



Commonwealth  
Ombudsman

**Own Motion Investigation  
into Family assistance administration  
and impacts on Family Assistance  
Office customers**

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**Report under section 15 of the *Ombudsman Act 1976***

February 2003

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## EXECUTIVE SUMMARY

### Background

1 The current family assistance system was introduced as part of the Government's introduction of A New Tax System from 1 July 2000 and included increases in the rates of payments, extension of eligibility to cover young people up to the age of 25 years, relaxation of the income test and abolition of the assets test. The effect of the changes was to increase payments by an average of \$40 per family in 2000-01 and the number of families eligible for family assistance rose to approximately 2.2 million<sup>1</sup> from approximately 1.8 million in the previous year.<sup>2</sup> The package formed part of the compensation to families for increased costs associated with the introduction of a Goods and Services Tax.

2 In addition, the new system was designed to consolidate and simplify the range of assistance to families and provide more choice about how families accessed their entitlements. More than twelve different payments and tax rebates were replaced by just three payments: Family Tax Benefit Part A (FTB(A)), Family Tax Benefit Part B (FTB(B)) and Child Care Benefit (CCB).

3 The first two payments (FTB(A) and FTB(B)) have been established as "tax benefits" rather than as normal transfer payments under the social security system. These "tax benefits" become a credit against any tax liability incurred, with any excess credit paid as a refund. However, this credit may be accessed during the tax year in the form of instalments paid by Centrelink. Centrelink calculates the rate at which instalments are paid based on a forecast (estimate) of taxable income provided by the person. Any instalments paid during the year are reconciled (by the Family Assistance Office) when the person's actual tax liability for that year is assessed.

4 While CCB is not a tax benefit and cannot be claimed through the tax system, the income testing arrangements are the same as for FTB. Entitlement is based on actual taxable income for the year (as assessed by the Tax Office). Any instalments provided during the year are reconciled (by Centrelink) against the final entitlement.

5 A more detailed description of the new arrangements is provided at Attachment A.

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<sup>1</sup> Department of Family and Community Services (2001) *Annual Report 2000-01*, Canberra: 32.

<sup>2</sup> Department of Family and Community Services (2000) *Annual Report 1999-2000*, Canberra: 51.

## Complaints to the Ombudsman

6 Centrelink customers began making complaints to my office about various aspects of the system soon after the new system was introduced. These increased prior to the end of the 2000/2001 financial year, when families became aware that they were likely to incur debts. The number of complaints escalated in January and February 2002, when Centrelink sent notices to some families advising them of the amounts of overpayments for the 2000/01 tax year and again in July 2002 when debt recovery procedures came into effect for the 2001/02 tax year.

7 Table 1, below, sets out the complaints received by this office.

**Table 1: Family assistance complaints 1 July 2000 to 3 September 2002**

Payment	Issues			Total
	Assessment (inc o/pymt issues)	Debt recovery	Other	
FTB A	936	116	160	1212
FTB B	370	44	72	486
CCB	114	22	21	157
<b>Total</b>	<b>1420</b>	<b>182</b>	<b>253</b>	<b>1855</b>

8 The following sections indicate the main issues raised in complaints.

### Income estimate debts

9 Many complaints related to family assistance debts that had arisen from income estimates. These generally arose because a parent's employment or income had unexpectedly changed during the course of the year. Even in cases where Centrelink was notified immediately and payments were adjusted for the rest of the financial year, there was still a debt at reconciliation.

10 My office also received a small number of complaints about the effect of superannuation payouts on FTB. The families who contacted us had not been aware that these payouts were included in their yearly income for family assistance purposes. Most had claimed their superannuation on hardship grounds, late in the financial year, and used a substantial proportion of those funds for necessary expenses. It was not until the end of year income reconciliation was completed that they became aware that a significant proportion of FTB paid to them before they received the superannuation payout had become a debt.

## **Maintenance income debts**

11 Receipt of child support (maintenance) payments may reduce the amount of family assistance to which a family is entitled, and there are a number of circumstances that may lead to an overpayment when FTB(A) is reconciled with maintenance income after the end of each financial year.

12 If a person receives their FTB(A) in instalments during the year, unless the person elects otherwise (see below), Centrelink calculates the amount to be paid taking account of the maintenance they are entitled to receive. This is known as the “entitlement method”.

13 However, the person can elect to have their FTB(A) instalments based on the maintenance as it is received (eg, if maintenance payments are irregular). Centrelink then adjusts FTB(A) payments each time they are notified of a child support payment by the CSA. This is known as the “disbursement method”.

14 Regardless of which approach is used to calculate instalments of FTB(A) during the year, the final entitlement for the year is calculated on the actual total maintenance paid (or assumed to have been paid) in the year, with a top up paid in the event of an underpayment and any overpayment becoming a debt.

15 My office has received a number of complaints from parents who have incurred a debt because they unexpectedly received a lump sum payment of child support arrears or because their rate of child support increased during the year. (In some cases the increased rate of child support may apply from a date in the past and therefore there is a retrospective effect of FTB entitlement.) In most of these cases, the overpayments appear to have been unavoidable and were unable to be anticipated.

16 Overpayments may also arise for child support payers. From 1 July 2000, parents who are paying child support and also have children in their care have been able to exclude child support payments from their income estimates in respect of their own entitlements to family assistance. This means that a reduction to their child support liability part way through a financial year can result in a family assistance overpayment.

## **Shared care rules**

17 Families may also incur a debt as a result of the “shared care” rules, whereby a parent is only entitled to claim the proportion of family assistance corresponding to the proportion of actual care that is exercised. In some cases, one parent may not claim their share of FTB payment for a child until late in (or after the end of) the financial year, causing an overpayment of amounts already paid to the other parent.

18 This office also received a number of complaints where the amount of “shared care” claimed by one parent was disputed by the other parent. Our investigations indicated that, in some of those cases, the Centrelink guidelines (requiring such claims to be checked with both parents) were not always followed.

## **Recovery from tax refunds**

19 Special debt recovery action was put in place in respect of family assistance debts resulting from overpayments in the first year of the new family assistance system (the 2000/01 financial year). For that year, the first \$1000 of any family assistance debt was waived and the preferred method for recovering any remaining debt was by regular partial withholdings from future family assistance payments.

20 However, from July 2002, the preferred method of debt recovery for FTB overpayments has been through the intercept of any available tax refunds. This triggered many complaints to this office, as families were not notified of the debt and proposed recovery action until after it had occurred.

## **Deadlines for lodgement of tax returns**

21 The new family assistance legislation sets a deadline of twelve months after the end of the relevant tax year for claims for FTB to be made and for lodgement of a tax return in order to access any credit that might be due.

22 While the Family Assistance Office (FAO) made significant efforts to ensure that families were aware of the deadline (including through issuing two reminder notices to families who had not lodged tax returns, provision of advice to tax agents and inclusion of information in the Tax Pack and in the FTB claim instructions), This Office received a number of complaints about the operation of this provision from families who were unaware of the deadline. In some cases, the person had obtained an extension of time for tax purposes but this was not taken into account for family assistance.

23 The deadline for lodgement of tax returns for FTB purposes for the 2000/01 tax year was 30 June 2002, which was a Sunday. This office received complaints from people who had lodged their tax returns on 1 July 2002 (the next working day after the deadline) but who were denied access to any credit due to them. This issue is discussed in detail in Chapter 8.

## **Denial of advance payments**

24 Advance payments of Centrelink entitlements are available for a range of pensions and other benefits. For example, a person receiving an income support payment may receive an advance of up to \$500 in any 12 month period. Their ongoing fortnightly payments would then be proportionately reduced over the next six months until the amount was recovered. Advance payments of family assistance are also available. Families are able to receive an advance each year equivalent to half the minimum payment for one child for twelve months. In 2000/01, the maximum advance amount available to families was \$489.10.

25 Advance payments of income support are not available to recipients who have a Centrelink debt. However, under the previous family assistance scheme, families could access an advance payment of family assistance even where an income support debt existed.



26 The new family assistance system introduced legislative changes so that Centrelink customers with an existing Centrelink debt, for example because they received an overpayment, are not eligible for an advance payment of family assistance. The increase in the incidence of debts that is a feature of the new family assistance scheme has also meant that more people are excluded from advances of pensions and benefits.

27 The refusal of advance payments due to an existing debt has been a source of many complaints to this office. In some cases, families were refused an advance payment because of a small existing debt. Centrelink has advised this office that an outstanding advance amount of more than \$20.37 is considered a debt for the purposes of eligibility for a new advance payment.

## **Ombudsman's office approach on complaints**

28 Preliminary investigations of complaints received by this office indicated that, in most situations, Centrelink and the FAO had acted in accordance with the relevant legislation and guidelines. Individuals also had the right to request a review of decisions through the normal Centrelink review and appeal procedures. In these circumstances, most individual complainants were advised to pursue those rights to administrative review.

29 These individual complaints did, however, suggest broader underlying problems with the new system, both in relation to the overall administrative approach and the impact of the policy and legislation. Therefore, I considered it appropriate to commence an own motion investigation with the intention of identifying these systemic issues and developing and suggesting ways in which they could be ameliorated or overcome.

## **Recently announced changes**

30 On 17 September 2002, the Minister for Family and Community Services announced changes to the family assistance scheme aimed at improving the administration of the scheme and providing more choice and flexibility for families.<sup>3</sup> The Minister also indicated that the changes "will see the number of overpayments greatly reduced."<sup>4</sup>

31 The changes, which will take effect progressively from November 2002 will allow families greater choice over the way in which family assistance is paid. Under these new measures families will now be able to elect to:

- have adjustments to their rate of family assistance done in a way that will eliminate or reduce any end of year overpayment/debt;
- receive part of their family assistance as regular payments and part as a lump sum payment after the end of the financial year; and/or

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<sup>3</sup> Senator the Hon Amanda Vanstone, Minister for Family and Community Services – Media Release "FTB fine-tuning – More choice and flexibility for families" – 17 September 2002.

<sup>4</sup> Senator the Hon Amanda Vanstone, Minister for Family and Community Services – Media Release "Wayne Swan Wrong Again" – 18 September 2002.

- have their CCB entitlement rounded down to provide a buffer against any end of year overpayment.

## Concerns and issues

32 Analysis of complaints and the issues involved, by this office, raised a number of concerns about the new family assistance scheme and its impact on families. In essence, the areas of concern include:

- that the system seems to inherently result in a large number of debts and that many debts are significantly high;
- debts arising from the scheme are affecting many lower income families;
- debts may be unavoidable, even when families fully comply with all requirements;
- in some circumstances debts seem to have an unfair retrospective effect, (Changes in family circumstances during the financial year, which families cannot anticipate and may be beyond their control, can result in significant debts and/or other losses);
- the manner in which debts are recovered; and
- the effect of debts on other entitlements (access to advances).

33 The following chapters discuss these concerns in more detail and suggest some possible remedies. I consider that adoption of my recommendations, together with the measures already announced by the government will significantly improve the operation of the family assistance scheme and address some elements which appear to operate unfairly at present.

34 However, the analysis suggests that, even if my recommendations are adopted in full, the scheme is likely to continue to result in significant numbers of unavoidable debts for families. In discussing some issues, I indicate some alternative approaches to administering family assistance that might avoid many of the problems identified. However, I recognise that some of these alternative approaches would need to be considered against the government's overall policy objectives for family assistance. I also acknowledge that the full impact of recently announced changes is unlikely to be demonstrated for some time. I have, therefore, not made any specific recommendations on those alternatives approaches at this time.

## INCOME RECONCILIATION ISSUES

### Implications of providing family assistance as “tax benefits”

35 The substantial redevelopment of family assistance implemented from July 2000 represented a significant change to the way such assistance has been assessed and provided in Australia. Although some components of family assistance had been provided previously as tax benefits or rebates, those components represented only a small proportion of the assistance available to Australian families (both in terms of coverage and amounts available).

36 The new system of family assistance, based on tax benefits provides a number of important advantages compared to the previous system.

- A much larger number of different payments with diverse eligibility requirements, assessment processes and methods of payment were consolidated into three payments with more consistent eligibility requirements and assessment processes.
- Entitlement for family assistance is based on actual income in the year for which the assistance is provided. Under the previous system, most families received assistance based on a past year’s income (in many cases up to 2 years before the year for which payment was made).
- Although the new system is based on tax benefits, families are given the choice of receiving their entitlement as instalments during the year or as a lump sum at the end of the year. The availability of instalments during the year (provided through the use of income estimates) is particularly important for lower income families.
- Under the previous system, a proportion of families were paid instalments based on income estimates and had their income reconciled when actual taxable income became known. However while they were liable for any debt arising from that reconciliation they were not paid any “top up payment” if they had received less than they should have. The new system is more equitable, in this regard, in that “top ups” are paid if they are due.

37 However, experience to date has demonstrated that there have also been some significant disadvantages associated with the income assessments under the family tax benefits system.

- Many families experience periods of low (or reduced income) within a year. During those times, they may have a significant need for the assistance available through family payments. Because family assistance entitlement is based on actual total taxable income over the year, those periods of lower income during the year are effectively averaged out. (Previous or later higher income periods can mean that any assistance provided in these low income periods becomes a debt.)

- The new income assessment arrangements can also be difficult for families to understand, particularly because they are different to the income testing approach that applies to other Centrelink payments. Income testing for pensions and benefits use a person's rate of income at a particular point in time as the basis for calculating the payment rate for that fortnightly period. If the rate of income being received changes, the rate of payment changes and, providing Centrelink have been notified promptly, no overpayment will occur. However, under an income assessment based on actual, taxable income for the year in progress, the rate of payment can only be calculated on a forecast or estimate, and some overpayments are inevitable.
- There has been a relatively high incidence of debts arising from the end-of-year income reconciliation process where fortnightly payments have been claimed (with the level of debt being relatively high in many cases). Some level of end-of-year adjustment is unavoidable under the family tax benefit system, given that payments during the year are based on a forecast of income. Our complaints also suggest that deficiencies in the clarity and availability of information and the approach taken to income changes notified during the year have increased the incidence and level of debts.

38 As indicated above, the Government has announced some changes aimed at reducing the impact of these disadvantages. The full impact of these changes, as well as any improvements in understanding of the new system, will not be known for some time but the disadvantages indicated above are unlikely to be entirely eliminated without changes to some of the design features of the system, particularly relating to income assessment. However, there would appear to be some adjustments to income assessment arrangements within the current system that could reduce some of the disadvantages indicated, without unduly compromising key objectives. These are explored further within this chapter.

39 More fundamental design changes could be considered such as changing the basis of income assessment. While any such options may be inconsistent with some of the underlying objectives of the current system and would be likely to have their own disadvantages, in my view, priority should be given to the consideration of any options that would further ameliorate or eliminate the disadvantages identified in this report. To this end, my office will continue to provide the Department of Family and Community Services (FaCS) with whatever evidence and indications are available from our complaints analysis.

**R1.** Further consideration should be given to any options for change to the basis of income assessment for family assistance that would further ameliorate or eliminate the disadvantages identified in this report.

## Variable or unpredictable incomes

40 Many families experience frequent and/or unpredictable income variations throughout a year. This makes estimating total family income for the year extremely difficult, especially when an estimate may need to be provided at a time when total income for the previous financial year may not yet be known. (Initial estimates are generally lodged around April and apply for the financial year commencing in the following July.)

41 People who are self-employed and those who rely on casual work could be expected to experience particular difficulty in forecasting their income.

42 There are some administrative changes that could be introduced to help some families with variable or unpredictable incomes avoid significant end-of-year adjustments, including that the FAO could initiate more regular reviews of family income during the year – especially in cases where variations in income during the year are likely. I understand that Centrelink is currently considering ways of identifying families at risk and contacting those families and hope to have this system of “customer service profiling” in place from 1 July 2003.

**R2.** Centrelink should adopt a program of requesting revised estimates from families on a quarterly basis, particularly where there is an indication (for example because of the type of income) that the level of income being received may vary during the year. Families might also be provided with an opportunity to elect to have such regular reviews, when providing their initial income estimate each year.

## Income adjustments within a year

43 Many of the complaints we received about income reconciliation debts came from families whose income was reasonably regular throughout the year and who advised the FAO of changes in their income soon after the change occurred. These complainants considered that, having complied with the advice they received from the FAO and having kept the FAO informed of changes, as required, they should have been able to rely on Centrelink to calculate their payments so that any overpayment could be avoided (or at least minimised). Case study 1 provides a simple example of how this occurred and demonstrates that even relatively small increases in income can result in significant overpayments.

### **Case Study 1**

George and Mary have two children. Their only income is from George's employment. In March 2000, they provided an income estimate for the 2000/01 financial year of \$40 000, based on George's employment, and family assistance (FTB) is paid to Mary fortnightly on the basis of that estimate.

However, on 1 April 2001, George is promoted and his annual salary increases to \$48 000. Mary advises Centrelink and calculates that their annual income for the year will now be \$42 000 ( $[\frac{3}{4} \text{ of the year @ } \$40\,000 = \$30\,000] + [\frac{1}{4} \text{ of the year at } \$48\,000 = \$12\,000]$ ). Centrelink bases her remaining payments on the new estimate of \$42 000.

The family's actual income for the year turns out to be \$42 000. However, Mary still incurred a debt of approximately \$460 because she had been overpaid for the first nine months of the year.

44 If a person received an increase in income part way through the year and notified the FAO that their estimate of total income for the year has increased as a result, Centrelink only applied their new estimate prospectively (for the remainder of the year), leaving the amount already paid (which was based on the previous, lower estimate) as an overpayment. The overpayment was not calculated or notified to the person until the income reconciliation was performed after the end of the tax year.

45 The approach adopted by Centrelink appears to have been based on the specific requirements of the family assistance legislation and the policy department (the Department of Family and Community Services). Until now, Centrelink has not had any discretion to otherwise calculate or adjust the rate of FTB paid to a person, even if it was apparent that payment based on the new estimate will result in a debt.

### **Overestimating**

46 In the first two years of operation of the scheme, the strategy adopted by Centrelink to help families minimise overpayments has been to advise them to consider overestimating their income for the year. While this approach has been adopted by some families and has protected some of them against unexpected debts, it was problematic in the case of changes to estimates during the year. Families generally do not have the detailed understanding of the family assistance means test to do the arithmetic to work out by how much to overestimate their income. Overestimating too much will deprive them of assistance that may be needed to help support their family during the year (particularly for low and middle income families). The Minister has recently announced a package of measures called "More Choice for Families", which is likely to reduce the risk of overpayments.

## **Comparison with Tax PAYG arrangements**

47 The rationale for using actual annual taxable income as the basis of income testing for Family Tax Benefit is to ensure that families are neither advantaged nor disadvantaged by the choice they make about how to receive their assistance (whether as instalments paid during the year or as a lump sum entitlement claimed through the tax system). The description of the payment as a “tax benefit” also reflects the fact that entitlement is based on taxable income.

48 The system of income test based deductions from entitlement during the year and a reconciliation at the end of the year resulting in either an extra payment or a debt is analogous to the income tax system. For most taxpayers, earning a wage or salary, the income tax system involves PAYG deductions through the year and an end of year reconciliation of amounts deducted against finally determined tax liability, resulting in the payment of a tax refund or advice of a tax debt.

49 It has therefore, been suggested by some commentators that families incurring FTB debts are experiencing nothing more than what is a generally accepted feature of the tax system.

### **Example 1**

Hans and Sonja have two children aged 6 and 10 years. Sonja was not in paid employment in April 2000 when she lodged an income estimate with Centrelink. She estimated that Hans would earn \$25 000 in 2001/02. As a result, Sonja was entitled to receive FTB(A) of \$244.38 per fortnight.

Hans was offered a new position halfway through the financial year, with an increased annual income of \$45 000. Sonja advised Centrelink that his income for the 2001/02 year would be \$35 000. Centrelink recalculated Sonja's entitlement, which was approximately \$187.16 per fortnight. However, because she had been receiving the higher rate for half the year, she would have an overpayment of \$771.45 when Centrelink reconciled FTB(A) at the end of the period.

However, because Hans' new employer deducted tax instalments based on his actual income of \$45 000, when he completed his tax return at the end of the financial year he found he had paid the correct amount of tax.

### **Example 2**

Ben and Hanna have a six year old child, Ilana. Ben is in paid employment and earns \$25 000 per year. Hanna was not employed when she lodged her FTB estimate and, as a result received \$122.94 per fortnight FTB(A) and \$73.64 per fortnight FTB(B) (a total of \$196.56 per fortnight).

Halfway through the financial year, Hanna was offered a part time job, paying \$20 000 per year at Ilana's school, where Hanna had previously working on a voluntary basis. Hanna immediately notified Centrelink that her income for the rest of the financial year would be \$10 000, and had her payments adjusted accordingly. She was no longer entitled to FTB(B) and her FTB(A) was reduced to \$187.16 per fortnight.

At the end of the financial year, Hanna had a total FTB overpayment of \$1345.68, but was entitled to a tax refund of \$510.17.

50 However, the outcomes achieved under the two systems are quite different. The Family Tax Benefit arrangements are much more likely to result in an end of year debt, particularly where income increased during the year. For those whose income falls within the PAYG tax system, an increase in income during the year is more likely to result in a tax refund.



51 The reasons for these different outcomes are varied. PAYG income tax deductions are made at the time the income is paid by an employer and therefore the amount of income is known (rather than being based on an estimate). The income test thresholds and withdrawal rates are also very different to the various tax thresholds and rates. However, one reason that may contribute significantly to proportionately lower debts from the PAYG tax system, is the different basis for tax withholdings during the year. PAYG withholdings are calculated based on the annual rate of income being received at a point in time rather than an estimate of the eventual total taxable income for the year.

### **Recently announced changes**

52 Many people complaining about family assistance debts, as a result of an increase in income during the year, indicated that they had kept Centrelink informed of those changes. They questioned why Centrelink could not have adjusted their payments during the year to avoid or reduce any end-of-year debt. As a result of the measures announced recently by the Minister for Family and Community Services, called "More Choice for Families", Centrelink will now be able to adjust FTB payments in that way if the family elects for that approach. The measures are being progressively introduced, with initial changes effected in November 2002. This office has been advised that the FAO may embark on a campaign to improve the awareness of its staff and the community of the new measures.

53 Under this new approach, when advised of a new income estimate, parents may choose that Centrelink use the new estimate of yearly income to calculate the family's new annual entitlement, deduct the amount of family assistance they have already received and divide the remaining amount by the number of fortnights remaining. This adjusted rate would be the amount paid each fortnight for the rest of the year. (An example of this "progressive reconciliation" approach based on Case Study 1 is at Attachment B of this report.)

54 If families opt for this approach the incidence and size of FTB overpayments calculated at reconciliation might be significantly reduced. However, it families whose income has reduced will not receive higher rates of FTB for the remainder of the financial year, and must still wait for an end of year top-up. Additional choices were made available in February 2003, with full implementation of the measures by July 2003.

55 Due to introduction of these changes part way through the 2002/03 financial year, the approach is not likely to have a significant impact on the incidence and level of debts relating to the 2002/03 financial year. The full impact of this option will not be evident until after the end of the June 2004, following the first full year of operation.

56 The impact of this change on the incidence and level of end of year debts will depend on the extent to which families opt for this assessment option. However, even where parents utilise the option, it will not entirely eliminate overpayments due to variations in income. In some cases, where the increase in estimated annual income is quite high or occurs late in the year, there may also be insufficient remaining entitlement for the year to fully recover the overpayment already accumulated. This option will also not assist in many cases where forecasting income is very difficult.

**R3.** Centrelink should encourage families to take up the new assessment option that aims to minimise the level of end of year adjustments.

**R4.** Families should be provided with the opportunity to elect for the new assessment option at the beginning of each year when they provide an income estimate and any time they advise of a variation to their income estimate.

## Child Care Benefit

57 As noted, CCB for approved child care may be paid either as a lump sum, claimed after the end of the financial year when taxable income for the year is known, or as regular fee reductions during the year, based on an estimate of income. In either case, the actual amount the person is entitled to receive also depends on the number of hours of approved child care used. Centrelink obtains that information from the child care service that the person has used. Each approved child care service submits a quarterly return of fee reductions within three months after the end of each quarter.

58 For those claiming CCB as fee reductions during the year Centrelink calculates the percentage of the maximum hourly rate of CCB that the family is entitled to on the basis of the income estimate they provide and notifies the child care centre. The child care centre then uses that percentage to calculate the hourly fee reduction applicable and deducts that amount multiplied by the number of hours used to determine the fee to be paid by the family for each period. (The FAO pays services an advance that is subsequently acquitted after the end of the reporting period, considering actual usage data. The difference is then either refunded to or recovered from the centres.)

## **Case Study 2**

Bernice and Julian have one child who attends a child care centre. They overestimated their 2000/01 incomes and expected to receive a top up payment at the end of the financial year. They complained to this office on 8 February 2002 as the reconciliation had not yet been completed and a payment had not been issued.

Centrelink advised that the reconciliation had not been completed earlier because the centre had not lodged their usage statements in time. The statements had since been lodged and the reconciliation was completed on 13 February 2002.

59 The “More Choice for Families” package will enable the FAO to adjust a family’s CCB percentage for the remainder of a year to reduce any overpayment likely to arise from increases in income during the year, if families request this.

60 The level of debts incurred as a result of CCB fee reduction instalments is generally lower than FTB debts (because of the different income test parameters) and CCB debts are not recovered from tax refunds. Included in the recent changes announced by the Minister is provision to round down the CCB percentage used to calculate instalments paid during the year. For some families this will provide a small additional buffer against end-of-year debts. There may therefore be less need to alter the administration of CCB.

## **Family Tax Benefit Part B**

61 FTB(B) is an additional component of FTB that is available to one income families, including all sole parent families. During the 2001/02 financial year, recipients received up to \$2752.10 or \$1919.90, depending on the age of their youngest child. FTB(B) is also available to two parent families, but is subject to an income test. The income test is applied when the parent with the lower income earns more than \$1679. There is also a very low cut out point (in 2001/02 this was \$10 583 where the youngest child is under 5 years old and \$8079 if the youngest child is aged between 5 and 18 years old).

62 FTB(B) is subject to the same income estimation and reconciliation processes as FTB(A), except that there is no income test in sole parent families and, in two parent families it is assessed only on the income of the parent with the lower income.

63 A common situation where significant FTB(B) debts arise, in two parent families, is when the parent receiving FTB(B) commences employment during a financial year.

### **Case Study 3**

A and T have two children. T lodged an estimate of income based on A's earnings of \$25 000 and her intention to remain at home and care for the children.

In January 2001, after A lost his job, the family decided to move from Brisbane to Tasmania and T collected her superannuation of \$8000 to assist with the move. T also gained some part time employment in Tasmania, amounting to \$5000 for the remainder of the financial year. T notified Centrelink of the changes to the family's income and had her ongoing FTB payments adjusted.

A gained employment in March 2001 and T lodged a new estimate of family income of \$56 000. At reconciliation, their actual combined total income for the year was around \$43 000. However, while T's employment income on its own would not have affected her entitlement to FTB(B), combined with her superannuation payout, it meant that she was not entitled to any of the \$1725.46 she had received prior to the change in her circumstances. In addition, she had received an overpayment of \$1150 for FTB(A) and \$780 Rent Assistance.

**This case study is based on a family whose circumstances were detailed to Parliament on 11 March 2001, by Mr Sid Sidebottom MP, Member for Braddon.**

64 Because of the very low income test cut out points, even part time employment is likely to result in the person's income exceeding the cut out level. Even where the recipient immediately provides the FAO with a new estimate, resulting in no further payments of FTB(B), it is likely the parent would have to repay all payments already received. Another way that this can occur is, in a partnered family, where the working member of the couple becomes unemployed and the other parent receives an income support payment (usually Parenting Payment). This is because the income support payments over \$1679 would have the effect of reducing entitlement to FTB(B). At present, families will generally apply for FTB(B) to be paid by instalments as part of the same process as their application for FTB(A). However, the difference in the income test parameters (for two parent families only) between FTB(A) and FTB(B) makes the risk of debts substantially higher for FTB(B).

65 A further issue that arises, and is evident from Case Study 3, is the detrimental financial impact on families, where a non-working partnered parent draws down superannuation contributions. Such access to superannuation funds is generally only available to people experiencing significant hardship. However, superannuation claimed in this manner is subject to tax of 30 cents in the dollar and will generally result in the loss of entitlement to any FTB(B) payments already received (up to approximately \$2800), as well as a possible reduction in entitlement to FTB(A) of 30 cents in the dollar. This office will continue to engage in discussions with Centrelink and other relevant organisations to ensure parents who are considering drawing down superannuation in this way are made aware that it is possible that very little of it may be available for their use and that advice in respect of their individual situations is available.

## Options

66 The progressive reconciliation approach discussed above could be expected to make only a very small contribution to reducing the incidence and level of FTB(B) debts. As noted, the very low income test thresholds applying to two parent families mean that most changes increasing income are likely to result in reconciliation debts. In many cases the whole of the amount of FTB(B) paid to the person will have been overpaid. More fundamental changes may be required to substantially reduce the incidence and amounts of FTB(B) debts. However, one change recently announced by the Minister, as part of the “More Choice for Families” measures, will allow families to choose to defer receiving FTB(B) until after their taxable income is known, even if they receive other components of family assistance during the year. This should help to reduce the incidence of FTB(B) debts. Under the measures, families will also be able to elect to have payments of FTB(A) reduced for the remainder of the year to (partially) offset an FTB(B) debt.

## MAINTENANCE INCOME DEBTS

67 Maintenance payments for children affect FTB entitlement differently to other income. For every dollar of maintenance income received over \$1062.15 (higher amounts for more than one child) the amount of FTB(A) paid in respect of a child is reduced by 50 cents until only the base rate is received.

68 When one parent pays child support directly to the other parent, Centrelink assumes that the parent is receiving their full entitlement to child support (unless a parent advises otherwise, in which case Centrelink the parent may be considered to have failed to meet the Maintenance Action Test and will only be entitled to the base rate of FTB(A)). All such cases, have their FTB(A) instalments calculated under this “entitlement” method.

69 When the Child Support Agency (CSA) is collecting payments on behalf of a parent, the parent may choose to have their FTB(A) instalments based on either the “entitlement” or “disbursement” method, depending on their circumstances. The disbursement method allows Centrelink to adjust each FTB(A) payment when a child support payment is made by the CSA. After the end of the financial year, the FTB entitlement based on the total child support actually paid during the year is “reconciled” to the amount of FTB that the parent had been paid during the year.

70 The reconciliation of maintenance income occurs separately to the income reconciliation.

### How overpayments arise

71 There are a two ways in which an FTB debt can arise because of maintenance income:

- if a lump sum payment of child support arrears is received, that is over and above the assessed child support for the current year, it will have the effect of retrospectively reducing the person’s entitlement to FTB(A) for the whole year; or
- as a result of recent changes to child support legislation, child support is no longer assessed on the basis of a financial year. A child support assessment may increase part way through a financial year and impact on a person’s entitlement to FTB(A). If the assessment is increased, entitlement to FTB(A) will be reduced. As the FAO only adjusts the remaining FTB payments for the year, FTB paid in the earlier part of the year may have been overpaid.

72 Under the previous family assistance system, payments of child support, including lump sums, were regarded as applying to that month’s child support payment and only affected family assistance payments for that month.

73 However, under the current system, such payments affect family assistance entitlement for the whole of the financial year in which the payment was received (or the change in child support entitlement occurred).

#### **Case Study 4**

Vera has four children. Three children are the subject of one child support case (Case 1) and the fourth child comprises another child support case (Case 2). The assessed amount of child support in Case 1 for the 2000/01 financial year was approximately \$6400, but Vera had not received payments for some time and her FTB for this case was calculated on the disbursement method. After receiving advice from Centrelink about the calculation methods available, prior to the introduction of FTB, Vera chose the disbursement method for both cases.

In September 2000, the CSA intercepted the payer's tax refund and Vera received a lump sum of \$3800. She then received smaller payments, totalling \$5400 spread through the rest of the financial year. Her total child support payments for Case 1 was approximately \$11 800.

In Case 2, Vera's child support assessment was based on an annual amount of approximately \$2700 until 30 April 2001 and \$4500 from 1 May 2001. She received regular maintenance on this case.

At the end of the financial year, Vera had received an overpayment of nearly \$3000. Vera was not aware that she could change from the disbursement method to the entitlement method part way through the year, but even if she had been assessed on the entitlement method for Case 2 and had changed Case 1 to the entitlement method when she began to receive payments, she would still have had a debt of approximately \$2600. Vera has continued to receive irregular payments of child support in Case 1 and, even though her FTB payments are now being calculated on the entitlement method, it is likely she will incur another overpayment in the 2001/02 year.

### **Options**

74 Adoption of a progressive reconciliation approach is likely to reduce the incidence and level of overpayments in some cases. However, it may not have any significant effect, particularly for cases where an arrears payment is received during the year.

75 As the maintenance income test is applied separately to the normal income test, it is not essential for the income testing arrangements to be the same as for other income (based on total income for the year and subject to an end-of-year reconciliation). However, the current system is designed to provide no difference in entitlement whether a parent chooses to claim FTB at the end of the year (through the tax system) or to claim instalments during the year. Achieving that result through other approaches to income testing could be at the cost of more complexity and administrative effort and would require policy change.

**R5.** Payments of arrears and increases in child support assessments occurring during a year should only affect FTB entitlement prospectively (ie for the remainder of the year). This approach should be applied whether the parent claims FTB by instalments or as a lump sum through the tax system.

**R6.** FaCS should consider alternative approaches to the assessment of maintenance income for FTB.

## **Child support payers**

76 Parents who pay child support may also receive family assistance either because they have more than 10 per cent of the care of the child for whom they pay child support or because they have other children in their care. These parents may also incur an overpayment of FTB if their child support liability reduces during the year. This is because the amount of child support they are expected to pay for the year is deducted from their estimate of income before the FTB income test is applied. Changes announced in the “More Choice for Families” package are likely to reduce the risk of overpayments occurring in this situation.



## **SHARED CARE AND ISSUES FOR SEPARATED FAMILIES**

### **Retrospective claims of shared care**

77 Where a non-resident parent claims a share of FTB after the resident parent began to receive FTB instalments, a debt for the relevant percentage of FTB for the resident parent can result. The non-resident parent could claim a share of FTB at any time until the end of the following tax year. Any debt will normally be notified to the resident parent at the time that the claim by the non-resident parent is determined. (This will be at different time to any income estimation or maintenance income debt).

### **Transitional issues**

78 While some parents may have advised Centrelink about their care arrangements prior to the introduction of FTB, in most cases it made no difference to their family assistance entitlements and was, therefore, not recorded. Centrelink took no action to collect this information from parents other than to include a brief explanation of the shared care provisions in an information booklet sent to parents when their income estimates for 2000-2001 were first requested.

79 My office received one complaint from a parent in this situation who indicated that even though he had previously advised Centrelink of the shared care arrangements for his children they had not referred to that information, paid him 100 percent of FTB but subsequently raised a debt against him when he provided information (as required) about a change in care arrangements (see Case Study 5).

### **Case Study 5**

Tranh is a resident parent, has had care of his children for 73 per cent of nights since 1999 and provided Centrelink of copy of an interim court order confirming the arrangement in October 1999. Under the rules applying at that time, Tranh received 100 per cent of the available family assistance.

From July 2000, Tranh began receiving FTB in respect of the children. In April 2001, he advised Centrelink that a final court order had altered his share of the care to 68 per cent of nights. In April 2001, his former partner lodged a claim for her 32 per cent share of FTB. They each received their correct entitlements from April 2001 to the end of the financial year.

In September 2001, Tranh was advised that he had received an overpayment of \$1909, as he had been paid 100 per cent of the FTB entitlement from July 2000 to April 2001, because he had not advised Centrelink of the care arrangements when FTB had been introduced and it had not been recorded on the Centrelink system previously as the information was not necessary under the previous family allowance regime.

FaCS and Centrelink agreed to waive Tranh's debt after intervention from the Ombudsman's office and consider waivers for other families with similar circumstances.

### **Recent changes**

80 Under the previous family assistance system, where a non-resident parent did not claim family assistance, the resident parent was entitled to claim the full amount. When FTB was introduced, resident parents with less than 90 per cent care were only entitled to claim the relevant percentage of FTB, regardless of whether or not the other parent claimed (or even had an entitlement). This policy has been changed and a resident parent with between 70 per cent and 90 per cent care may now claim 100 per cent of the FTB entitlement, where the parent with lesser care agrees not to claim FTB. In addition, from 1 July 2002, parents who are in arrears with their child support payments may have their FTB payments withheld and used to reduce their child support debt. I support those reforms.

## Options

81 I consider that it is unreasonable (and likely to be detrimental to the relationship between separated parents) that one parent can make a retrospective claim that has the effect of putting the other parent into debt. From July 2002, parents have been able to waive the right to receive an entitlement to FTB in favour of the other parent. However, I believe that, if both parents were required to indicate their claims for shared care in advance, it would provide greater certainty for parents, enabling any disputes about the level of care to be resolved early and reducing the likelihood of overpayments to one parent. I do not believe that this will impose a major restriction on parents, who will still be able to choose the method of payment that suits them best, although they would need to state an intention to claim or not early in the financial year.

**R7.** Parents should only be able to claim a share of FTB under the shared care rule prospectively. If the other parent had been receiving FTB on the basis of 100 per cent care, any reduction in their share should only be made prospectively.

Parents wishing to be paid through the tax system at the end of the year should be required to register their claimed share and have it accepted by Centrelink at the beginning of the relevant tax year to be able obtain a full year's entitlement later through the tax system.

## Terminology

82 The use of the term "shared care" may have been misinterpreted by some parents, as the CSA and Family Court generally only consider arrangements involving care of 40 per cent to 60 per cent of nights of the year as "shared care", while lesser amounts are defined as "contact" and greater amounts as "residency". My office contacted peak bodies representing lone parents, who advised that they were not consulted by Centrelink or FaCS about the terminology and, had they been consulted, would also have suggested that the term would be confusing and likely to be misunderstood by their constituents. The use of the term by the FAO seems to be a euphemism that is confusing to parents. Further, Centrelink do not regard care of 10 per cent as "shared care" for the purposes of other payments.

## Options

83 It would seem possible for the FAO to avoid using the term “shared care” in explaining those provisions for families. Information could simply outline the circumstances in which a share of FTB might be claimed. Alternatively, the FAO could adopt terminology that is more consistent with that used in family law.

**R8.** FAO information for parents should avoid using the term “shared care”. If it is considered necessary to label care arrangements, the FAO should use the term “contact”, to describe situations where a parent has less than 40 per cent care of a child.

## Verification of claims based on level of care

84 Levels of care of children in separated families are often dynamic and change during the year. Parents, too, may have different perceptions about the amount of care they have. For example, a survey of parents in the Child Support Scheme undertaken by the CSA in 2000<sup>5</sup>, indicated that, according to resident parents, 18 per cent of the children stayed with their other parent for more than 30 nights per year. However, according to non-resident parents, more than twice as many children (37 per cent) had this level of contact or shared care. This is borne out by the experience of this office, with disputed care the second highest subject of complaints received (after FTB debts overall).

85 While there had been disputes around care arrangements prior to the introduction of the new family assistance package, this was significantly broadened with the introduction of new levels of “shared care”.

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<sup>5</sup> Wolffs, Tammy and Shallcross, Leife (2000) *Low Income Parents Paying Child Support: Evaluation of the introduction of a \$260 minimum child support assessment*, in Family Matters, Spring/Summer 2000, Melbourne: Australian Institute of Family Studies, 15.

### Case Study 6

Cara has three children in her care. She had a mutual arrangement with the father of one of her children that each had 50 per cent care and were receiving half each of the payment for that child. That arrangement changed when the child commenced school, with Cara having 86 per cent care and the father 14 per cent care. She advised Centrelink but because the father maintained he still had 50 per cent care, Centrelink advised Cara that the payment arrangement could not be changed without a court order.

After enquiries from our office, Centrelink advised that correct procedure is that if a change is notified then payments should not be changed until the other party is advised. If the other parent disputes the new details then it should be paid at 50 per cent but both parents can be invited to provide information/evidence to support their claim. If the issue still cannot be resolved then the parents must get a court order. Centrelink agreed to write to both parents advising them of this procedure and inviting them to provide relevant information.

### Options

86 FaCS had anticipated that there would be disputes and the Family Assistance Guide, used by Centrelink officers, requires that where levels of care are not agreed, verification is required.<sup>6</sup> It also details the type of evidence that may be provided by carers and provides that requiring carers to obtain a current court order setting out levels of care should only be obtained as a last resort.<sup>7</sup> The experience of this office, from complaints investigated, is that not all Centrelink officers comply with the provisions set out in the Guide. The requirements indicated in the guide need to be reinforced.

**R9.** All guidelines for verification of care arrangements should be incorporated into one section of the Family Assistance Guide to ensure consistency and Centrelink officers should be made aware of the requirements, and ensure that both parents have the opportunity to provide verification of care, before determining entitlements to claim family assistance.

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<sup>6</sup> Department of Family and Community Services, *Family Assistance Guide*, 2.1.1.30.

<sup>7</sup> *Ibid*, 2.1.1.30, 2.1.1.45 and 2.1.1.70.

## Debts after separation

87 This office has received complaints in circumstances where a couple with children has separated and one partner lodges a tax return for the preceding tax year that results in an overpayment to the other parent for that year. In each of these cases, it was claimed that an FTB debt arose for one parent as a result of a former partner providing misleading information about his earnings.

88 In cases where couples separate prior to the end of the financial year for which the tax return is lodged, the FAO does not impose a debt, but limits the effect to either a top up or nil adjustment. However, where parents separate after the end of the financial year, and the non-claiming parent subsequently lodges a tax return for the year prior to separation resulting in an overpayment to the other parent, the FAO may recover the debt from the other parent.

### Case Study 7

Jasmine has separated from her husband and had found that an FTB overpayment has been raised because her recently estranged husband had under declared his income. The overpayment was \$1 200 and Jasmine believed that he should be made accountable for the overpayment. Centrelink advised Jasmine that under legislation, she is responsible for the debt as the payment was in her name, despite payments having been deposited into a joint account.

## Options

89 Although I recognise that such cases need to be dealt with on a case by case basis, I consider that there should be discretion available for Centrelink to waive at least part of the debt in these situations. I believe that this would be consistent with the treatment of income where the parents separated prior to the end of the financial year for which FTB was claimed. (See also the discussion of debt waiver rules at chapter 6.)

**R10.** Overpayments should be waived where parents have separated after the end of the financial year, and a parent subsequently lodges a tax return that adversely affects the FTB claimed by the other partner in the previous year, where there is evidence that the overpayment to one parent resulted from that parent being misled about the income of the other parent.

## DEBTS ARISING FROM CHANGES IN A CHILD'S CIRCUMSTANCES

90 The family assistance legislation includes a definition of an "FTB child". The child's circumstances must fit within this definition for a parent to be paid FTB (or CCB) for that child. The elements of the definition include the residence status and legal custody of the child as well as the level of the child's own income. If any of these circumstances of the child change during the year, a parent may lose entitlement for FTB for that child for all or part of a financial year, and incur a family assistance debt.

### Child's income exceeds the child income threshold

91 For children aged 5 to 16 years old who are not full time students and all children aged 16 years and over, the child's total income for the year must be less than a threshold amount, in order for the child to be considered an FTB child. For the 2000/01 year the threshold, income amount was \$7662 (increased to \$8079 for the 2001/02 year). For those children, the parent is required to advise Centrelink if their child's income will total more than the threshold. If an unanticipated change occurs in the child's income that puts the child's income over the threshold, Centrelink will raise an overpayment for all of the FTB already paid for that child.

92 A common example of how this occurs is where after the completion of a school year, a child who had previously intended to continue study, opts to enter employment instead. As recipients may receive up to approximately \$3000 per year in respect of a 17 year old child or \$3300 for an 18 year old, significant debts may arise.

#### Case Study 8

Shelly and Jamahl received FTB in respect of their daughter Kali, who completed high school in December 2000. Kali started working in a temporary position, which she intended to leave at the beginning of March 2001, when she would commence her university course. Her income for this period was to be less than the \$7662 threshold for FTB. However, towards the end of February 2001, Kali decided she would defer study for twelve months and continue working.

Shelly contacted Centrelink to advise that Kali's income would be over the threshold amount for the financial year and did not receive any further payments of FTB. When FTB was reconciled, an overpayment was raised against the payments they had received between June 2000 and February 2001.

93 Advice from Centrelink and FaCS is that if the child's income for the year exceeds the threshold, the parent is not entitled to any FTB for that child for the whole year and their decisions to raise overpayments have been consistent with that advice. The legislative basis of this advice was recently confirmed by the AAT in a test case that overturned the SSAT's decision to waive a debt that arose in this manner<sup>8</sup>.

94 One of the changes recently announced by the Minister will allow parents of student children aged over 16 years to elect to defer receipt of FTB for that child until their taxable income is known (and still be able to get instalments during the year for other children). This change should reduce the incidence of debts in this situation. However, experience of complaints to this office suggests that parents may not foresee the possibility of children leaving studies to take up employment.

## Options

95 I consider that the current system operates unfairly in that a parent can incur a substantial debt as a result of an unplanned change in a child's circumstances.

**R11.** Consideration should be given to amending the family assistance legislation so that Centrelink would be required to start a new assessment period from the point in time where a child's income exceeded the threshold.

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<sup>8</sup> Secretary of Department of Family and Community Services v Tough [2002] AATA 1212



## DEBT RECOVERY ISSUES

### Methods of recovery

96 Special debt recovery action was put in place in respect of family assistance debts resulting from overpayments in the 2000/01 financial year. Under these arrangements, debts were normally recovered by withholdings from ongoing family assistance payments. The rates of withholding were different to those applying for other Centrelink debts.

97 Withholding rates of \$20 per fortnight for debts less than \$750 and \$40 for debts more than \$750 were applied. Where the person could not afford these repayments and the debt was less than \$500, a minimum of \$10 per fortnight was required. People with debts over \$500 but less than \$1000 were required to repay a minimum of \$15 per fortnight. For families with debts over \$1000, Centrelink firstly tried to negotiate a scheme to pay out the debt within 12 months. If an arrangement could not be agreed, Centrelink used the standard arrangements set out above. Further negotiations could occur if the person could not afford these rates of payment.

98 These arrangements have been regarded as transitional, until 1 July 2002. It has since become apparent that the preferred mechanism for FTB debt recovery is through withholding tax refunds. (CCB debts cannot be recovered through tax refunds.)

99 The immediacy of this measure, in that the overpayment and debt recovery occur as a single process, meant that, in many cases, families were not aware of or informed of any overpayment prior to recovery action being taken.

100 As many overpayments result from the design of the system, including many that cannot be anticipated or avoided by families, it is appropriate that provisions and procedures for the recovery of such debts should be different to those applying for other Centrelink debts.

**R12.** Recovery through the interception of tax refunds should not occur for the year for which the return is lodged, with only debts that remain for the preceding tax year collected in this manner. This would mean, for example, that FTB overpayments raised for 2001/02 would not be collected by intercepting a refund from that year's return, but any debt remaining (after the special withholding rates had been applied) could be intercepted when the 2002/03 tax refund became available.

## Debt waiver rules

101 Social security law provides for debts solely attributable to administrative error to be waived, where any social security payments, including family assistance payments, were received in good faith and the customer's conduct has not contributed to the mistake in any way for most payments. However, the family assistance legislation places an additional condition on families, over and above those required by other social security legislation. The legislation also requires that the person demonstrate that they would be placed in severe financial hardship as a result of repayment of the debt.

102 I acknowledge that family assistance serves a different purpose and, accordingly, may have different requirements to income support payments. However, there is a community perception, at least in respect of payments over the base rate of FTB, that family assistance does provide income support in respect of children.

103 This notion may arise because income support payments made to adults are generally not increased on the basis that they have children to support (that is pensions and benefits are set at the same rate regardless of whether or not the person has dependent children), but additional components are paid in respect of the children in the form of more than the base rate of FTB. Further, it would seem to be desirable to encourage consistency between income support and family assistance provision where there is no reason for different treatment, to simplify the administration of payments.

104 Not only does the additional requirement ignore the desirability for there to be a degree of consistency across Centrelink payments, it imposes a harsh hardship test in cases where the excess payment arose solely because of a mistake by Centrelink.

## Options

105 I consider that the imposition of this additional condition for waiver in the case of administrative error is harsh and unreasonable, particularly given the circumstances in which debts arise.

**R13.** Debt waiver rules (relating to administrative error) for family assistance payments should be changed to remove the additional requirement to meet a test of severe hardship.

## ACCESS TO FTB ADVANCES

106 Families who have incurred an FTB debt are excluded from obtaining an advance of FTB (or other income support payments) until the debt is fully repaid. The restriction was intended to reduce the likelihood of hardship experienced by families who may otherwise be making repayments on outstanding payments at the same time as receiving reduced payments of FTB in respect of the advance payment.

107 However, the conditions that exclude access to an FTB advance in these circumstances are also more restrictive than those applying to other income support payments. In the case of income support payments, an advance may be paid where the debt is for a lesser amount than the advance or where the debt arose when a parent made a transition from Parenting Payment (Partnered) to Parenting Payment (Single). As previously discussed, while acknowledging differences between the purposes of income support and family assistance, there is a general perception that FTB (over the base rate) provides income support for children and we believe that, where it does not create a conflict, the system could be simplified to assist in its administration and provide for greater understanding by people who receive payments.

### Case Study 9

Kirsty applied for an advance payment to assist with her relocation expenses. Centrelink advised her that she could not be paid a lump sum advance of FTB(A) as there was an outstanding FTB overpayment from the 2000/01 year of \$40.

### Options

108 The restriction on advance payments for people with an outstanding FTB debt seems unreasonable, given that overpayments are an inevitable consequence of the design of the family assistance system, which requires families to estimate their income and circumstances in advance. FTB payments that are received on the basis of annual estimates, reconciled at the end of the financial year, necessarily result in debts in many cases.

**R14.** The existence of a family assistance debt arising from the reconciliation of income, maintenance income, child income or the shared care rules should not exclude the person from receiving an advance of income support or FTB.

**R15.** Debts arising from the transition from Parenting Payment (Partnered) to Parenting Payment (Single) and debts less than the amount of the advance

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requested do not prevent a person from obtaining an advance of income support. The same provisions should apply to family assistance advances.

## LATE LODGEMENT OF TAX RETURNS

109 The family assistance scheme requires that claimants lodge their tax returns within twelve months of the end of the financial year. That is, families must have lodged their 2000/01 tax returns by 30 June 2002 to claim their family assistance through the tax system. This is the case even where the ATO has granted an extension of time to lodge a tax return. This seems to be inconsistent with any other rebates claimed through the tax system. While taxpayers may incur late lodgement penalties, consideration of other deductions or rebates is not excluded.

110 Because 30 June 2002 fell on a Sunday, families claiming a lump sum payment were able to lodge a claim provided they lodged their 2000/01 tax returns by Monday 1 July 2002. However, this office received complaints from some families who lodged their tax returns on 1 July 2002 (30 June being a Sunday), and had their claims refused. It also appears that many families, who had not made a claim through Centrelink were unaware of the requirement to lodge their tax returns by 1 July 2002.

111 The requirement to lodge a tax return within twelve months of the end of the relevant financial year also applies to families who have received their payments in instalments from Centrelink. Families who received FTB instalments in 2000/01 were required to lodge their tax return by 30 June 2002. If they did not, any amounts of FTB paid to them for that year are regarded as being overpaid. If they lodge a tax return after the 30 June deadline, their actual entitlement will be determined and correct amount of any overpayment determined. However, in such cases, any entitlement to a top up payment is lost. This seems unreasonable, especially given that FTB incorporated or replaced some tax rebates that were not subject to such lodgement deadlines. In addition, the concession to allow tax returns lodged on 1 July 2002 to be regarded as having been lodged by 30 June 2002 (because 30 June 2002 was a Sunday) was not extended to families who had received fortnightly payments, but overestimated their incomes.

112 FaCS advised that the legislative provisions are such that while a lump sum claim for FTB lodged on 1 July 2002 is taken by law to have been lodged on 30 June 2002, the provisions do not apply so as to allow income tax returns lodged on 1 July 2002 to be treated as having been lodged earlier for reconciliation purposes. However, Centrelink has clarified this information and advised my office that customers who lodged their tax return on Monday 1 July 2002 have been reassessed in accordance with normal reconciliation procedure and, where it resulted in a positive adjustment, customers were paid a top up.

### **Case Study 10**

Jeremy's tax agent has Alzheimer's disease and misplaced the papers Jeremy had supplied to enable completion of his tax return. The tax agent did not have an electronic lodgement facility. On 22 April 2002, Jeremy received a letter warning that his tax return needed to be lodged prior to 30 June 2002. Jeremy called his tax agent, who claimed that tax return was sent before this date. However, the ATO have advised that it was not received until 16 July 2002.

Centrelink have advised that all tax agents were notified by the ATO that relevant returns had to be lodged by 30 June 2002 and that letters would be sent to customers who have missed out on their top-up because of late lodgement to advise them of the amount lost.

### **Options**

113 While I recognise the need to provide some incentive for families to lodge their tax returns within a reasonable period (so that FTB entitlement can be settled), I believe that the current arrangements are unfair by comparison with other tax provisions. For example, while a person who lodges a tax return after the deadline may be subject to penalties, any entitlement to a refund is not affected. Further, the ATO may extend the deadline for lodgement of a tax return beyond the period permitted by the family assistance legislation. I consider that the measures included in the following recommendations would achieve a better balance between the need for administrative efficiency and the need for families to be treated fairly.

**R16.** Consideration should be given to extending the general deadline for the lodgement of claims for family assistance and for tax return lodgement if the person has obtained an extension of time for lodgement from the Australian Tax Office.

**R17.** Where a person has been receiving family assistance by instalments, lodgement of a tax return after the general deadline should not preclude the person from receiving a top up to which they would otherwise be entitled.

## ADMINISTRATION AND INFORMATION

### Better informed choices

114 Many of the complaints received about family assistance debts and related issues suggest that the families did not have a good understanding of the nature of the new family assistance system and the implications of income testing based on annual total income. This is not surprising given that the new system is very different in its effects than other government payments. As many families may not have been aware of overpayments incurred in 2000/01 until well into the 2001/02 financial year, the lack of understanding about how debts may arise was more likely to have continued into the second year of operation.

115 Families' expectations of the system may change as a result of their experiences with the system in the first two years of its operation. Some families may be in a better position to undertake strategies to reduce overpayments or, at least, be more prepared for the consequences in 2002/03. However, it would appear that more could be done to make families aware of the implications of the current system and the risks involved in opting for payment by instalments during the year. Families can then make a more informed choice about how to receive their entitlement. (Although many lower income families will still be unable to afford to choose to defer receiving their payments.)

### Options

There would appear to be a number of changes that could be made to the administration of the family assistance system that could help to better inform families.

116 Administrative improvements could focus on improving understanding of the scheme by:

- making it clear that actual entitlement cannot be determined until after the end of the financial year, when actual taxable income for the year is known;
- specifically describing instalments paid throughout the year as an advance or prepayment;
- specifically explaining that adjustments (debts or top ups) once actual income is known are, in most cases, a necessary consequence of electing to get the prepayment instalments; and
- keeping families better informed throughout the year about the amounts of FTB paid and the implications of any changes to income estimates.

## **Giving low income families a choice**

117 A design feature of the family allowance system was to offer families a choice of delivery mechanisms – either as direct payments or through the tax system and either in fortnightly instalments or as a lump sum. However, parents who are in receipt of any Centrelink income support payment may only receive payments as direct, fortnightly instalments, even where the recipient receives their income from a combination of sources, including paid employment. FaCS has explained that the policy rationale for this is to ensure that low income families receive payments as they need them and to ensure that children benefit from the maximum family assistance available. However, in some cases low income families may have been placed in further financial hardship by incurring an overpayment or other debt.

### **Case Study 11**

Nooria is a sole parent who is in part time paid employment. She also receives a small component of Parenting Payment (Single) and is entitled to FTB(A) and FTB(B). She also receives approximately \$150 per year in other income from dividends, interest, etc.

The tax withheld by Nooria's employer relates to her paid income and does not cover the income tax on her benefits and other income. For this reason, under the previous system, she did not have her employer reduce her tax instalments to take account of the Sole Parent Rebate (SPR). In this way, when Nooria filed her tax return, the SPR she was entitled to offset the additional tax she was required to pay in respect of her other income.

However, with the introduction of FTB, Nooria was no longer entitled to receive any of rebates or benefits through the tax system, so that she found that she incurred a tax debt.

118 Recent changes to the family assistance scheme will allow families in such situations to defer the receipt of payment until the end of the financial year.

## **Access to family assistance information**

119 Families who wish to obtain detailed information about family assistance or lodge an estimate electronically can only do so on the FAO website. While access to the FAO website and the "Update your Family Income Estimate" is available through the Centrelink website, we believe that it is extremely difficult to find. FaCS and Centrelink have agreed to improve the Centrelink website to ensure the links are readily identifiable.

120 There has also been some concern about the ability of FAO customers to easily access information about the family assistance payments they have received. This has arisen in the context where parents and/or tax agents are uncertain if fortnightly payments have been claimed in part or in full and,



therefore, whether a claim should be made as part of their tax return. Centrelink have advised that, while parents are able to obtain the information by telephone, details about how much FTB has been received over the preceding fifteen months has been made available on the Centrelink website and is expected to become available through the family assistance website soon.

### **Case Study 12**

Toni is an accountant. After the end of the 2000/01 tax year, she prepared 21 claims for clients who were entitled to receive FTB, but were uncertain about whether they had made a claim through Centrelink.

The software package Toni uses for electronic lodgements gives an estimate of the amount of tax debt or refund that clients can expect. However, Toni did not know how much, if any, fortnightly payments her clients had received. There was no readily available mechanism to access the details and two clients who did telephone the FAO were refused this information.

As a result, the software produced incorrect tax assessment estimates in 20 cases.

### **Options**

121 Many families seeking Internet based information on family assistance are likely to firstly access the Centrelink website. A readily apparent link, preferably on the Centrelink home page would facilitate their access to the FAO site.

**R18.** Direct links to the FAO website and the online income estimate form should be easily identifiable and accessible from the Centrelink website.

# Attachment A - The family assistance scheme explained

## Description of changes

1 The new system was designed to simplify the range of assistance to families and provide more choice about how families accessed their entitlements, including income test and eligibility provisions. It incorporated a range of Centrelink transfer payments and tax rebates into the three new payment types:

- Family Tax Benefit Part A incorporated Family Allowance, Family Tax Payment Part A and Family Tax Assistance Part A;
- Family Tax Benefit Part B replaced Family Tax Payment Part B Family Tax Assistance Part B and the Basic Parenting Payment, as well as payments and tax rebates available specifically to partnered parents – Dependent Spouse Rebate (with children), and specifically to sole parents – Guardian Allowance and Sole Parent Rebate;
- Child Care Benefit replaced the Childcare Rebate and Childcare Assistance.

2 These new payment types are detailed below.

- **Family Tax Benefit Part A (FTB(A))**

FTB(B) is paid for dependent children under the age of 21 years and dependent full time students under the age of 25 years (if they do not qualify for an income support payment). The maximum rates of payments are \$3303.25<sup>9</sup> per year for children under 13 years, \$4190.20 for children 13 to 15 years, \$1062.15 for 16 to 17 year olds and \$1427.15 for 18 to 24 year olds.

The maximum rate is paid up to a family income of \$30 806 and is then reduced by 30 cents for every dollar of income until the base rate is reached. The allowable family income in order to receive the maximum rate is not increased for each additional child, unlike the previous system. The base rate is \$1062.15 per year for children under 18 years old and \$1427.15 for 18 to 24 year olds.

The base rate reduces by 30 cents in every dollar when income reaches \$79 643 (one child, plus \$3212 for each additional child).

Since 1 July 2001, the income test has not been applied to any amount that has been paid in child support (under previous legislation, income could only be reduced by 50 per cent of child support payments). This would apply, for example, where a parent has care of a child or children and is also paying child support in respect of another child or children and/or has “shared care” of the child support child.

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<sup>9</sup> Rates are for 2002/03 and have been indexed from previous years.

- **Family Tax Benefit Part B (FTB(B))**

FTB(B) is available to all single income households (including all sole parent families) and does not apply an income test to the primary income earner. A parent may receive \$2836.05 if their youngest child is under 5 years old and \$1978.30 for older children (up to 18 years). Payments are reduced by 30 cents in the dollar when the secondary earner's income is more than \$1752 a year and will cut out when that income reaches \$11 206 or \$8347 (depending on the age of the youngest child).

- **Child Care Benefit (CCB)**

Child Care Benefit can be claimed for up to 20 hours per week (for all families) or up to 50 hours per week (where care is work, study or training related).

Families with incomes up to \$30 806 are entitled to the maximum rate of \$2.66 per hour of care<sup>10</sup> if their child is in "approved care", which includes most long day care centres, family day care, before and after school care and school holiday care. Entitlements are reduced by 30 cents for each additional dollar of income until the minimum rate of \$22.35 per week (44.7 cents per hour) for each non-school child and \$19 per week (38 cents per hour) for each school child. Families using "registered care", which generally applies to care provided by in-home child carers, extended family members, relatives or friends who are registered with the FAO, is set at an amount equal to the minimum "approved care" rate.

Families using "approved care" may choose to receive their payments as a reduction fees (CCB is paid direct to the provider) or as a lump sum from Centrelink at the end of the financial year. Families using "registered care" can only receive their entitlements by lodging receipts at the FAO.

3 Some payments to address special family situations, such as Large Family Supplement, Multiple Birth Allowance and Double Orphan Pension have continued unchanged.

4 Entitlements may be claimed either throughout the year as fortnightly instalments (regular child care fee reductions in the case of Child Care Benefit) or as a lump sum after the end of the financial year.

## Key features of the system

### Choice of delivery

5 In bringing together a range of payments from within the social security and tax systems, the Government wanted families to be able to freely choose which system they would use to collect their entitlements. One implication of this policy is that families should be able to receive the same benefit regardless of whether they claimed fortnightly or annual payments, or whether their claim was through Centrelink or the ATO. That is, a family would not

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<sup>10</sup> This is for one child. The rate is increased to \$2.78 per hour per child for two children and to \$2.89 per hour per child for three children.

receive a greater or lesser amount depending on the delivery choices they made.

6 The Family Assistance Office, a joint operation of Centrelink, the Australian Tax Office (ATO) and the Health Insurance Commission, was created to deliver the new family assistance system, with the aim of providing greater accessibility for families.

7 Centrelink research undertaken in March 2000 resulted in an anticipation that 20 per cent of families entitled to FTB would make their claims through the tax system and 80 per cent would opt for fortnightly Centrelink payments.

8 However, the number of families who chose to collect fortnightly instalments far exceeded expectations – 90 per cent of FTB families.

9 It is believed these expectations and results are mirrored for CCB, although figures have not been provided by FaCS or Centrelink.

### **Estimating and reconciling income**

10 Prior to 1 July 2000, means tested Centrelink family assistance payments, including Family Allowance, Guardian Allowance, Childcare Assistance and the Childcare Rebate were assessed each calendar year on the basis of the preceding year's taxable income together with the value of some employer-provided benefits, foreign income and net rental property losses, less 50 per cent of any child support paid.

11 Families were required to advise Centrelink of particular changes in circumstances, listed by Centrelink as "notifiable events", which may have resulted in a change in their income. Families could then provide an estimate of their incomes for the rest of their year, so that their payments could be reassessed. A ten per cent margin of error was allowed for people who underestimated their incomes. Many complaints were received by the Ombudsman's office by families who, despite their best efforts to provide accurate estimates, incurred overpayments. Another problematic aspect of the system was that Centrelink was able to recover overpayments, but did not compensate for underpayments.<sup>11</sup>

12 With the introduction of the new family assistance system, the method of assessment of income for family assistance payments changed. People opting to receive regular payments of FTB and/or CCB were asked to estimate the total family income they expected to receive in the financial year. When the person's actual taxable income for the year became known, the amount that had been paid on the basis of the estimate was compared to the amount that should have been paid based on the family's actual taxable income for the year to identify any under or over payment. This process is known as income "reconciliation".

13 Most people provided initial estimates of their total 2000/2001 incomes in March or April 2000. Centrelink then calculated fortnightly FTB (and CCB) entitlements based on the income estimate. Families could update their

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<sup>11</sup> Commonwealth Ombudsman, *Annual Report 1998-99*, Canberra: 38

income estimate at any time during the year and, from late 2000, Centrelink became more active in advising families of this opportunity.

14 The processes for the reconciliation of FTB and CCB vary slightly.

- In the case of FTB, the correct end-of-year entitlement is calculated when one or both parents lodge their tax returns. Entitlement is based entirely on income and any top up or overpayment is calculated on this basis and corrected through the tax system (although this was not the case in 2000/01 and payments were made by Centrelink).
- For CCB, parental income is also based on information from tax return(s). However, information about how much CCB the person has been paid is also gathered from child care providers. (This is necessary because the payments are provided as fee reductions and are dependent on the eligible hours of child care used.) The FAO (through Centrelink) then pays any amount owing to the family, arranges for collection of any overpayment or makes a lump sum payment (where parents have chosen this method to make a claim).

### **“Shared care” rules**

15 Separated parents were required to specifically advise Centrelink of any arrangements where a child spends more than 10 per cent of time in the care of their other parent, so that their FTB entitlement could be adjusted accordingly. If, for example, one parent has the care of the child for 80 per cent of the year that parent would be entitled to 80 per cent of the FTB that would otherwise be payable. The other parent would be entitled to claim the remaining 20 per cent.

### **Maintenance income rules**

16 Maintenance payments for children affect FTB entitlement differently to other income. For every dollar of maintenance income received over \$1062.15 (higher amounts for more than one child) the amount of FTB(A) paid in respect of a child is reduced by 50 cents until only the base rate is received.

17 When one parent pays child support directly to the other parent, Centrelink assumes that the correct amount is being transferred. All such cases have their entitlement to FTB(A) calculated under the entitlement method. This means that – providing the child support assessment is not increased during the financial year or a lump sum arrears payment received – FTB(A) payments should be correctly calculated.

18 When the Child Support Agency (CSA) is collecting payments on behalf of families, their FTB(A) payments may be based on either the entitlement or disbursement method, depending on their circumstances. The disbursement method allows Centrelink to adjust each FTB(A) payment when a child support payment is made by the CSA. After the end of the financial year the FTB entitlement based on the total child support actually paid during the year is “reconciled” to the amount of FTB that the parent had been paid during the year. (This reconciliation occurs separately to the income and shared cared reconciliations.)

## **Experience of the system**

### **Chronology of events 2000/01**

19 Centrelink sent requests for income estimates to existing family assistance customers in March and April 2000. As discussed above, a larger than anticipated number of families chose to receive payments in fortnightly instalments.

20 By October 2000, it became clear that many families were likely to have been overpaid and FaCS and Centrelink became concerned that many families were not updating their estimates when their circumstances changed. Research was conducted to identify the levels of possible overpayments and strategies were implemented to encourage families to notify Centrelink of changes to income.

21 In April 2000, Centrelink sent letters to families requesting income estimates for the 2001/02 financial year.

22 Centrelink commenced income reconciliations for FTB from July 2001, as income tax returns were lodged, with CCB reconciliations, as well as access to lump sum claims, deferred until October 2001.

23 On 1 July 2001, the Prime Minister announced that up to \$1000 would be waived for all FTB and CCB overpayments in the preceding financial year. This announcement, as well as delays in the development and testing of appropriate letters, resulted in the deferring of formal notification of debts until January 2002, with families whose entire debts had been waived receiving notices in February 2002. However, some customers received telephone advice of their overpayments in September 2001.

24 Recovery action of any remaining overpayments commenced from March 2002.

### **Transitional measures**

25 It was originally intended that any FTB debts would be recovered from available tax refunds, with any excess subject to normal Centrelink debt recovery arrangements. However, for the first year of operation, the first \$1000 of any family assistance debt arising from the end of year reconciliation processes was waived<sup>12</sup>. The \$1000 threshold applied separately to FTB and CCB, which meant that one customer could have as much as \$2000 waived. Further, the default recovery method for any remaining debts was through ongoing deductions from family assistance payments and that "in effect, any excess will be treated as a prepayment of a future ... benefit."<sup>13</sup>

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<sup>12</sup> National Nine Network Sunday Program, *Interview with the Prime Minister John Howard*, 1 July 2000.

<sup>13</sup> Ibid

26 Some family assistance debts were not subject to the waiver. These included:

- where families claimed lump sum, rather than fortnightly instalments, after the end of the financial year, when it was expected that their financial situation in the preceding year would be known;
- where families experienced a change in circumstances, other than income, such as when a child permanently left the care of a family assistance customer;
- advance payment debts when family assistance was cancelled before the full amount was repaid because the customer no longer had any entitlement to FTB;
- duplicate payments that were incorrectly made for the same period of time; and
- where families were required to lodge income tax returns for the 2000/01 financial year, but had not done so by 30 June 2002.

### Overpayments 2000/01

27 Table 1 and Table 2 set out the amounts and numbers of overpayments that occurred for FTB and CCB in 2000/01. The \$1000 waiver resulted in 37.5 per cent of overpayments being waived entirely. Almost half of all original overpayments were for \$500 or more. In contrast, CCB overpayments were small, with more than half of all debts for less than \$100 and only 6323 debts (or 5 per cent) were raised after the \$1000 waiver was applied.

**Table 1: FTB overpayments**

<b>Amount of overpayments</b>	<b>Number of customers</b>
< \$500	283 274
\$500 to \$1000	105 584
\$1000 to \$1500	54 838
> \$1500 to \$2000	39 566
> \$2000 to \$3000	32 175
> \$3000	19 487
<b>Total</b>	<b>534 924</b>

**Table 2: CCB overpayments**

<b>Amount of overpayments</b>	<b>Number of customers</b>
< \$100	68 522
\$100 to \$199	21 016
\$200 to \$299	11 487
\$300 to \$399	7359
\$400 to \$499	4966
\$500 to \$999	11 242
\$1000 to \$1999	4824
\$2000 to \$2999	1004
\$3000 +	495
<b>Total</b>	<b>130 915</b>



## Attachment B - Calculations – Mary and George (Case Study 1)

### Current approach

- 20 fortnights based on income estimate of \$40 000.
  - $\$40\,000 - \$29\,857 = \$10\,143$
  - $\$10\,143 \times 0.3 = \$3042.90$ .
  - $\$3042.90 / 26 = \$117.03$  (fortnightly reduction from max rate).
  - $\$245.82$  (max rate x 2 children) -  $\$117.03 = \$128.81$ .
  - $\$128.81 \times 20 = \$2576.11$  paid prior to new estimate lodged.
- 6 fortnights based on income estimate of \$42 000.
  - $\$42\,000 - \$29\,857 = \$12\,143$ .
  - $\$12\,143 \times 0.3 = \$3642.90$ .
  - $\$3642.90 / 26 = \$140.11$  (fortnightly reduction from max rate).
  - $\$245.82$  (max rate x 2 children) -  $\$140.11 = \$105.72$ .
  - $\$105.72 \times 6 = \$642.32$ .
- Amount paid for the financial year ( $\$2576.11 + \$642.32$ )  $\$3210.43$ .
- Amount of annual entitlement based on \$42 000 =  $\$2748.94$ .
- Amount of overpayment =  $\$461.49$ .

### Progressive reconciliation approach

- Calculation of entitlements.
  - Annual entitlement based on new estimate of \$42 000 =  $\$2748.94$ .
  - Amount already received =  $\$2576.11$  ( $\$128.81 \times 20$ )
  - Entitlement remaining ( $\$2748.94 - \$2576.11$ ) =  $\$172.83$ .
  - $\$172.83 / 6$  (fortnights remaining) =  $\$28.81$ .
- Payments would be reduced to  $\$28.81$  for rest of year and Maria and George would not have an overpayment.
- (Represents an effective repayment rate of  $\$76.91$  per fortnight. -Standard rate of repayment if deducted from following year's benefits would be  $\$38.70$ .)

## Attachment C - Department of Family and Community Services responses

**R1.** Further consideration should be given to any options for change to the basis of income assessment for family assistance that would further ameliorate or eliminate the disadvantages identified in this report.

### Agency response

The “More Choice for Families” initiatives recently announced by the Government provide for changes to the administration of family assistance that are designed to give families substantially greater choice in how their family assistance entitlements are paid. These initiatives will add flexibility into the system whilst continuing its overall generosity and fairness. Further changes would be a matter for Government.

### Ombudsman comments

I welcome the “More Choice for Families” initiative and am hopeful that implementation will result in fewer overpayments in future years. I believe, however, that many of the issues outlined in this report will not be eliminated by this initiative alone. It would be appropriate for FaCS to develop options for policy change for consideration by the Government to further improve the family assistance scheme.

**R2.** Centrelink should adopt a program of requesting revised estimates from families on a quarterly basis, particularly where there is an indication (for example because of the type of income) that the level of income being received may vary during the year. Families might also be provided with an opportunity to elect to have such regular reviews, when providing their initial income estimate each year.

### Agency response

The Family Assistance Office (the FAO) has in place a process for requesting new financial year estimates. The process is being continually reassessed each year to ensure maximum response from targeted groups. It should also be noted that customers can choose to notify income changes progressively anytime throughout the year, not just quarterly.

The More Choice for Families initiatives will also give customers the option of deferring all or part of their FTB entitlements or being paid at a rate for the remainder of the year that will significantly reduce the risk of overpayment.

The FAO will also be actively working to encourage customers to take up the most appropriate delivery choice for their particular circumstances.

### **Ombudsman comments**

I welcome these initiatives and believe Recommendation 2 offers an additional mechanism for further reducing the likelihood of overpayments.

**R3.** Centrelink should encourage families to take up the new assessment option that aims to minimise the level of end of year adjustments.

**R4.** Families should be provided with the opportunity to elect for the new assessment option at the beginning of each year when they provide an income estimate and any time they advise of a variation to their income estimate.

### **Agency response**

Having customers choose the payment method that best suits a family's circumstances is an integral part of the More Choice for Families initiative. Customers will be encouraged to make appropriate choices whenever they contact the FAO.

As well, the FAO is proposing a comprehensive communication campaign to ensure customers are aware of the options available with the More Choice for Families initiative.

### **Ombudsman comments**

I welcome these initiatives and believe Recommendations 3 and 4 offer additional mechanisms for further reducing the likelihood of overpayments.

**R5.** Payments of arrears and increases in child support assessments occurring during a year should only affect FTB entitlement prospectively (ie for the remainder of the year). This approach should be applied whether the parent claims FTB by instalments or as a lump sum through the tax system.

### **Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R6.** FaCS should consider alternative approaches to the assessment of maintenance income for FTB.

### **Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R7.** Parents should only be able to claim a share of FTB under the shared care rule prospectively. If the other parent had been receiving FTB on the basis of 100 per cent care, any reduction in their share should only be made prospectively.

Parents wishing to be paid through the tax system at the end of the year should be required to register their claimed share and have it accepted by Centrelink at the beginning of the relevant tax year to be able obtain a full year's entitlement later through the tax system.

### **Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R8.** FAO information for parents should avoid using the term "shared care". If it is considered necessary to label care arrangements, the FAO should use the term "contact", to describe situations where a parent has less than 40 per cent care of a child.

### **Agency response**

The terminology used for shared care was tested within the community, as part of market research on the "More Help for Families" magazine, prior to its distribution to all family payment customers to inform them of the Family Tax Reform changes being introduced in July 2000. The research indicated that material in the magazine, including references to shared care provisions, communicated quite effectively to those to whom it was relevant.

The department has sought to find the market research report to provide to the Ombudsman's office but, to date, has been unsuccessful in locating a copy.

**R9.** All guidelines for verification of care arrangements should be incorporated into one section of the Family Assistance Guide to ensure consistency and Centrelink officers should be made aware of the requirements, and ensure that both parents have the opportunity to provide verification of care, before determining entitlements to claim family assistance.

**Agency response**

The content and structure of the Family Assistance Guide is under constant review by FaCS and the Ombudsman's recommendation will be considered.

**R10.** Overpayments should be waived where parents have separated after the end of the financial year, and a parent subsequently lodges a tax return that adversely affects the FTB claimed by the other partner in the previous year, where there is evidence that the overpayment to one parent resulted from that parent being misled about the income of the other parent.

**Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R11.** Consideration should be given to amending the family assistance legislation so that Centrelink would be required to start a new assessment period from the point in time where a child's income exceeded the threshold.

**Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R12.** Recovery through the interception of tax refunds should not occur for the year for which the return is lodged, with only debts that remain for the preceding tax year collected in this manner. This would mean, for example, that FTB overpayments raised for 2001/02 would not be collected by intercepting a refund from that year's return, but any debt remaining (after the special withholding rates had been applied) could be intercepted when the 2002/03 tax refund became available.

### **Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R13.** Debt waiver rules (relating to administrative error) for family assistance payments should be the same as those applying for other Centrelink payments. (The additional requirement to meet a test of severe hardship should be removed.)

### **Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R14.** The existence of a family assistance debt arising from the reconciliation of income, maintenance income, child income or the shared care rules should not exclude the person from receiving an advance of income support or FTB.

**R15.** Debts arising from the transition from Parenting Payment (Partnered) to Parenting Payment (Single) and debts less than the amount of the advance requested do not prevent a person from obtaining an advance of income support. The same provisions should apply to family assistance advances.

### **Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R16.** Consideration should be given to extending the general deadline for the lodgement of claims for family assistance and for tax return lodgement if the person has obtained an extension of time for lodgement from the Australian Tax Office.

**R17.** Where a person has been receiving family assistance by instalments, lodgement of a tax return after the general deadline should not preclude the person from receiving a top up to which they would otherwise be entitled.

### **Agency response**

This is a policy issue. Any changes to existing provisions would be a matter for Government.

**R18.** Direct links to the FAO website and the online income estimate form should be easily identifiable and accessible from the Centrelink website.

### **Agency response**

The “Update Your Family Income Estimate” online service is hosted on the Centrelink secure server and is accessible from both the FAO and Centrelink websites via easily identifiable entry points.

From the Centrelink website there is a link to “Online Services” at the top of the home page that takes the user to a menu of customer online services, the second of which is the “Update Your Family Income Estimate” service. Similarly, the home page of the FAO website clearly displays the “Online Services” page link to users.

In relation to the recommendation for the Centrelink website to provide a readily apparent link to the FAO website for information on family assistance, FaCS will be following this recommendation up with Centrelink.

### **Ombudsman comments**

The Centrelink home page (shown below) does have the described link to the FAO website. However, I do not consider that it would be easily identifiable by people visiting the Centrelink website. As shown, the “Online Services” link is among a number of links across the top of the page and, intuitively, is unlikely to be recognised by visitors to the site. The link is attached to the Family Assistance Estimator, but there does not appear to be a link to the FAO homepage.

Centrelink Home Page - Microsoft Internet Explorer

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## Welcome to Centrelink

Centrelink delivers services, programs and payments for Australian government departments. Our website can make it easier for you to explore your options, know what questions to ask and find out more about how we can help you. Your [feedback](#) has helped us make the website more useful, so please continue to send us your ideas and opinions at any time.

 <b>first visit?</b>	<a href="#">First Visit</a> is a useful starting point.	
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