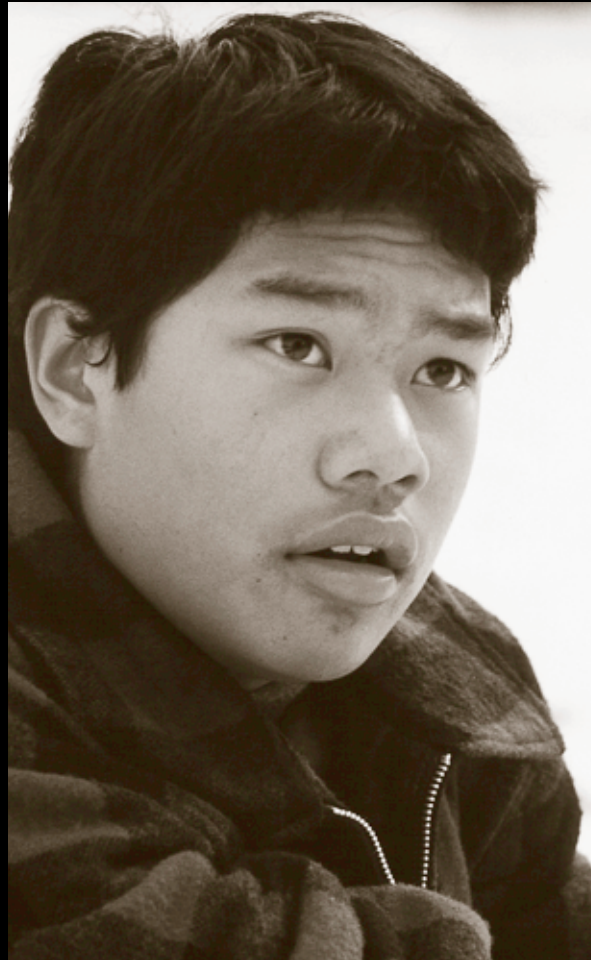


# Shifting boundaries

*Policy and practice governing the payment of child support after parental separation assumes as a general principle that a child is dependent until age 18. By contrast, government income support policy assumes that children are dependent until age 25 if they are studying full-time. This inconsistency creates 'fuzzy' boundaries around income support for young adults who have not yet attained financial independence. What does this mean for children whose parents have divorced?*



Picture: Don Weston

## Child support for young adult children

**U**nder Australia's Family Law Act 1975, parents who have separated or divorced have a 'primary duty' to maintain their children. This duty is buttressed by comprehensive legislative and administrative machinery known as the Child Support Scheme. The Scheme provides a legal mandate for the assessment and collection of child support (also called 'child maintenance') by the Child Support Agency.

But once children turn 18, child support may cease. The Child Support (Assessment) Act 1989 only covers children up to age 18, and the Family Law Act only provides for child maintenance to children aged 18 or over in a limited range of circumstances (described shortly). Both approaches implicitly assume that children are independent at 18 and/or that parental financial responsibility should generally end at that time.

These implicit assumptions appear to be an historical carryover from a time not so long ago when the need to provide continuing financial support to young adult children was relatively uncommon. These assumptions nonetheless raise a number of fundamental questions about individual, parental and State responsibility in the context of rapid social change:

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At what age should individuals be responsible for themselves? When should parents be deemed to have fulfilled their financial responsibility to their children? What should the role of the State be in helping children to move from dependence to independence?

A society's answers to such questions are a window into its core values, and are important because they can determine the current and future wellbeing of young adults (Garrison 1998).

Data presented in this article provide a basis for consideration of such issues. The data are significant because scant information is available on the extent to which separated parents continue to support their children financially once children turn 18 years. Little is also known about separated parents' awareness of their legal obligations to support their young adult children (defined for the purpose of this article as aged between 18 and 24 years inclusive), or their attitudes towards such obligations. These issues are of increasing importance because society has changed markedly over the past several decades, and young adults appear to require the financial

support of parents more than ever in order to 'kick-start' their lives.

### *Shifting boundaries*

On turning 18 in Australia, children are formally catapulted into adulthood: they can marry, vote, and buy a drink in a pub. But young adults face many challenges in contemporary society, prominent among them being the high rate of youth unemployment (Dusseldorp Skills Forum 1998, 1999); the 'credential creep', in which one or more tertiary qualifications are increasingly becoming the minimum requirement for many jobs; and intense competition for places in tertiary institutions (Smith 1994), an increasing number of which require the direct payment of fees.

Such challenges mostly act to prolong young adults' financial dependence on their parents. In doing so, they create a tension for young people between being considered an adult and being financially dependent (Hartley 1989; Jones and Wallace



***While parental obligation to pay child support generally ceases once children turn 18, young people have additional options for pursuing some support.***

1992). The boundaries that mark adulthood thus appear to be getting fuzzier.

The newly introduced Youth Allowance, which commenced on 1 July 1998, is a Commonwealth Government initiative which replaced most forms of government income support payments for people under 25. It was designed to simplify and enhance the flexibility of such payments, and to increase the attractiveness of education and training (Commonwealth of Australia 1998). To this end, the initiative redresses a number of anomalies that flowed from the disparate forms of income support, such as rent assistance for the unemployed but not for students. Thus young people who are studying or training now receive the same amount of income support as those looking for work.

One of the fundamental policy shifts in the establishment of a common youth allowance is that it has extended the parental means tests for young people who are unemployed to 21 years, while retaining the means test for full-time students up to age 25. This means that parental income increasingly determines whether young adults receive government income support. Because the Youth Allowance has also made the criteria under which a young adult is classified as 'independent' quite strict, the parental means test holds for many young adults, whether living at home or away from home.

In many respects, this policy shift reflects contemporary economic strategies that favour private over public economic supports for individuals (Burbidge 1998; Dey and Morris 1999; Millward 1998). The upshot is that parents are under increasing pressure

to support their young adult children financially, and to do so for longer periods of time (ACOSS 2000; Hartley and Wolcott 1994; Mullins 1998; Schneider 1998). A core assumption of this policy is that parents, if able, *will* support their young adult children financially. However, the assumption does not always hold, and may be less well founded where separation of parents has occurred.

### *Pressures of parental separation*

Putting aside the issue of resources for a moment, different dynamics may be at play in terms of the way that young adults in different family types receive financial support. In continuously married families, support may be more fluid and naturally flowing as part of everyday family functioning. By contrast, financial support for young adults whose parents have separated may be more contingent on the ability of parents (and their young adult children) to negotiate matters. Possible impediments to negotiation include an antagonistic communication style, the desire for a 'clean break', long-term diminution or absence of parent-child contact, and an inability by parents to disentangle their relationship from their parenting.

In addition, where parents themselves are under economic (and emotional) pressure, as is often the case for those who have separated or divorced, their own circumstances and requirements for a self-sufficient lifestyle can impede their ability to provide financial support for young adult children (Millward 1998). Moreover, the need to support subsequent children from a new relationship can spread limited resources even thinner (Joint Select Committee on Certain Law Issues 1994; Takas 1991).

Whether parents are separated or not, one option for a young person is to apply for Youth Allowance. The Youth Allowance for families with one young adult cuts out when the combined income of both parents in the household (biological, adoptive or step) exceeds \$41,000. Where parents are separated, the same threshold applies but only to the resident parent's income (or the 'nominated' parent's income in the case of young adults who do not live with either parent). That income, however, includes any child support received.

Where parents, or the non-resident parent in separated families, have the capacity to provide financial support, a young person has additional options for pursuing that support. These options are discussed in the next section.

### *The legislative framework*

As noted above, parental obligation to pay child support generally ceases once children turn 18. With goodwill, separated parents can make informal private arrangements for the continuing support of their young adult children. Where agreement can not be reached, parents (or their adult children) can go to court to seek child support.

The court may order child support under the Family Law Act s.66L for children aged 18 years or over where it is satisfied that 'the provision of maintenance is necessary (a) to enable the child to

complete his or her education; or (b) because of a mental or physical disability of the child'. The bases for claiming child support under the Act are limited to these two circumstances and orders are discretionary (meaning that the court does not have to make an order; where it does, it can make an order to fit the individual circumstances). A number of factors (for example, earning capacity) are relevant where the court is deciding whether to make an order, and in determining the terms of the order (Ingleby 1997; Riethmuller 1993). Where a court order has been granted, the Child Support Agency may collect child support.

But taking the legal route to obtaining child support has its own difficulties for parents (or their children). Such a tack requires a knowledge of eligibility and legal processes, and the resources of money and time involved in instigating legal proceedings. Many parents (or their children) may not be aware that some young adults are eligible for financial support. For many, pursuing a court order is just not worth the money, time and effort – or the emotional costs involved.

The question also arises of the consistency between this need to travel the path of litigation and recent government policies that discourage the involvement of the Family Court (Federal Attorney-General's Department 1997).

### Australian Divorce Transitions Project

The data presented here are drawn from the *Australian Divorce Transitions Project*, a study based on a random national telephone survey of 650 divorced Australians (Western Australia was excluded due to legislative differences between that State and the rest of Australia). This survey, conducted in late 1997 (prior to the introduction of the Youth Allowance) by the Australian Institute of Family Studies, examined the divorce transition and its consequences for parents. As part of the project, specific information was collected on child support. These data included the amount of regular support being paid, as well as non-periodic amounts of support such as school fees, travel costs, medical costs. A unique characteristic of the project is that information about child support was recorded for children 18 years or over, as well as for those under 18 years.

Only data from respondents who separated after 1990 were examined so as to confine the analysis to Stage 2 of the Child Support Scheme (that is, those who separated on or after 1 October 1989, and who are thus able to have child support assessed and collected by the Child Support Agency). Many respondents who had children 18 years or over also had at least one child under 18. These younger children would have been able to access the full provisions of the Child Support Scheme under Stage 2. Issues of child support should thus have been salient to those in this sample.

The main sample used for this analysis comprised 72 families in which at least one child was under 18 years at the time of separation but 18 years or over at the time of interview. Sixty per cent ( $n=43$ ) of these families contained an eligible young adult according to Family Law Act child

maintenance criteria – that is, they were studying full-time or had a mental or physical disability.

Some families, of course, contained more than one young adult. In total, there were 106 young adult children in the sample who were under 18 years at the time of separation but 18–24 years at the time of interview (two were aged 25 years). Fifty-two of these young adults appeared to be eligible to receive child support under Family Law Act criteria; 54 young adults were not. (Some of those who were ineligible because they were not studying might have become 'eligible' by opting for study if child support had been readily available.)

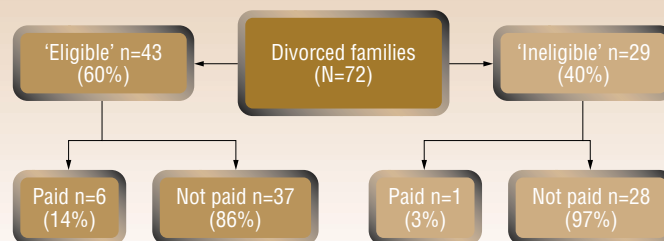
### Payments to 'eligible' young adult children

Figure 1 refers to the 72 families in which at least one child was under 18 at separation but 18 or over at the time of interview. It shows that in only six of the 43 families with eligible children (14 per cent), did adult children receive any financial support from their parents (either on a periodic or non-periodic basis) – excluding in-kind 'hotel costs' for those living with a parent.

All six young adults who received support were aged 18 or 19; all except one were female and lived with their mother (the one male lived away from both his parents). The amount of support ranged from \$300 to \$4,000 per annum (median = \$1,350 p.a.), and was used mainly for education expenses. In three of these transfers, child support simply rolled on after the child turned 18. In two other cases, private agreements were operating. (One respondent could not recall how support was arranged.)

Three things should be borne in mind when interpreting these data. First, the sample is small and so the sampling error may be large. Second, in common with retrospective studies of divorce based on self-reports, the accuracy of parents' answers (especially in relation to their young adult children's income flows) depends on a range of factors not the least of which are knowledge and candour. It is likely that some parents in the sample did not know whether their children were receiving financial support from the other parent, or how much support was being received – particularly since payments may have been made directly to children themselves. Finally, the questions did not seek to estimate the value of any in-kind transfers (for example, use of an investment property), and may not have identified more sporadic forms of payments (for example, cash transfers for emergencies).

Figure 1. Child support payments to children 18 years or over



Source: Australian Divorce Transitions Project, Australian Institute of Family Studies, 2000.

The percentages in Figure 1 thus are lower bound estimates of formal child support payments.

### Parents' awareness of eligibility

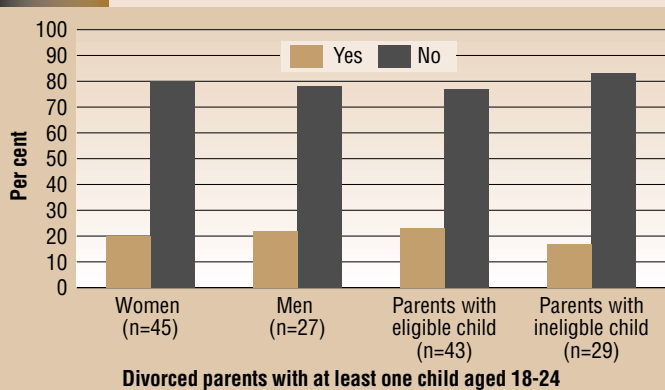
Acknowledging these caveats, the occurrence of child support for children 18 years or over nonetheless appears to be very low. Why is this the case? One obvious possibility is that divorced parents of young adult children are simply unaware that their children may be eligible for continued financial support. To test this possibility, parents were asked:

'Some children may be eligible to receive support even after they have turned 18. Are you aware of the eligibility criteria for such children?'

Responses shown in Figure 2 suggest that the vast majority of parents did not know under what conditions young adult children might legally be eligible to receive child support from a non-resident parent. This pattern was similar for both men and women (78 per cent and 80 per cent), and for those with and without eligible young adult children (77 per cent and 83 per cent). Only one of the 12 non-resident parents in the sample said that he knew the criteria, and only one of the six parents whose young adult children were receiving some form of financial support reported that she was aware of the eligibility criteria.

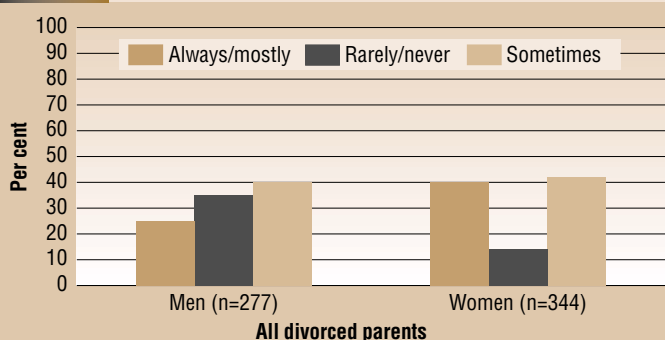
One clear policy implication of these data is that increased awareness of the circumstances in which young adults may be eligible for financial support from separated parents may be a useful first plank in fostering continuing financial responsibility for young adult children who have not yet attained financial independence.

**Figure 2. Divorced parents' awareness of the eligibility criteria for the receipt of child support for young adult children (N=72 families)**



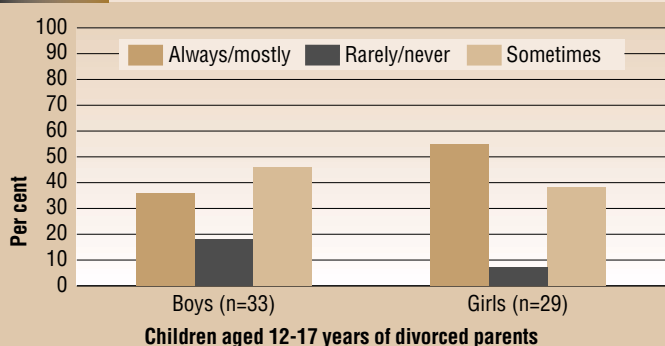
Source: Australian Divorce Transitions Project, Australian Institute of Family Studies, 2000.

**Figure 3. Divorced parents' views on whether both parents should be liable for the financial support of young adult children (N=621)**



Note: Missing cases = 29  
Source: Australian Divorce Transitions Project, Australian Institute of Family Studies, 2000.

**Figure 4. Children's views on whether both parents should help to financially support young adult children (N=62)**



Note: Missing cases = 1  
Source: Australian Divorce Transitions Project, Australian Institute of Family Studies, 2000.

### Parents' and children's views on financial support

Attitudes toward the payment of child support to children 18 years or over may also shed light on the relatively low incidence of such support. Figure 3 shows the attitudes of parents towards supporting young adult children financially.

There was considerable spread of responses by men and women – no single response option was endorsed by the majority. Nonetheless, divorced men appeared to be twice as likely as divorced women to believe that parents should not be liable for the financial support of adult children (35 per cent compared with 17 per cent). This gender gap, however, is somewhat attenuated when parental roles are considered. For instance, sole fathers along with sole mothers and repartnered mothers with children were the most likely of all family type groups to believe that financial support of young adults should always or mostly be paid (40–42 per cent). But sole fathers were nonetheless still more likely than sole mothers to believe that such support should rarely or never be paid (26 per cent compared with 14 per cent).

What do children think? As part of the Australian Divorce Transitions Project, a sub-sample (n=63) of children aged 12–17 living with resident parents were interviewed about a range of issues, one of which was child support. They were asked: 'Do you think both parents should help to financially support you when you are 18 years?' Figure 4 summarises their responses. (The question to parents discussed above used the phrase 'to be liable for', which is different from 'help to financially support'. While this might have produced a difference, the gender pattern was nonetheless similar across both samples; see below.)

Figure 4 shows that girls were more likely than boys to believe that both parents should provide continuing financial support for children when they turn 18. Adolescent boys, however, were less likely

than adolescent girls to reside with their mothers (67 per cent compared with 86 per cent). Thus the small gender difference in expectations might reflect an understanding of their mothers' difficulty in supporting them financially.

A clear pattern emerges when the children's views are compared with those of parents: women and children are more likely than men, most of whom were non-resident fathers, to believe that children should continue to receive financial support after they turn 18 (see Figures 3 and 4). These views of women and children appear to be in stark contrast to what usually happens in terms of payment.

## Conclusion

Data from the Institute's Australian Divorce Transitions Project suggest that: (a) financial support of young adults by separated parents is not common; (b) parents appear to be largely unaware that their young adult children may be eligible to receive continuing financial support from a non-resident parent; and (c) men are more likely than women and children to believe that child support should cease once children turn 18.

In many respects, these results are consistent with the increasingly fuzzy nature of the boundaries that mark adulthood and income support for young adults. In particular, the Youth Allowance, the Family Law Act, and the Child Support Acts are inconsistent in the assumptions they make about children's dependence on their parents.

The Child Support Scheme cuts out in the year the child turns 18, thus assuming independence at this age. The Family Law Act assumes as a general principle that a child is dependent until 18 years, with specific exceptions. In contrast, the Youth Allowance assumes that children are dependent until age 21 if they are unemployed, and 25 if they are studying full-time. While the Family Law Act does permit applications to be made for the financial support of children 18 years or over who have a disability or who are studying full-time, the formal mechanism for obtaining this support is through litigation. This mechanism is likely to be off-putting for many resident parents or young adults themselves, since going to court is often time consuming and prohibitively expensive – both emotionally and financially.

Receiving the Youth Allowance, eligibility for which depends on the resident (or nominated) parent's income, is likely to be more attractive to young people than pursuing a Family Law Act claim. This approach, however, would not be entirely consistent with current policy that encourages not only parental financial responsibility for children, but also emphasises the importance of individuals accessing their private options for support before state options are used.

The central finding of this paper – that children aged 18 years or over who are eligible to receive child support rarely receive it – similarly runs counter to current policies that encourage co-parenting after marriage breakdown, and to policies assuming that parents who can afford to do so, will provide continuing support for young adults who have not yet attained independence.

The issues raised in this paper warrant debate, especially in light of the many obstacles that young adults must face in making the transition from dependence to independence. There is also a need for specific research to assess the likely impact of the apparent lack of financial support on the educational and career outcomes of young adults whose parents have divorced.

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