$1.639.

3.3 This study involves a combination of information collection, literature review, interviews and analysis. Information was collected through the Internet and from reference books.

PART 2 - SINGLE-PARENT FAMILIES AND CHILD MAINTENANCE SYSTEM

4. Divorce in Selected Territories

4.1 Financial support for children is necessary when parents separate for various reasons. Divorce is one of the main reasons for an increasing number of single-parent families and the increasing need for child maintenance.

4.2 Divorce rate is higher in western societies than in Asian societies (Table 1). The divorce rate in the US is more than two times that in Hong Kong. A high proportion of the divorces involves dependent children. For example, divorcing couples with a dependent child was around 56% of the divorces in the UK in 1994. Therefore, as divorce increases, the number of single-parent families also increases as a result.

Table 1 - Divorce Figures of Selected Territories in 1996

	Total population (in million)	Number of divorce	Rate of divorce (per 1 000 population)
Hong Kong	6.4	9 473	1.5
Singapore	3.6	4 662	1.3
Taiwan	21.5	35 875	1.7
US	295.0	1 200 000	4.1
Australia	18.3	52 466	2.9
New Zealand	3.7	10 009	2.7
UK	58.8	170 000	2.9

Sources : Britain 1998: An official handbook
<http://www.info.gov.hk/censtatd>
<http://www.stats.gov.nz>
<http://www.abs.gov.au>
 Singapore: Facts and Pictures 1997
 The Republic of China Yearbook: 1997
 US Bureau of the Census

4.3 In addition to divorce, increasing non-marital child-bearing also contributes to the increasing number of single-parent families. More than one-third of children in the UK and the US are born outside marriage.

4.4 Statistics show that a high percentage (e.g. 84% in Australia and 86% in the US) of single-parent families are headed by the mother. A lot of them fall into poverty due to decrease in family income with the departure of one bread-winner and the failure of many non-custodial parents to provide financial support for their children.

5. Establishment of Child Maintenance Organizations

5.1 Australia, New Zealand, the UK and the US have established their respective agencies for collecting and enforcing child maintenance payment while Singapore and Taiwan have not. Before the establishment of child maintenance agencies, maintenance was agreed between the parents concerned or determined by the court. If maintenance was not paid voluntarily, payment would be enforced by the court.

5.2 It should be noted that all four countries called their child maintenance organizations “child support agencies”. This is due to the fact that these agencies are responsible for collecting maintenance for the financial support of dependent children involved in divorces or separation. Child support or child maintenance is an amount of money that non-custodial parents pay regularly as a contribution to the financial support for their children. Spousal maintenance for the wife or husband where no child is involved is not the responsibility of these agencies.

Table 2 - Establishment of Child Maintenance Organizations

	Whether a maintenance organization has been established	Year of establishment	Name of organization
Hong Kong	X	n.a.	n.a.
Singapore	X	n.a.	n.a.
Taiwan	X	n.a.	n.a.
US	✓	1975	Federal Office of Child Support Enforcement and State Child Support Enforcement Agencies
Australia	✓	1988*	Child Support Agency
New Zealand	✓	1992	Child Support Agency
UK	✓	1993	Child Support Agency

Remarks : n.a. means not applicable

* Australia’s child support agency was established in two stages in 1988 and 1991 respectively.

Sources : Commissioner of Taxation Annual Report 1996/97, Australian Taxation Office
New Zealand Inland Revenue Department Annual Report 1996/97
UK Child Support Agency Annual Report and Accounts 1995/96
US Office of Child Support Enforcement 20th Annual Report

5.3 Among the four countries, the US is the first country to establish dedicated agencies to administer a child maintenance collection and enforcement system. The Child Support Enforcement Programme was launched in 1975 and requires various states to establish their own child support agencies.

5.4 Australia set up its Child Support Agency in 1988 and the Agency took on various functions in two stages. During the first stage which started in 1988, the Child Support Agency took on the responsibility for collecting child support payment in respect of court orders and court-registered agreements. Since 1991, it took on the further responsibility to assess child support using a formula based upon the income of both parents.

5.5 For New Zealand, the present Child Support Agency was formed as the function was transferred from the Department of Social Welfare to the Inland Revenue Department in 1992. The child support agency in the UK was established in 1993.

6. Reasons for Establishing a Child Support Agency in Overseas Countries

6.1 The main reasons for establishing a child support agency are similar in the four countries. They are as follows:

- low collection rate;
- court-based system not providing adequate and equitable child maintenance;
- increasing number of single-parent families obtaining social security benefits;
- the community value of the necessity of parents to take on the responsibility for maintaining their children;
- varied assessment by the court between comparable cases; and
- avoidance of bitterness and distress between custodial and non-custodial parents.

Low Collection Rate

6.2 The collection rate for child maintenance was generally considered as low before the establishment of child support agencies. It has been quoted in various publications that before the establishment of the child support organizations, the collection rates in Australia and the UK were about 30% and that New Zealand was around 40%.

6.3 It should be noted that collection rate may refer to the number of parents receiving maintenance for their children against the number of parents who have grounds to receive such maintenance. It may also refer to the amount of maintenance collected against the total amount of maintenance that should be paid. However, official information on how the collection rate was calculated before the establishment of the child support agencies in the US, Australia and the UK was not available. It is therefore not possible to say whether it is useful to have a dedicated body for collecting child support for these three countries. Comparison of the collection rate before and after the establishment of the New Zealand Child Support Agency is given in Part 5.

Inadequacy of the Court-Based System

6.4 Child maintenance was determined mainly by the court in the four countries before the introduction of child support agencies. Owing to the absence of any objectively determined benchmark for assessing the amount to be paid, it was found that assessment by the court varied widely between comparable cases. In addition, maintenance orders were found to be costly to enforce when the non-custodial parents fail to pay voluntarily and regularly.

Increasing Demand for Single-Parent Benefits

6.5 Table 3 shows that a high percentage of the single-parent families in the four countries depend on social security for their living. The financial burden on the government would increase as the number of single-parent families increases. In 1996, the number of single-parent families receiving social security in the US was four million (total population : 295 million) and that in the UK exceeded one million (total population : 58.8 million).

Table 3 - Number of Single-Parent Families Receiving Social Security in 1996

	Number of single-parent families (a)	Number of single-parent families on social security (b)	(b)/(a) in %
Hong Kong	n.a.	13 303	n.a.
Singapore	n.a.	n.a.	n.a.
Taiwan	n.a.	n.a.	n.a.
US	11 500 000	4 000 000	35.0
Australia	721 100	342 290	47.0
New Zealand	142 719	107 629	75.0
UK	1 700 000	1 100 000	65.0

Remark : n.a. means not available

Sources : <http://www.info.gov.hk/censtatd>
<http://www.abs.gov.au>
 New Zealand Income Support Annual Report 1997
 UK Department of Social Security
 US Bureau of the Census

Financial Responsibility of Parents for their Children

6.6 The governments of the four countries being studied were concerned that taxpayers instead of parents were bearing the cost of supporting the children involved in divorces. They considered it important for the community to recognize that parents have an obligation to provide an adequate level of financial support for their children irrespective of whether or not they are living together.

6.7 On the basis of the above principle, all four countries require social security recipients who are single parents or who have grounds to receive child support but for one reason or another not receiving it, to authorize the child support agencies to collect child support for them. If the social security recipients fail to co-operate with the child support agencies, their social security payment would be reduced, for example, by US\$11.4 per week in New Zealand and US\$32.2 per week in the UK. In the US, single-parents have to assign to the government the right to collect child support before they may receive social security.

6.8 Under the child support collection and enforcement system, registered child support debts are debts due to the government. After child support is collected, the agencies would deduct the amount of social security payment from the child support collected and give the balance to the custodial parents who are receiving social security.

7. Discussion on the Establishment of An Intermediary Body for the Collection and Enforcement of Maintenance Payments in Hong Kong

7.1 Some organizations in the community and some legislators proposed the government to establish an intermediary body for the collection and enforcement of maintenance payments at the Home Affairs Panel meeting in April 1996.

7.2 In response to the proposal, the Home Affairs Branch (HAB) submitted a paper on the experience of child support agencies in overseas countries to members during the Home Affairs Panel meeting in November 1996. The paper provided information on the intermediary bodies for the collection and enforcement of maintenance payments in the UK, Australia and New Zealand as well as that in the province of Ontario in Canada. Details of the study are in CB(2) 463/96-97(05), a copy of which is kept in the library.

7.3 The HAB study found that one of the reasons for overseas countries to set up an intermediary body was to address the problems in the assessment of child maintenance payments. The HAB considered that there was no problem in maintenance assessment in Hong Kong and there was thus no justification for transferring the power of the court in assessing maintenance payments to an executive body.

7.4 The result of the HAB study cast doubt on the effectiveness of such an intermediary body in collecting and enforcing maintenance payments. The study was not able to find any figure to quantify the success or failure of the scheme in the UK in enforcing payments. The study found that despite the wide powers possessed by the Australian Child Support Agency, arrears in maintenance payment had continued to be a problem. Arrears were also a problem in New Zealand. In Ontario, only 62% of the maintenance payees received payment regularly.

7.5 However, members present at the Home Affairs Panel meeting in November 1996 were generally in support of establishing an intermediary body for the collection and enforcement of maintenance payments. A member noted that voluntary compliance in Australia had increased after the establishment of the child support agency. Another member suggested that the court or the Social Welfare Department (SWD) should establish a unit to process the collection of overdue maintenance payments.

7.6 Subsequently, a motion debate on the setting up of a maintenance board was held on 26 February 1997. The motion was passed and the wording of the motion is as follows:

“That, in view of the difficulties encountered by many divorcees and their children in claiming the maintenance payments, the Council urges the Government to set up a maintenance board as an intermediary body, to take up the responsibilities for the collection, recovery, payment and relevant management work of maintenance payments, and to oblige divorcees to fulfil their obligations to support their children.”

PART 3 - STRUCTURE AND OPERATION OF CHILD SUPPORT AGENCIES IN OVERSEAS COUNTRIES

8. Structure of Child Support Agencies in Overseas Countries

8.1 All child support agencies in the four countries being studied are under a government department, either a taxation department or a social security department.

Table 4 - Structure of the Child Support Agencies

	Under a taxation department	Under a social security department	Name of the department
US		✓	Department of Health and Human Services
Australia	✓		Australian Taxation Office
New Zealand	✓		Inland Revenue Department
UK		✓	Department of Social Security

Sources : Commissioner of Taxation Annual Report 1994/95, Australian Taxation Office
 Child Support is Working for Children, New Zealand Inland Revenue Department, 1998
 Children First: A New Approach to Child Support, UK Department of Social Security, 1998
<http://www.acf.dhhs.gov/programs/cse/fct/fct2.htm>

8.2 The child support agencies of Australia and New Zealand are under a taxation department. Such organization structure facilitates the child support agencies to assess and enforce child support obligations. In particular, it can access taxation records to obtain relevant information about separated parents and their taxable income and intercept tax refunds of non-custodial parents if they have child support debts.

8.3 The child support agencies of both the UK and the US are under a social security department. This enables the governments to identify those social security recipients who may have grounds to receive child support to apply for the services of the child support agency. The organization structure also facilitates payment of child support to social security recipients through existing payment systems. While the US child support agency is not housed under a taxation department and does not have automatic access to income information, it is given wide powers including access to information to perform its functions. Details of the powers are discussed in Part 4.

8.4 The child support system in the US is a joint undertaking involving federal, state and local co-operative efforts. The Office of Child Support Enforcement (OCSE) of the Department of Health and Human Services is the federal agency that oversees the administration of the child support programme. The federal government sets programme standards and policy, evaluates performance of states in conducting their programmes and offers technical assistance and training to states. Each Child Support Enforcement Agency operates under a state plan approved by OCSE. The Child Support Enforcement Agencies are usually run by the state and local social security departments. The US system would be referred to as the child support agency of the US as if it is a single organization in the rest of this paper although it is formed by many individual state agencies and the federal headquarters.

8.5 Child support collection like revenue collection is a centralized function in Australia. The child support agency operates through various branch offices of the federal Australian Taxation Office and the function is not delegated to the states or territory. The child support agencies of both New Zealand and the UK are also a national agency.

8.6 The child support agencies in the four countries being studied are statutory institutions. The following table lists the legislation for establishing the respective agencies.

Table 5 - Legislation for Establishing the Child Support Agencies

	Name of relevant legislation*
US	Title IV - D of Social Security Act
Australia	Child Support (Assessment) Act 1989 Child Support (Registration and Collection) Act 1988
New Zealand	Child Support Act 1991
UK	Child Support Acts 1991 and 1995

Remark : * Copies of these legislation are reserved in the Legislative Council Library for easy reference by Members.

Sources : Child Support Legislation Amendment Bill 1998, Parliament of Australia
Child Support is Working for Children, New Zealand Inland Revenue Department, 1998
Child Support Enforcement Programme Fact Sheet, US Office of Child Support Enforcement
Child Support Agency: Client Funds Account 1996/97, UK House of Commons

9. Clients of Child Support Agencies in Overseas Countries

9.1 The services offered by the child support agencies in the four countries are available to both rich and poor custodial parents upon voluntary application. These services include assessment and collection of child support. However, if the custodial parents are receiving social security, they must authorize the child support agencies to obtain child support from the non-custodial parents. Custodial parent in this paper refers to the parent who takes most of the daily care of a child while non-custodial parent is the one who is not living with the child.

Table 6 - Types of Clients of the Child Support Agencies

	Custodial parents	Guardians other than parents	Child in question
Australia	✓	X	X
New Zealand	✓	✓	X
UK	✓	✓	✓ (Scotland only*)
US	✓	X	X

Remark : * A child aged 12 years or over who lives in Scotland where at least one of their parents lives apart from them in England, Scotland, Wales or Northern Ireland may apply directly to the Child Support Agency for maintenance assessment.

Sources : Child Support - A Guide for Custodians, New Zealand Inland Revenue Department, 1997
 Child Support Enforcement Programme Fact Sheet, US Office of Child Support Enforcement
 Guide to Child Support Maintenance for Parents Who Live Apart, UK Child Support Agency
<http://www.ato.gov/au>

Custodial Parents With Good Cause Need Not Apply

9.2 Custodial parents who receive social security are required to apply for the services of the child support agencies. However, in the UK and US, one may refuse to apply for the services or to co-operate with the child support agencies if they have “good cause” such as they would be at risk of harm or undue distress if they were to apply. In New Zealand, social security recipients do not need to name the fathers of their children for the collection of child support if there was insufficient evidence available to establish who is, in law, the father or the birth was resulted from incest or sexual violation.

9.3 In the US, 7 830 applicants claimed good cause for refusing to co-operate with the child support agencies in 1995/96 and 4 819 applicants were found to have valid grounds. Examples of valid grounds for claiming good cause include physical or emotional harm to the child or parent, rape or incest. Information on the number of social security recipients claiming good cause is not available for the other three countries.

Custodial Parents or Guardians

9.4 Apart from social security recipients, any custodial parent can apply for child support services in all four countries. Child support services are also available to guardians of children in New Zealand and the UK where a guardian by definition is a person who takes most of the daily care of a child and can be someone other than the parent of a child, such as an aunt, uncle, grandparent or legal guardian.

Child Applicants

9.5 Among the four countries, only Scotland in the UK allows children to apply for the child support services themselves where parents have not applied on their behalf. A child aged 12 years or over who lives in Scotland where at least one of their parents lives apart from them in England, Scotland, Wales or Northern Ireland may apply directly to the child support agency.

Age Limits to Child Support

9.6 While the four countries put limit on the age of children in receiving child support, the limit is not rigidly applied. Child support would stop when the children become financially independent even though they may be below the age limit. On the other hand, child support may still be paid even though the children are beyond the age limit e.g. when the children are still in full-time education.

Table 7 - Age (Years) Limits to Child Support

US	Australia	New Zealand	UK
18	18	19	16 or up to 19 if in full-time education

Sources : Child Support - A Guide for Custodians, New Zealand Inland Revenue Department, 1997
 Child Support Enforcement Programme Fact Sheet, US Office of Child Support Enforcement
<http://www.ato.gov/au>
<http://www.dss.gov.uk.csa/faqs.htm>

10. Operating Cost and Staffing

10.1 The child support agency of the US has the largest number of staff and the highest operating cost among the child support agencies in the four countries (Table 8). It also handles the largest number of case per staff (Table 9). On the contrary, the UK has the highest operating cost per case and the lowest caseload per staff. However, it must be noted that child support agencies in the four countries perform different functions (details in Part 4); hence, a simple cost comparison may not be fair. The data in Table 9 are for reference only.

Table 8 - Operating Cost and Staffing of the Child Support Agencies

	Operating cost (US\$ in million)	Number of staff	Caseloads	Source of finance	
				Government	Others
US (1995/96)	3,055.0	50 734	19 300 000	✓	✓ (fees)
Australia (1996/97)	99.0	2 300	447 729	✓	✓ (penalty)
New Zealand (1996/97)	26.0	548	182 000	✓	✓ (penalty)
UK (1995/96)	333.0	6 500	1 250 521	✓	*(fees and penalty)

Remarks : * The UK Child Support Agency suspended fees and penalty since April 1995.
Financial year of Australia and New Zealand runs from 1 July to 30 June.
Financial year of the UK runs from 1 April to 31 March.
Financial year of the US runs from 1 October to 30 September.

Sources : Commissioner of Taxation Annual Report 1996/97, Australian Taxation Office
Management of Selected Functions of the Child Support Agency, Australian National
Audit Office
New Zealand Inland Revenue Department Annual Report 1996/97
UK Child Support Agency Annual Report and Accounts 1995/96
US Office of Child Support Enforcement 21st Annual Report

Table 9 - Comparison of Operating Cost and Staffing of the Child Support Agencies

	Operating Cost /Staffing (US\$/staff)	Operating Cost /Caseload (US\$/case)	Caseload/Staffing (case/staff)
US (1995/96)	60,216.0	158.0	380
Australia (1996/97)	43,043.0	221.0	195
New Zealand (1996/97)	47,445.0	143.0	332
UK (1995/96)	51,230.0	266.0	192

Remarks : Financial year of Australia and New Zealand runs from 1 July to 30 June.
 Financial year of the UK runs from 1 April to 31 March.
 Financial year of the US runs from 1 October to 30 September.

Sources : Commissioner of Taxation Annual Report 1996/97, Australian Taxation Office
 Management of Selected Functions of the Child Support Agency, Australian National Audit Office
 Child Support is Working for Children, New Zealand Inland Revenue Department, 1998
 New Zealand Inland Revenue Department Annual Report 1996/97
 UK Child Support Agency Annual Report and Accounts 1995/96
 US Office of Child Support Enforcement 20th Annual Report

10.2 The funding for the operation of the child support agencies in the four countries comes mainly from the government although they may charge fees for their services and impose penalty on unpaid child support. Information available shows that about 1% (US\$37 million) of the operating cost of the child support agency in the US came from fees in 1995/96. In 1996/97, the child support agency in Australia collected US\$1.8 million in penalty which amounts to about 2% of the operating cost. The child support agency in the UK does not have income other than government funding.

Fees

10.3 The child support agency in the US charge applicants (non social security recipients) an application fee of not more than US\$25 for each case. However, some states waive all or part of the fee. The child support agency in the UK originally aimed to recover full cost of the services. Between 1993 and 1995, UK's child support agency charged clients US\$72 for assessment and an annual fee of US\$55.7 for collection services. However, there has been no fee for the services since April 1995. Australia and New Zealand do not charge applicants any fee for the services.

Penalty for Non-payment of Child Support

10.4 The US does not impose penalty on child support arrears. In Australia, penalties are imposed automatically on late payment. The child support agency of Australia has the discretion to remit penalties in part or full in certain circumstances. The child support agency of New Zealand would impose a 10% penalty on unpaid amount or US\$2.6, whichever is the larger if full child support is not paid on time. A further 2% penalty will be added each extra month the child support amount remains unpaid. UK's child support agency suspended penalty since April 1995.

PART 4 - FUNCTIONS AND POWERS OF CHILD SUPPORT AGENCIES

11. Functions of Child Support Agencies in Overseas Countries

11.1 The child support agencies in the four countries mainly focus on two functions - child support assessment and collection. The child support agency of the US has more functions than its counterparts in Australia, New Zealand and the UK as shown in Table 10.

Table 10 - Functions of the Child Support Agencies

	Paternity establishment	Location of non-custodial parents	Child support assessment	Child support collection
US	✓	✓	✓	✓
Australia	X	X	✓	✓
New Zealand	X	X	✓	✓
UK	✓	X	✓	✓

Sources : Commissioner of Taxation Annual Report 1996/97, Australian Taxation Office
 Management of Selected Functions of the Child Support Agency, Australian National Audit Office
 New Zealand Inland Revenue Department Annual Report 1996/97
 UK Child Support Agency Annual Report and Accounts 1995/96
 US Office of Child Support Enforcement 20th Annual Report

Establishment of Paternity

11.2 Only the child support agencies in the UK and the US have the function to establish paternity for children seeking child support. Paternity establishment is defined as the legal establishment of fatherhood for a child either by court determination or voluntary acknowledgement. This function is particularly important in places where non-marital child-bearing is prevalent. Paternity establishment would also provide children with legal access to other rights of inheritance.

Location of Non-custodial Parents

11.3 The child support agency of the US has the duty to locate non-custodial parents and/or the parents' employers, income and assets. Location of non-custodial parents would serve two purposes, namely, to establish in concrete money terms the non-custodial parents' child support obligation and to collect child support payment. The US child support agency is given wide powers particularly in information matching to perform this function.

11.4 For child support agencies in the other three countries, they would contact the non-custodial parents based on information supplied by custodial parents. It is their discretion whether or not to locate the non-custodial parents through matching of information from various databases.

Assessment of Child Support

11.5 The amount of child support a non-custodial parent has to pay can be determined in three ways, namely, by voluntary agreement, by the court or by formulaic assessment of a child support agency.

11.6 The child support agencies in Australia and the UK have taken over the function from the court in assessing child support. The assessment is based on formulae stated in the law. The court only has residual function in modifying the amount of child support in some cases.

11.7 For New Zealand, the court still awards maintenance orders while parents can apply for formulaic assessment by the child support agency. If the applicant receives social security, the amount agreed voluntarily between the parents concerned must be the same as or more than the amount determined by formulaic assessment. If parents apply for formulaic assessment, the assessment will overturn voluntary agreement or court orders. Once a court order is overturned it can never be reinstated.

11.8 In the US, child support assessment is still a matter for the court but the decision is based on guidelines drawn up by the states. Courts have the discretion to depart from the guidelines to take into consideration the circumstances of parents. The income of the parents, the number of children and other factors are taken into account in the guidelines or formulae the details of which are given in Appendices I to IV.

11.9 Similar factors such as the net income of custodial parents and number of children that need child support affect the assessment of child support in the four countries. However, the UK formula requires much more information than the formulae adopted in the other three countries. According to the UK Green Paper, "Children First: A New Approach to Child Support", released in 1998, the assessment formula is so complex that the staff of the child support agency have to spend 90% of their time on assessment, leaving only 10% of their time for collection.

Table 11 - Main Factors Affecting Child Support Assessment

	US	Australia	New Zealand	UK
Income of custodial parent	✓	✓	X	✓
Income of non-custodial parent	✓	✓	✓	✓
Information of current partners of both custodial and non-custodial parents	X	X	X	✓
Number of children who receive child support	✓	✓	✓	✓
Number of children living with non-custodial parents	X	✓	✓	✓

Sources : Child Support Scheme: An Examination of the Operation and Effectiveness of the Scheme, Joint Select Committee on Certain Family Law Issues, The Parliament of Australia.
 Child Support - How the Formula Works, New Zealand Inland Revenue Department, 1997
<http://www.dss.gov.uk/ba/GBI/5a57f26.htm>
 Guide to Family Law: The Complete and Easy Guide to the Laws of Marriage, Parenthood, Separation and Divorce, the American Bar Association

Collection of Child Support

11.10 Child support collection is the most important service insofar as the clients are concerned. All four agencies collect payment and pass it on to custodial parents. They would take action to enforce payment if arrears build up.

12. Powers of Child Support Agencies in Overseas Countries

12.1 In performing their functions, the child support agencies in the four countries being studied are given a range of enforcement powers. Of particular importance is the power to gain access to information held by other organizations, public or private.

Establishment of Paternity

12.2 In the US, the paternity regulation requires states to have procedures which allow paternity to be established at least up to a child's 18th birthday. Fathers can acknowledge paternity in the hospital by signing the birth certificate or a standard paternity acknowledgement form. The hospital must then send the acknowledgement to the probate court in the county where the mother resides. In the absence of voluntary acknowledgement, father, mother, and child can be required to take genetic tests.

12.3 In the UK, paternity establishment was a matter for the court before the introduction of the DNA Paternity Testing Scheme in 1995. In case of parentage dispute, staff of child support agency would discuss the matter in private with the non-custodial parent. The non-custodial parent may be offered a DNA test at a discounted rate. If this establishes that he is not the father, the agency will refund the cost of the test. If the test proves that he is the father, arrears will build up whilst the dispute is resolved. However, the child support agency of the UK has no power to coerce genetic testing.

12.4 For Australia and New Zealand, paternity disputes are a matter for the court. In Australia, the power to order DNA and blood testing is delegated to Judicial Registrars.

Location of Non-custodial Parents

12.5 The child support agency of the US has an array of resources at its disposal to locate non-custodial parents and/or the parents' employers, source of income and assets. The major measures are as follows:

- The Federal Parent Locator Service (FPLS) provides addresses, employer information and wage information to state and local child support enforcement agencies to establish and enforce child support orders. The FPLS database comprises the most current information from the Internal Revenue Service, Social Security Administration, National Personnel Records Centre, Department of Defense and State Employment Security Agencies etc.
- Under the Personal Responsibility and Work Opportunity Reconciliation Act 1996, child support staff have access to state motor vehicle and law enforcement database, records of real and titled personal property, and records maintained by public utilities and cable television companies etc.

- The law also requires employers to report all new hires to the government for building up a national directory of new hires. The information on new hires will be matched with child support records to locate non-custodial parents. This measure is considered as effective in tracking those parents who change jobs frequently and work intermittently.
- Executive Order 12953 requires the master file of delinquent parents to be matched at least annually with the payroll or personnel files of federal agencies to determine if there are any federal employees with child support delinquencies.

12.6 The child support agencies of both Australia and New Zealand as part of the taxation department have access to taxation information. In particular, they can access records to obtain relevant information about separated parents and their taxable income, and intercept tax refunds of non-custodial parents if they have child support debts. However, the access of information may sometimes lead to breach of privacy rights. In 1996/97, the Australian Taxation Office received 14 privacy complaints from the Privacy Commissioner's Office, eight of which involved the child support agency.

12.7 The UK child support agency also has the power to access National Insurance and Inland Revenue records in order to locate non-custodial parents. Members of Parliament have urged the agency to be more rigorous in pursuit of hard targets by cross-matching information from different databases.

Assessment of Child Support

12.8 The child support agencies of Australia, New Zealand and the UK have the power to impose default assessment or interim assessment on non-custodial parents who fail to provide all the information needed for assessment. The default assessment is punitive in nature and thus is much higher than ordinary assessment. The default assessment will stay in force until the respective child support agency receives the required information.

Collection of Child Support

12.9 When child support is overdue, child support agencies in all four countries will try to chase the defaulting party with the power given to them. By comparison, the US child support agency has the widest enforcement powers in collecting child support.

Table 12 - Powers in Collecting Child Support

	US#	Australia	New Zealand	UK
Direct deduction from income sources (e.g. salary, tax refunds, bank accounts etc.)	✓	✓	✓	✓
Reporting to credit reference bureaux	✓	X	X	X
Revocation of certain licences	✓	X	X	X
Departure prohibition	X	✓	X	X
Legal action	✓	✓	✓	✓

Remark : # The measures may not be adopted by all states of the US.

Sources : Child Support - A Guide for Custodians, New Zealand Inland Revenue Department, 1997
Collection and Enforcement Policy 1996, Australia Child Support Agency
Guide to Child Support Maintenance for Parents Who Live Apart, UK Child Support Agency
A Compendium of State Best Practices in Child Support Enforcement Fourth Edition, 1998

Direct Deduction from Income Sources

12.10 Direct deduction of child support from various income sources such as wage, social security benefits, bank account or tax refunds is a measure which the child support agencies of the four countries have adopted.

Reporting to Credit Reference Bureaux

12.11 The US child support agency is the only one which has adopted the measure of reporting names of the defaulting non-custodial parents to credit reference bureaux. The agency periodically reports names of those parents who are at least two months behind in paying child support to credit reference bureaux. This has the effect of making it difficult for the defaulting non-custodial parents to obtain loans.

12.12 The Joint Select Committee on Certain Family Law Issues of the Australian Parliament recommended in 1994 that the government should consider reporting names of non-custodial parents to credit reference bureaux. However, the government rejected the proposal as it was concerned that there were considerable sensitivities associated with the measure.

Revocation of Licences

12.13 In the US, driver licences, as well as professional, occupational, and recreational licences, and passports, may be denied or revoked for the non-payment of child support. Licence suspension and revocation became effective in California in 1992, and has proved to be a highly effective measure. As of March 1995, 19 states had adopted the measure to revoke professional and commercial licences as well as driving licences. However, this measure is not adopted by the child support agencies of the other three countries.

Departure Prohibition

12.14 Since May 1998, the child support agency of Australia is given the power through a departure prohibition order process to stop a parent who has persistently failed to meet his or her child support liability from leaving Australia. The departure prohibition order will remain in force until revoked by the child support registrar when the debts have been paid or when satisfactory arrangements have been made.

Legal Action

12.15 Taking legal action is the last resort in all four countries. In the UK, the ultimate sanction for non-payment will be committal to prison for a maximum of six weeks by the court if the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the non-custodial parent.

12.16 In the US, it is a federal crime to cross state lines to evade child support or wilfully fail to pay child support to a child who resides in another state if the past-due amount has been unpaid for over one year or exceeds US\$5,000. Punishment under the federal law includes up to six months' imprisonment and a US\$5,000 fine for a first offence, and up to two years' imprisonment and a US\$250,000 fine for a repeat offence.

PART 5 - PERFORMANCE OF CHILD SUPPORT AGENCIES IN OVERSEAS COUNTRIES

13. Performance of Child Support Agencies in Overseas Countries

13.1 It is not possible to make a direct comparison of the performance and effectiveness of the child support agencies since there are significant differences among these agencies in their functions, powers, structure and size. More importantly, the way they present and maintain their statistics is not the same. The comparison made below is only for reference and should not be taken as a conclusive assessment of the four agencies.

Establishment of Paternity

13.2 The US child support agency established paternity for more than one million children in the whole country in 1995/1996. This represents an increase of 18% over the previous year. Since the UK government introduced the DNA Paternity Testing Scheme in 1995, more and more non-custodial parents have used the test as a way to resolve paternity dispute. The scheme established paternity for nearly 1 200 children in 1995/96.

Table 13 - Number of Paternity Established

US (1995/96)	Australia	New Zealand	UK (1995/96)
1 061 508	n.a.	n.a.	1 170

Remarks : Financial year of the UK runs from 1 April to 31 March.
 Financial year of the US runs from 1 October to 30 September.
 n.a. means not applicable.

Sources : UK Child Support Agency Annual Report and Accounts 1995/96
 US Office of Child Support Enforcement 20th Annual Report

Location of Non-custodial Parents

13.3 With its wide powers, the US child support agency was able to locate nearly six million non-custodial parents in 1995/96. This represents a 17% increase over the previous year.

13.4 While location of non-custodial parents is not a function for the child support agencies in Australia, New Zealand and the UK, they would try various ways to find the parents and/or the parents' employers, income and assets in order to enforce payment. Statistics on location of non-custodial parents are not available in Australia and New Zealand. UK's child support agency located 55 000 non-custodial parents in 1995/96.

Table 14 - Number of Non-custodial Parents Located

US (1995/96)	Australia	New Zealand	UK (1995/96)
5 779 489	n.a.	n.a.	55 000

Remarks : Financial year of Australia and New Zealand runs from 1 July to 30 June.
 Financial year of the UK runs from 1 April to 31 March.
 Financial year of the US runs from 1 October to 30 September.
 n.a. means not applicable.

Sources : UK Child Support Agency Annual Report and Accounts 1995/96
 US Office of Child Support Enforcement 20th Annual Report

Assessment of Child Support

13.5 For custodial parents, the sooner they receive child support, the better. The time taken to complete the first assessment would affect the timing custodial parents receive child support. For non-custodial parents, the longer it takes to complete the assessment, the larger the child support builds up and the more unwilling they would be in paying. For performance in child support assessment, only information in respect of New Zealand and the UK is available.

Table 15 - Length of Time and Accuracy of Child Support Assessment

	Time needed to complete first assessment	Accuracy of assessment (% of cases correct)
US	n.a.	n.a.
Australia	n.a.	n.a.
New Zealand (1996/97)	87% within six weeks 96% within 10 weeks	96%
UK (1995/96)	48% within 26 weeks 85% within 52 weeks 15% over 52 weeks	79%

Remarks : Financial year of New Zealand runs from 1 July to 30 June.
 Financial year of the UK runs from 1 April to 31 March.
 n.a. means not available.

Sources : New Zealand Inland Revenue Department Annual Report 1996/97
 UK Child Support Agency Annual Report and Accounts 1995/96

Time Needed for Assessment

13.6 The child support agency in the UK takes a much longer time to complete the first assessment. More than half of the cases take more than 26 weeks to complete the first assessment. In the meantime, the circumstances of custodial and non-custodial parents may change. This would trigger a second assessment before any money is delivered from the first. The child support agency has a backlog of 572 000 cases waiting to be assessed, over half of which have been outstanding for more than one year.

13.7 When the Green Paper, “Children First: A New Approach to Child Support”, was published by the UK government in July 1998, the Secretary of State of Social Security said that the root of the problem concerning child support assessment was that the formula was too complex. “Over 100 pieces of information are needed before an assessment can be made and sometimes it can take up to three years to come to a decision.” As a result, custodial parents cannot rely on child support for regular financial support for their children. Non-custodial parents find that they owe thousands of pounds in child support after the assessment is completed and see no way of paying.

13.8 The UK assessment formula is not the only one which is considered to be complicated. The formula of the child support agency in New Zealand was described as complex by the Child Support Working Party in its report entitled “Child Support Review 1994”. The Child Support Working Party also criticized the living allowances contained in the formula as “illogical and unrealistic”. The child support agency in New Zealand is able to complete assessment of most cases within 10 weeks.

Accuracy of Assessment

13.9 The accuracy of assessment is important in building up confidence in both custodial and non-custodial parents so that neither party would feel that he or she is unfairly treated.

13.10 UK again performs not as well as New Zealand in terms of assessment accuracy as can be shown in Table 15. The Chief Child Support Officer, an independent authority created by statute to monitor standards of adjudication of the UK child support agency, found that the assessment of 21% of the cases was wrong in 1995/96. The extent of inaccuracy is so wide that the agency estimated that any attempt to identify and correct errors would be a complicated procedure and a very sizeable task which would entail detailed review of all the assessment made to date on every case.

Collection of Child Support

13.11 Performance of child support collection of the four countries is evaluated in terms of collection rate and cost-effectiveness. Information on the effectiveness of various enforcement measures is only available in respect of the child support agencies in the US.

Collection Rate

13.12 Collection rate is calculated by dividing total collection by total assessed liabilities. However, total collection and total assessed liabilities have different meanings in the four countries. In addition, the size of child support liabilities varies greatly from country to country. There is insufficient comparable data to reach a conclusive view on which is the best child support agency in terms of child support collection.

Table 16 - Collection Rates of the Child Support Agencies

	US (1995/96)	Australia (1996/97)	New Zealand (1996/97)	UK (1995/96)
Collection rate (%)	21.0	81.0	91.0	53.0
<i>US\$ in million</i>				
<i>Total collection</i>	<i>12,020.0</i>	<i>1,339.0</i>	<i>95.0</i>	<i>493.0</i>
<i>Total assessed liabilities</i>	<i>57,085.0</i>	<i>1,652.0</i>	<i>104.0</i>	<i>926.0</i>
Outstanding debts	45,065.0	313.0	n.a.	1,468.0

Remarks : Financial year of Australia and New Zealand runs from 1 July to 30 June.
Financial year of the UK runs from 1 April to 31 March.
Financial year of the US runs from 1 October to 30 September.
n.a. means not available.

Sources : Commissioner of Taxation Annual Report 1996/97, Australian Taxation Office
New Zealand Inland Revenue Department Annual Report 1996/97
UK Child Support Agency Annual Report and Accounts 1995/96
US Office of Child Support Enforcement 20th Annual Report

13.13 In the US, total assessed liabilities refer to current year child support plus debts outstanding from previous years and total collection refers to collection in respect of liabilities incurred in the current year and previous years. Nearly 79% of the total assessed liabilities in the US at US\$ 57 billion was outstanding debts. If taking current year collection at US\$ 9 billion against current year liabilities at US\$ 17 billion, the US has a collection rate of 53% instead of 21% shown in Table 16.

13.14 Australia has a 81% collection rate. The rate is calculated by dividing the cumulative child support collected since 1988 by the total cumulative liabilities. The collection rate for the current year is not available though it is known that US\$601 million was collected in 1996/97.

13.15 New Zealand presented a high collection rate at 91% in 1996/97. However, it is not known if total assessed liabilities include debts outstanding from previous years.

13.16 For the UK, both total collection and total assessed liabilities refer to those of the current year and total assessed liabilities do not include debts from previous years. The collection rate may be much lower than 53% if the debts were included in total assessed liabilities.

Collection Rate Before the Establishment of the Child Support Agencies

13.17 Among the four child support agencies in overseas countries, only the one in New Zealand has information on the collection rate before the establishment of the agency. The US child support agency does not keep statistics before its establishment in 1975. Australia and the UK have not provided information on the collection rate before the establishment of the child support agencies.

13.18 When comparing figures for New Zealand in Table 16 and Table 17, it seems that the collection rate has increased from about 40% to a much higher rate after the child support agency was established. However, it is not known whether the collection rates before and after the establishment of the child support agency are calculated in the same manner.

Table 17 - Collection Rate Before the Establishment of the Child Support Agency in New Zealand

Year	1988/89	1989/90	1990/91
Collection for court ordered maintenance / registered voluntary agreements			
Amount received (US\$ in million)	25.5	28.6	36.7
Amount due (US\$ in million)	57.9	70.2	81.3
Collection rate (%)	44.0	41.0	45.0
Collection under a scheme run by the Department of Social Welfare			
Amount received (US\$ in million)	5.5	4.3	4.2
Amount due (US\$ in million)	11.7	10.3	10.1
Collection rate (%)	47.0	42.0	42.0

Source : New Zealand Inland Revenue Department

Child Support Debts

13.19 Child support debts are building up in all four countries. A lot of the debts have been outstanding for a long time and are difficult to collect. New Zealand is conducting a trial to sub-contract collection of old debts to the private sector. About 20 states in the US have contracted private sector firms to collect some of the child support debts.

13.20 For Australia, about 40% of the child support debts are two years old. Australia would write off part of the debts which are considered as uncollectable. The Australian child support agency has written off US\$35.2 million since it was established in 1988. The Joint Select Committee on Certain Family Law Issues of the Australian Parliament had recommended the child support agency to use private agencies for debt collection.

13.21 Around 77% of the debts of the UK child support agency are classified as uncollectable since much of them relate to interim maintenance assessment fixed at punitive rates and which do not reflect parents' ability to pay.

Cost-effectiveness

13.22 It takes money to collect money from non-custodial parents. Cost-effectiveness analysis helps the government to evaluate whether it is worthwhile to take on the responsibility of collecting child support for custodial parents. The cost-effectiveness ratio is calculated by dividing total collection of the current year by operating cost of the current year.

Table 18 - Cost-effectiveness of the Child Support Agencies

	US (1995/96)	Australia (1996/97)	New Zealand (1996/97)	UK (1995/96)
<i>US\$ in million</i>				
Total collection	12,020.0	601.0	95.0	493.0
<i>Voluntary payment</i>	<i>157.0</i>	<i>323.0</i>	<i>n.a.</i>	<i>270.0</i>
<i>Enforcement collection by agency</i>	<i>11,863.0</i>	<i>278.0</i>	<i>n.a.</i>	<i>223.0</i>
Operating cost	3,055.0	99.0	26.0	333.0
Cost-effectiveness ratio (Total collection to operating cost ratio)	3.9 : 1	6.1 : 1	3.7 : 1	1.5 : 1
<i>Enforcement collection by agency to operating cost ratio</i>	<i>3.9 : 1</i>	<i>2.8 : 1</i>	<i>n.a.</i>	<i>0.7 : 1</i>

Remarks : Financial year of Australia and New Zealand runs from 1 July to 30 June.
 Financial year of the UK runs from 1 April to 31 March.
 Financial year of the US runs from 1 October to 30 September.
 n.a. means not available.

Sources : Management of Selected Functions of the Child Support Agency, Australian National Audit Office
 Child Support is Working for Children, New Zealand Revenue Department, 1998
 New Zealand Inland Revenue Department Annual Report 1996/97
 UK Child Support Agency Annual Report and Accounts 1995/96
 US Office of Child Support Enforcement 20th Annual Report

13.23 According to the total collection to operating cost ratio, Australia's child support agency is most cost-effective while that of the UK is least cost-effective. For Australia's child support agency, more than six dollars were collected for every one dollar spent to operate the system. However, it should be noted that in Australia, the amount of voluntary payment is high, at 54% of total collection. On the contrary, voluntary payment amounted to less than 1% of total collection in the US. If one just counts collection by the agency, the cost-effectiveness ratio of the child support agency in Australia comes down to US\$2.8 collected for every US\$1 spent. The child support agency in Australia attributed the high rate of voluntary collection to a successful shift in cultural value as the community now accepts that parents should assume responsibility to provide financial support for their children.

13.24 It should be noted that operating cost of a child support agency includes expenditure on functions other than collection. For example, the US child support agency performs other functions such as establishment of paternity and location of non-custodial parents (see Table 10). The US child support agency spent only one third of its operating cost on collection which means the US collected as much as US\$11 for every US\$1 spent on collection. The breakdown of the operating costs in the other three countries is not available.

Effectiveness of Enforcement Measures

13.25 In the US, wage withholding, withholding of unemployment compensation, and tax refund are found to be the more powerful enforcement techniques. Wage withholding accounted for 56% of all collection in 1996. Interception of tax refund accounted for 8.4% and the withholding of unemployment compensation accounted for 1.8%.

Reimbursement of Social Security Payments

13.26 The child support agencies would recover from child support the assistance already paid to social security recipients who have received child support collected by the agencies on their behalf. The financial burden on the government would be reduced if non-custodial parents are willing to provide financial support to their children.

13.27 The child support agency in the US collected US\$2.9 billion in 1995/96 for clients who were on social security. The federal and state governments together retained US\$1.9 billion as reimbursement for assistance payments. The amount represents about 15% of social security benefits paid to single-parent families. The child support agency in Australia recovered US\$193 million of social security payments from child support and its counterpart in New Zealand recovered US\$63.7 million in 1996/97. Information for the UK is not available.

Table 19 - Social Security Payments Recovered from Child Support

US (1995/96)	Australia (1996/97)	New Zealand (1996/97)	UK (1995/96)
<i>US\$ in million</i>			
1,900	193.0	63.7	n.a.

Remarks : Financial year of Australia and New Zealand runs from 1 July to 30 June.
Financial year of the US runs from 1 October to 30 September.
n.a. means not available.

Sources : <http://www.aph.gov.au/>
Child Support Schemes: Australia and Comparisons, Research and Policy Unit of the Australian Child Support Agency, 1998
US Office of Child Support Enforcement 21st Annual Report

13.28 Table 20 compares the cost of operating child support agencies and the amount of social security payments recovered from child support. In the US, the cost of operating child support agencies far exceeded the amount of social security payments recovered from child support received in 1995/96. On the other hand, figures in 1996/97 indicate that in Australia and New Zealand, the amount of social security payments recovered from the child support received was higher than the operating costs of the child support agencies, with the result that Government's expenditure on social security was reduced.

Table 20 - Social Security Payments Recovered from Child Support

	US (1995/96)	Australia (1996/97)	New Zealand (1996/97)	UK (1995/96)
<i>US\$ in million</i>				
Social Security Payments Recovered from Child Support	1,900	193.0	63.7	n.a.
Operating Cost of Child Support Agency	3,055	99	26	333

Remarks : Financial year of Australia and New Zealand runs from 1 July to 30 June.
Financial year of the UK runs from 1 April to 31 March.
Financial year of the US runs from 1 October to 30 September.
n.a. means not available.

Sources : <http://www.aph.gov.au/>
Child Support Schemes: Australia and Comparisons, Research and Policy Unit of the Australian Child Support Agency, 1998
US Office of Child Support Enforcement 21st Annual Report
Management of Selected Functions of the Child Support Agency, Australian National Audit Office
New Zealand Inland Revenue Department Annual Report 1996/97
UK Child Support Agency Annual Report and Accounts 1995/96

Ratings by Clients

13.29 The success of a child support system is affected by the perception of the parents, both custodial and non-custodial. The perception of parents towards the child support agency affects their willingness to co-operate with the agency.

13.30 The child support agency in New Zealand fares well in customers' eyes. Results of a customer satisfaction survey in 1996/97 showed that 71% of customers were either satisfied or very satisfied with the service.

13.31 The child support agency of Australia does not have as high a rating in the eyes of customers as its New Zealand counterpart. Client research commissioned by the agency in 1997 indicated that 49% of non-custodial parents and 32% of custodial parents surveyed were dissatisfied or very dissatisfied with the service. Custodial parents considered that the agency was too soft on non-custodial parents. Their perception was that the agency did not chase arrears. Non-custodial parents considered that they were discriminated against by the agency.

13.32 In 1995/96, only 45% of the clients of the UK child support agency indicated that they were satisfied with the agency's services. According to the UK Green Paper, "Children First: A New Approach to Child Support", many people think that the current scheme treats money as the only thing that matters. It gives the message that a non-custodial parent's obligations begin and end with a cheque in the post.

13.33 Information on client satisfaction towards the US child support agency is not available.

PART 6 - ANALYSIS

14. Comparison of the Child Maintenance Assessment and Collection Systems

14.1 Unlike the four countries studied in this paper, Hong Kong does not have a dedicated organization for assessing and collecting child maintenance. Hong Kong also has a much smaller number of single-parent families receiving social security when compared to the four countries (Table 20). However, the total number of single-parent families in Hong Kong is not known.

Maintenance Assessment

14.2 In Hong Kong, the amount of maintenance can be determined by voluntary agreement between the divorcing couple. Where the parties concerned cannot come to an agreement, assessment is made by the court. In Australia, New Zealand and the UK, there are dedicated child support agencies for assessing the level of child maintenance according to pre-determined formulae. In the US, the decision is made by the court based on guidelines drawn up by individual states.

Collection of Maintenance

14.3 In Hong Kong, if the maintenance payer defaults on payment, the payee can enforce collection by legal action. In all four countries, maintenance payment can be enforced by the court as well as the child support agencies.

Maintenance Enforcement Measures

14.4 While Hong Kong does not have a child support agency, there are a number of enforcement measures available to maintenance payees. The main difference is that the measures can be enforced by the child support agencies in the four countries while the measures have to be enforced by the court in Hong Kong.

14.5 The normal procedure for enforcing maintenance orders is by way of a judgement summons. A judgement debtor (i.e. the maintenance payer) served with a judgement summons is required to appear in court to be examined as to his or her means. If the court is satisfied that the judgement debtor has wilfully neglected to comply with the maintenance order, it may either make a committal order committing the judgement debtor to prison or a suspended committal order subject to the judgement debtor paying maintenance arrears by monthly instalment.

14.6 With the enactment of Attachment of Income Order Rules in April 1998 in Hong Kong, a maintenance payee may apply to the court for an attachment of income order if his or her ex-spouse has failed without reasonable excuse to pay maintenance. After a maintenance payee has filed an application for an attachment of income order, the maintenance payer has to submit to the court a statement of means which details his or her income and expenditure. He or she has to give also particulars of all of his or her income sources. Income under the ordinance is not confined to wages. It also includes, for example, rental receipts and dividends. Where an attachment of income order is issued by the court, the income source of the ex-spouse would have to deduct the amount from the ex-spouse's income and pay it direct to the maintenance payee.

14.7 In addition to judgement summons and attachment of income order, maintenance payees may also apply to the court for other orders such as charging order which charges arrears of maintenance on property held in the name of the defaulting party and prohibition order which prohibits the defaulting party who needs to travel in and out of Hong Kong from leaving the territory to facilitate payment of sum owing pursuant to a judgement order.

Table 21 - Comparison of the Maintenance Assessment and Collection Systems between Hong Kong and Overseas Countries

	Hong Kong	US	Australia	New Zealand	UK
Single-parent families:					
Total number	n.a.	11 500 000	721 100	142 719	1 700 000
Number on social security	13 303	4 000 000	342 290	107 629	1 100 000
Percentage on social security (%)	n.a.	35.0	47.0	75.0	65.0
Maintenance assessment:					
By agreement	✓	✓	✓	✓	✓
By courts	✓	✓	X	✓	X
By collection agency	X	X	✓	✓	✓
Collection of maintenance payment:					
Voluntary payment	✓	✓	✓	✓	✓
Legal action	✓	✓	✓	✓	✓
Collection agency	X	✓	✓	✓	✓
Maintenance enforcement measures:					
Direct deduction from income sources	✓	✓	✓	✓	✓
Reporting to credit reference bureaux	X	✓	X	X	X
Revocation of certain licences	X	✓	X	X	X
Departure prohibition	✓	X	✓	X	X
Legal action	✓	✓	✓	✓	✓

Remarks : n.a. means not available.

Sources : Commissioner of Taxation Annual Report 1996/97, Australian Taxation Office
Management of Selected Functions of the Child Support Agency, Australian National Audit Office
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UK Child Support Agency Annual Report and Accounts 1995/96
US Office of Child Support Enforcement 20th Annual Report
PLC Paper No.CB(2)1212(04)

15. Analysis of the Child Maintenance Collection Systems in Overseas Countries

Intermediary Between Custodial and Non-custodial Parents

15.1 One advantage of having a maintenance collection agency is the removal of responsibility of custodial parents to collect payment from non-custodial parents who do not volunteer payment. With the maintenance collection agency, both parties can avoid the bitterness, distress and argument over money especially in the presence of children.

Recognition of Responsibility by Parents

15.2 One of the main reasons for the four countries to establish child maintenance collection agencies was that they considered parents instead of taxpayers should provide financial support for children involved in divorces or separation. However, the recognition of the responsibility of parents requires a cultural shift in the community. The cultural shift does not come automatically. While Australia claims success in shifting the culture which is evidenced by the fact that more and more parents volunteer maintenance payment, the UK has failed. The UK government admitted the failure in the Green Paper, "Children First: A New Approach to Child Support". "We needed a fundamental culture change to convince non-resident (non-custodial) parents that their responsibility to their children did not end when they stopped living with them, or because either parent was in a new relationship. Unfortunately, this culture change did not materialize and there was little recognition of children's need for two positive and committed parents."

15.3 It is difficult to find out the factors that would lead to the required cultural shift. However, the experience of overseas countries highlights the importance of the perception and co-operation of the community for the success of a dedicated maintenance collection agency.

Problems Concerning Formulaic Assessment

15.4 Formulaic assessment aims to provide an objective standard in determining the amount of maintenance. However, the formula is usually complex and the process can take very long to finish. During assessment and before child support is collected, custodial parents have to rely on their own means for living.

Privacy Concerns of Data-Matching

15.5 The US child support agency has wide powers in its access to information contained in various databases, public or private. By cross-matching the information of different databases, it is able to track down non-custodial parents. However, such wide powers in information access and data-matching may not be possible in every territory due to different standards of privacy. In 1996/97, the Australian Taxation Office received eight privacy complaints from the Privacy Commissioner's Office relating to the child support agency.

Child Support Collection

15.6 Child support collection to a large extent depends on the co-operation of non-custodial parents. Despite wide enforcement powers, it remains difficult to collect child support from those who are unwilling to co-operate. This is why the child support agencies in all four countries face the problems of debts. Some of them have to sub-contract part of the debts to private agencies for collection.

Cost-effectiveness

15.7 With the assistance of a child support agency, some single-parent families may be able to leave social security and depend on regular child support for their living. However, it does not necessarily mean that the government expenditure would fall as a result since the government would need to provide resources for the operation of the child support agency. Savings in social security payment may not be able to cover the cost for operating a child support agency.

Custodial Parents Facing Domestic Violence

15.8 A child support agency may not be a solution to all types of maintenance cases, especially for custodial parents who may face the possibility of domestic violence if they approach their ex-spouses for maintenance. While all four overseas countries require social security recipients to authorize the child support agencies to collect child support, they would not be required to do so if they have "good reasons" such as they would be at risk of harm or undue distress if they were to apply.

16. Summary

16.1 The number of single-parent families relying on social security is relatively small in Hong Kong when compared to overseas countries especially that in the UK and the US. The financial burden posed by single-parent families on Hong Kong's taxpayers is therefore relatively small. However, it is not known how many single-parent families there are in Hong Kong and how many of them are facing financial difficulties but have not approached the government for social security.

16.2 While Hong Kong does not have a separate and dedicated organization for the collection of child support, maintenance payees have various ways to enforce payment through the court such as direct deduction of maintenance from various income sources. Child support agencies in overseas countries also use similar ways to collect child support but the difference is that they may not need to go to the court for an order. It should be noted that wide enforcement powers do not guarantee a good collection rate as shown in the case of the US.

16.3 The establishment of a maintenance collection agency is a matter which warrants careful consideration. The structure, size, functions and powers of such an agency also need to be carefully considered to avoid the problems encountered by overseas countries.

Appendix I

Child Maintenance Assessment Formula of the United States

(An extract from the “Guide to Family Law: The Complete and Easy Guide to the Laws of Marriage, Parenthood, Separation and Divorce”, the American Bar Association, Time Books, Random House, 1996)

The amount of money a parent will have to pay in child support varies from state to state because each state has its own guidelines and judges may differ in their willingness to depart from guidelines.

2. Generally, there are two types of child support guidelines. One type is based on the income of the person who is supposed to pay child support and the number of children. The other type of guideline is based on the income of both parents and number of children. This second type of guideline often is referred to as the income shares model.

3. Illinois is an example of a state with guidelines based on the income of only the parent from whom support is due. This is the Illinois guideline in effect in 1996:

Number of children	Percentage of supporting party’s net income
1	20 percent
2	25 percent
3	32 percent
4	40 percent
5	45 percent
6 or more	50 percent

4. Under this guideline, if a non-custodial parent (“supporting party”) had a net income* of US\$40,000, the annual level of child support would be US\$8,000 for one child; US\$10,000 for two children; US\$12,800 for three children, and so on.

* Net income means gross income minus federal and state income taxes, social security tax, Medicare tax, and deductions for health insurance.

5. In the “income shares model,” which considers the income of both parents, the court first adds the net income (or in some states, the gross income) of both parents. Then the court consults a long table - or computer program - which assesses the total obligation of support as a percentage of the combined income and the number of children. Generally, the percentage drops as the combined income rises, on the assumption that financially well-off parents need to spend a smaller portion of their income on their children than parents who are less well-off.

6. The court multiplies the combined income by the percentage figure and obtains a dollar amount that the child or children are considered to need for support. Then the responsibility to pay that support is divided between the parents in proportion to each parent’s income.

7. Here is an example using Colorado’s child support schedules. Assume a father and mother have two children and a combined annual gross income of US\$60,000: US\$40,000 earned by the father and US\$20,000 earned by the mother. The schedules put the guideline amount for support at US\$11,508 per year (US\$959 per month). Since the father earns two thirds of the parties’ combined income, he would pay two thirds of the children’s support (US\$7,672 a year) and the mother would pay one third (US\$3,836).

8. If one parent had primary custody of the children, the other probably would make a cash payment to that parent. The parent with primary custody probably would not make a cash payment as such, but would be assumed to be spending that amount on the children. Alternatively, the parents might set up a checking account for the children’s expenses, deposit their respective shares into the account, and agree on the type of expenses that could be paid from the account.

Appendix II
Child Maintenance Assessment Formula of Australia

(An extract from the “Child Support: A Guide for Parents Who Have Separated and for Anyone Else Who Should be Paid or Will Need to Pay Child Support”, Child Support Agency)

How Does the Formula Work?

First, the income of the parent who will be paying the child support (this person is called the “paying parent”) is calculated this way:

The paying parent’s taxable income

LESS an allowance for living expenses and for natural or adopted children in their care
 LESS that portion of the custodian’s income which is above average weekly earnings.

2. After making these deductions, a percentage of the remaining income is paid as support for each child:

Number of Children	1	2	3	4	5 or more
Child Support %	18%	27%	32%	34%	36%

More About the Formula

3. The child support assessment is re-calculated each year to allow for inflation and changes in income.

4. The formula works differently in some cases - for example, if the parents share the children’s daily care. Staff at the Child Support Agency or Department of Social Security can explain how it apply to you.

Appendix III**Child Maintenance Assessment formula of New Zealand**

(An extract from the "Child Support: How the Formula Works", Inland Revenue Department, 1997)

About the Formula

We use the following formula, which is set by law, to work out how much child support you have to pay:

your taxable income	
<i>less</i>	your living allowance
<i>multiplied by</i>	a percentage
<i>equals</i>	the amount of child support you have to pay for the year

Taxable Income

2. The taxable income we use in the formula is taken from the tax return you filed two years ago. For example, to assess your child support for the year from 1 April 1998 to 31 March 1999, we use your income from the year 1 April 1996 to 31 March 1997.

Maximum income in a child support year

3. There are maximum taxable income levels set, even if you earn more than these amounts. The highest taxable income figure we can use in the formula is:

- US\$31,047 for the year ended 31 March 1997
- US\$32,085 for the year ended 31 March 1998
- US\$33,296 for the year ended 31 March 1999.

4. Unless you're exempt from paying child support, you must pay a minimum of US\$5.2 per week, even if you do not earn any income

Living Allowance

5. The living allowance is what we subtract from your taxable income. The living allowance is based on Income Support benefit amounts, and depends on your family situation.

Your family situation	Your living allowance		
	1 Apr 96 - 31 Mar 97	1 Apr 97 - 31 Mar 98	1 Apr 98 - 31 Mar 99
	US\$	US\$	US\$
Single with no children living with you	5,568	5,723	5,873
Married or de facto with no children living with you	7,716	7,849	8,024
Single or married/de facto with:			
One child living with you	10,995	11,153	11,420
Two children living with you	12,122	12,331	12,666
Three children living with you	13,250	13,509	13,911
Four or more children living with you	14,378	14,687	15,156

Percentage

6. After we subtract your living allowance from your taxable income, we multiply what is left by a percentage. The percentage we use in your assessment depends on the number of children you have to pay child support for.

If you pay child support for	The percentage is
1 child	18%
2 children	24%
3 children	27%
4 or more children	30%

Appendix IV

Child Maintenance Assessment Formula of the United Kingdom

(An extract from the “Guide to Child Support Maintenance for Parents Who Live Apart”, the Child Support Agency)

How is the Amount of Child Maintenance Worked Out?

The Agency takes into account:

the day to day cost of maintaining a child;

the income of the parent with care and the absent parent after making allowance for tax, national insurance and basic living expenses, including rent or mortgage costs. The income of the parent with care can serve to reduce the absent parent’s payment but in most cases is not high enough to do so;

any other children either parent may have.

2. New partners of either parent will not be expected to pay anything towards the child support maintenance of children who are not their own.

3. However, partner income details are required because: Where the parent with care and their current partner or the absent parent and their current partner have a child(ren) of their relationship it needs to be established if the partner can contribute to the upkeep of that child(ren).

4. In the case of an absent parent, information is required to check that the income of the absent parent’s household does not fall below certain limits if the maintenance liability was met in full.

5. A formula is used to work out how much child maintenance is payable. It takes account of each parent’s income and essential outgoings.

6. The formulae has six elements:

the maintenance requirement: this is the basic amount which all parents are required to contribute to the maintenance of their children if they can afford to; it represents the weekly cost of maintaining each child based on allowances in the Income Support Scheme:

exempt income: this represents the weekly amount which parents are deemed to need for their own essential living expenses. This “exempt income” figure is deducted from net income to arrive at a figure for “assessable income” which is the income from which maintenance is deducted;

the deduction rate: maintenance is deducted at the rate of 50 per cent from “assessable income” until the maintenance requirement is met;

the additional element: an extra payment required from parents who have assessable income left after they have met the maintenance requirement for their children;

protected level of income: this is the minimum amount which absent parents must retain after meeting their maintenance obligations. It ensures that absent parents and any second family are significantly better off after paying maintenance than they would be if receiving Income Support;

a minimum amount: if the formula produces a figure which is less than a prescribed minimum amount (currently US\$8.2 at 1998/99 rates) then the absent parent will pay that minimum amount unless exempt, for example because he has a dependent in his household or he is disabled.

7. In addition, there are safeguards to ensure that absent parents keep more money than they would get if they were receiving Income Support or Jobseeker’s Allowance (Income based), and do not pay more than 30 per cent of their net income in maintenance assessed under the child support formula. If they owe arrears they will not generally be asked to pay more than 33 per cent, unless they have failed to make or keep an agreement to pay maintenance when they may be required to pay 40 per cent of their net income.

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