

4 New partners, second families and parent–child contact

This chapter examines several frequently cited “special factors” that have been long-standing thorny issues for the Child Support Scheme: new partners of resident mothers, second families of non-resident fathers, and the financial costs of contact to non-resident parents. The chapter seeks to identify the particular circumstances that respondents believe should lead to a reduction or withdrawal of child support, those that are deemed irrelevant to the payment of child support, and those where beliefs are equivocal.

As in Chapter 3, the precise wording of each survey question is presented as the title for each figure or table.

New partners and second families

Whether new partners or second families should be taken into account in setting child support payments is examined here through the lens of three scenarios: (1) where the resident mother remarries; (2) where the non-resident father has stepchildren; and (3) where he has a child born of a new relationship. All three notions tap the idea of the male being the main or exclusive “breadwinner”.

Scenario 1: Where the resident mother remarries

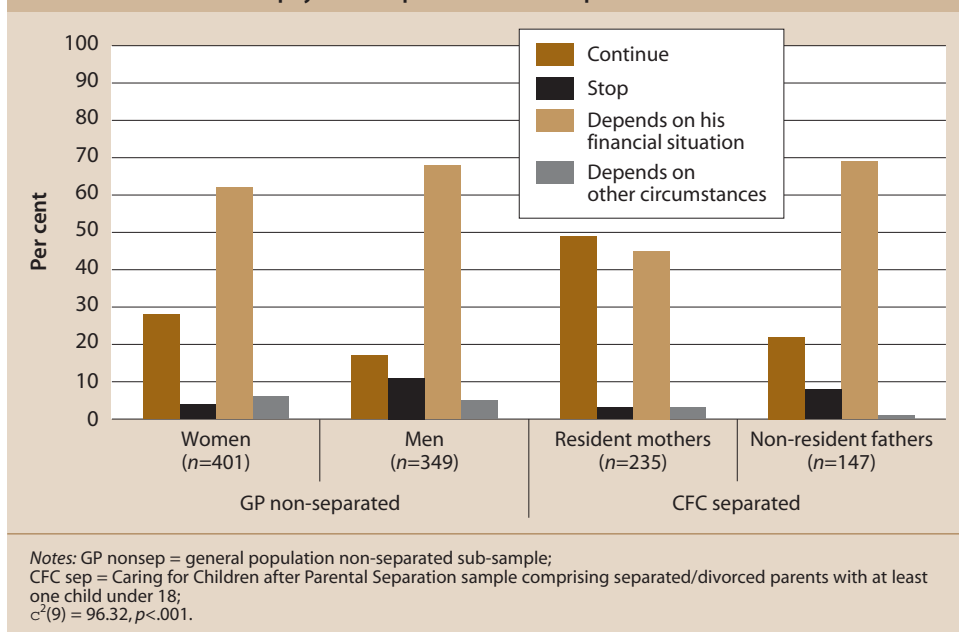
Chapter 3 showed that, in the absence of any prompts about “opportunity costs” incurred and “in-kind” financial contributions made by resident mothers in caring for their children, most respondents in each group argued that the mother’s income should be taken into account in setting child support liability. (To some extent this already happens in practice.) But what if the mother remarries? Should the new partner’s income be taken into account?

Household income is typically assumed to be shared equitably among family members. Indeed equivalence scales are predicated on this assumption. But the extent to which sharing occurs in the case in stepfamilies is unclear. Under this assumption, the only way for many children and their mothers to overcome financial deprivation is for the mother to repartner (Smyth and Weston 2000; Weston 1993). But if she does so, should her new partner’s income determine whether the children continue to receive child support?

Figure 4.1 summarises the views on this issue expressed by the four groups: non-separated women and men, resident mothers, and non-resident fathers.

Apart from resident mothers, most respondents in the various groups maintained that continuation of payment should depend on the financial circumstances of the resident mother’s new husband. This view was expressed by nearly 70 per cent of non-separated men and non-resident fathers, 62 per cent of non-separated women, and only 45 per cent of resident mothers.

Figure 4.1 Suppose the mother remarries or starts living with a new partner. Should the father be expected to keep paying child support; stop paying; or should payment depend on the new partner's financial situation?



The second most common response of non-separated men and women and non-resident fathers was that the non-resident parent should be expected to continue paying child support (applying to 17–28 per cent in these groups). Resident mothers, on the other hand, were more evenly divided regarding continuation of child support and payment being contingent on the new partner's financial situation (49 per cent argued that child support should continue and 45 per cent maintained that the new partner's income should be taken into account).

Less than 15 per cent in any group believed that payments should cease, and less than 10 per cent volunteered that payment should depend on other factors.

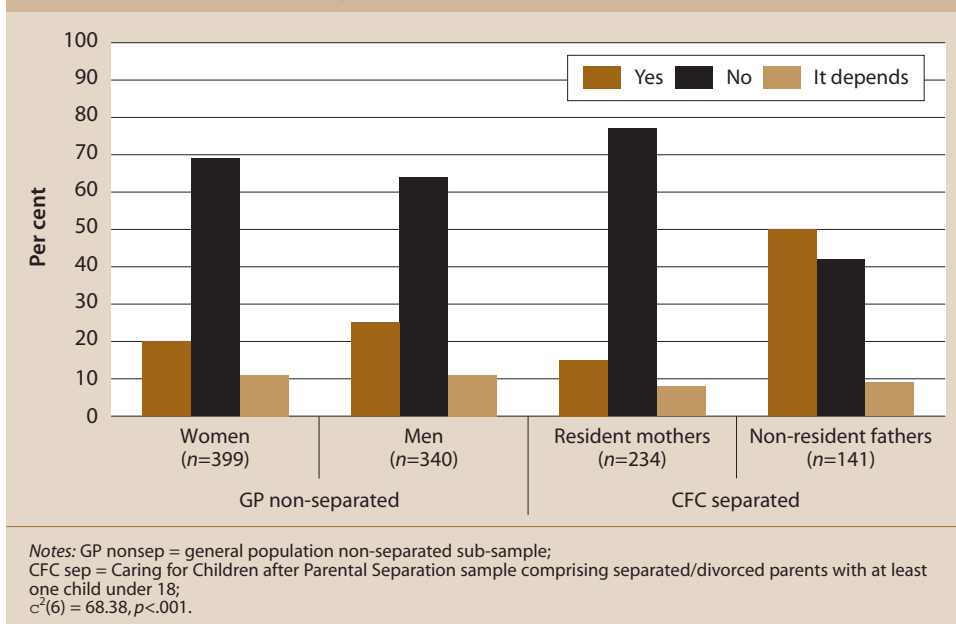
Scenario 2: Where the non-resident father has stepchildren

In the first scenario, attention was directed to resident mothers who remarried rather than to the new husband who became a resident stepfather. The second scenario specifically targeted resident stepfathers, who also have children living with their other parent. Should such fathers be allowed to pay less child support? Figure 4.2 shows the pattern of responses to this question.

Apart from non-resident fathers, most respondents in each group rejected the notion that a non-resident father should be allowed to pay less child support if he is living with stepchildren. This view was held by three-quarters of the resident mothers and by close to two-thirds of the non-separated women and men. In marked contrast, half the non-resident fathers believed that stepchildren should be taken into account, while 42 per cent disagreed.

It is worth pausing for a moment to compare the pattern of response to the scenario where the resident mother repartners and where the non-resident father repartners and has stepchildren. Under both circumstances, a stepfather is in the household; the issue is: should child support payments be influenced by the

Figure 4.2 If the father has re-partnered and now has stepchildren to support, should he be allowed to pay less child support for the children he does not live with?



existence of these step-relationships? In the first scenario (remarriage of the resident mother), child support is framed as coming *into* this household; in the second (repartnering of the non-resident father), child support is framed as *leaving* the household.³¹

The responses to these two scenarios may seem inconsistent, particularly for the non-separated sample. Most non-separated women and men argued that continuation of payments into the household should depend on a stepfather's financial situation, but payments leaving the household should not be reduced by the presence of stepchildren.³²

Resident mothers were fairly evenly divided about whether or not money coming in should take into account the stepfather's financial position, but most maintained that money going out should *not* be influenced by the presence of stepchildren. Non-resident fathers, on the other hand, disagreed with this. Most of these men believed that the stepfather's financial situation *should* be taken into account in determining child support coming in while half maintained that the presence of stepchildren should influence how much money goes out of the household.

It is noteworthy that close to half the resident mothers and non-resident fathers opted for conditions that would disadvantage them should they experience the situations described (45 per cent of resident mothers believed that a mother's continued receipt of child support should depend on the income of a mother's new spouse; 42 per cent of non-resident fathers believed that the presence of stepchildren should not affect a father's child support liability).

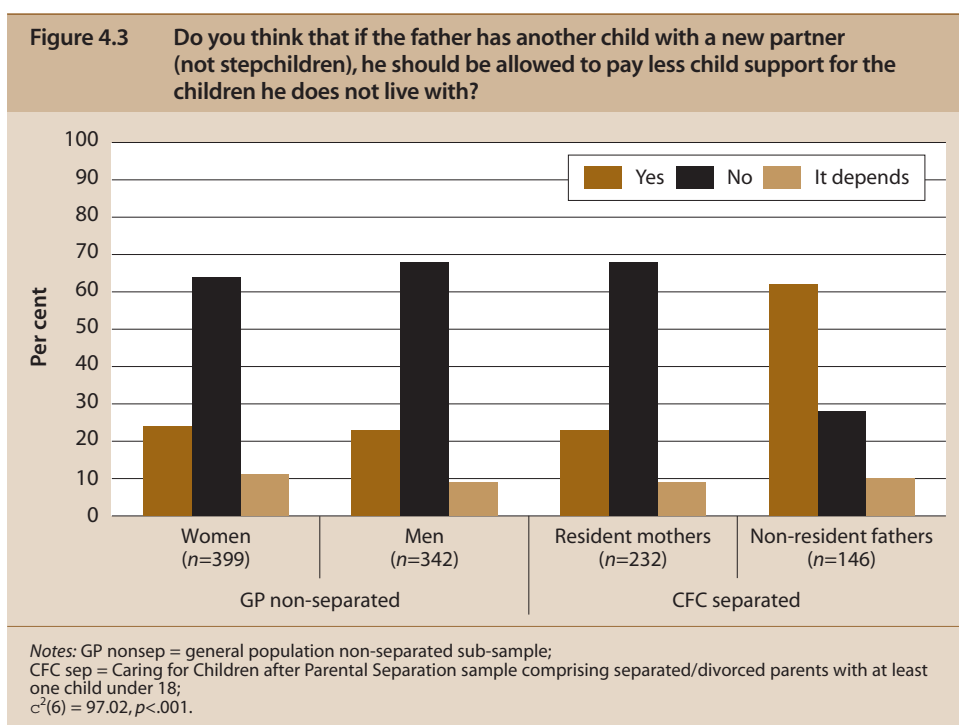
31 While the former question mentioned remarriage (see Figure 4.1), and the latter repartnering (which may or may not imply remarriage) (Figure 4.2), it seems unlikely that the differences in patterns of results could be largely explained by this variation in wording.

32 Of course, it could be that assessment of the stepfather's financial situation took into account any child support payments that he was making.

Scenario 3: Where the non-resident father has a new child

While the responsibilities of stepparents to their stepchildren are by no means clear-cut, the same cannot be said for biological children. Currently, new children are partly taken into account in the Australian Scheme: the amount of income exempted in calculating child support liability is increased where new children are present.³³ This approach aims to treat all children equally – even though in practice, (new) children in a household are likely to receive a greater share of income flowing into that household at the expense of first-family children (Joint Select Committee 1994).

Recent work in the United Kingdom (Peacey and Rainford 2004) found that most people in the general population, along with resident mothers, did not support the idea that child support payments should be reduced for non-resident fathers with new children, perhaps out of concern for encouraging paternal irresponsibility. Non-resident fathers held the opposite view. Is this the case in Australia? Figure 4.3 depicts the views of the four groups of survey participants on this issue.



Around two-thirds of non-separated men and women and resident mothers maintained that fathers should not be permitted to pay less child support if he has a child with another partner while nearly one-quarter felt that he should. On the other hand, most non-resident fathers felt that an allowance should be made for such children (62 per cent), with 28 per cent maintaining that child support liability should not take account of new children. Close to 10 per cent in each group volunteered an “it depends” answer.

Possibly, those rejecting the notion that new children should be taken into account were focusing on the irresponsibility of men who might start second families at the

³³ “New children” here refers to children born of a new relationship.

expense of their first family, while non-resident fathers may have been focusing on meeting the needs of all their children equally regardless of children's living arrangements.³⁴

Responses to the above three hypothetical scenarios about new partners and second families (involving stepchildren or new children) suggest that most respondents in the general population believed a non-resident father's child support payments should not be affected by any new family responsibilities that he had, but that the continuation of payments should depend on the financial status of the first family's stepfather.³⁵ Separated parents were less likely to support policy parameters that would have negative effects on their own financial circumstances should they be in that particular situation themselves.³⁶ For instance, resident mothers supported the notion that payments should not be affected by a non-resident father's second family (new or step) but were evenly divided regarding whether the income of a resident mother's new partner should determine if payments should continue.

More broadly, it would seem that the above pattern of results tap an undercurrent of concerns about (a) financially "strapped" non-resident fathers having to support former partners with wealthy husbands (see examples of this line of thought in Chapter 5), and (b) non-resident fathers abrogating their responsibilities to first-family children when they have a second family.

Parent-child contact

The fundamental aim of the Child Support Scheme is to ensure that children receive a "proper" level of financial support from their parents, both of whom have a "primary duty" to maintain their children (Child Support (Assessment) Act 1989 (Cth)). This duty is not predicated on non-resident parents having contact with their children since such a link is unlikely to be in the best interests of children.³⁷

Yet as Thompson (1994: 224) writing in the United States notes:

Visitation and child support are related attitudinally, empirically, sometimes even legally. But their linkage is complex. Fathers who do not visit with their children are less likely to pay child support, but this may be because fathers who refuse to pay child support lack the commitment to visit regularly with offspring or because fathers who encounter obstacles to visitation feel less fidelity to child support orders. It is also true that fathers who cannot maintain child support payments are likely to otherwise disappear from their children's lives either because they are denied access by their children's mother or because they cannot justify visiting offspring whom they cannot help

34 A third possibility is that some payers who feel their child support liabilities are too onerous may have simply been focusing on minimising child support liability where possible, or some payees may have been focusing on maximising payments.

35 It needs to be emphasised that there is a discrepancy in the wording of the questions on this issue – the first scenario involved payments stopping versus continuing while the other scenarios were about paying less. This difference magnifies the importance attributed to the financial circumstances of the resident mother's new partner.

36 This statistical pattern emerged even though there were very few repartnered mothers or fathers with new or stepchildren in the sample.

37 Nevertheless "high" costs of contact are currently reflected in the operation of the formula: a non-resident parent who has a child for more than 30 per cent of nights per year pays a reduced amount of child support.

support. Sometimes child support and visitation are linked to common influences: when mothers remarry, fathers sometimes feel excluded from their children's lives and also believe there is less need for child support now that a stepfather is in the picture. Or the father's own remarriage may diminish his interest in visitation and his perception of his capacity to pay child support. The geographic relocation of either parent can have similar consequences. In short, visitation and child support are complexly, but strongly, tied to each other.

This section explores respondents' views about whether contact and child support should be linked. Five scenarios are examined: (1) where a non-resident parent is not interested in contact with his or her children; (2) where a resident parent is preventing contact; (3) where a resident mother moves interstate; (4) where a resident mother moves overseas; and (5) where children stay overnight with their non-resident father. The first two scenarios offered non-resident mother and non-resident father variants. (The non-resident mother questions were asked towards the end of the interview as a discrete series.)

Scenario 1: Where the non-resident parent lacks interest in contact

Figures 4.4a and 4.4b set out respondents' views about whether non-resident fathers or mothers (respectively) should be required to pay child support if they are not interested in maintaining contact with their children.

Most respondents in all groups indicated that non-resident parents, whether male or female, should pay child support regardless of their interest in maintaining contact with children. For each variant (taken separately), these views were expressed by close to 90 per cent of all groups except for non-resident fathers, where the non-resident parent was a father (79 per cent believed that he should pay; Figure 4.4a). Not surprisingly, respondents were highly consistent in the way they answered each question. Levels of consistency ranged from 85 per cent for non-resident fathers to 94 per cent for resident mothers (91 per cent of both non-separated women and men provided consistent responses).³⁸

Scenario 2: Where the resident parent is preventing contact

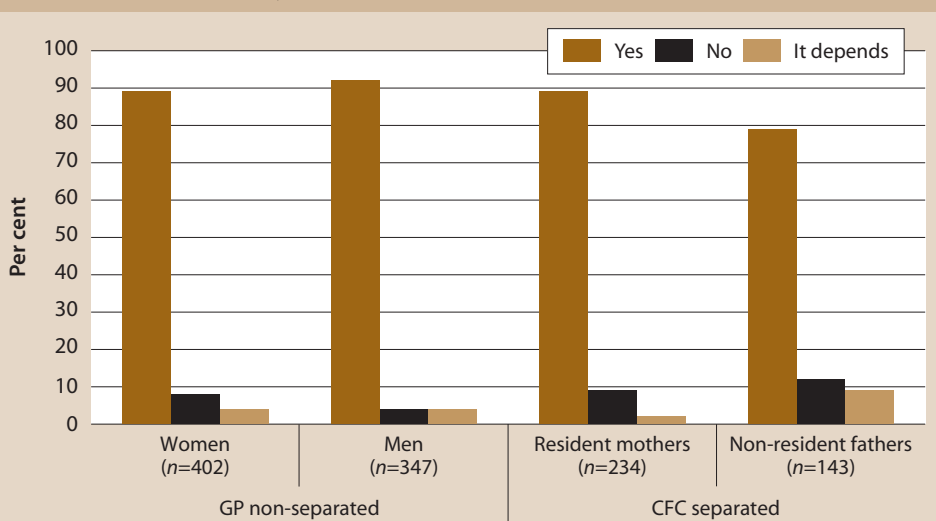
The question as to whether child support should be paid if the resident parent is preventing contact also offered two gender variants (Figures 4.5a and 4.5b on p. 50).

For each respondent group examined separately, views about whether child support should be paid were similar regardless of whether the payer was a father or mother. However, differences emerged across the four respondent groups. The majority of non-resident fathers held the view that child support should not be paid where contact was being denied (55 per cent and 59 per cent), although more than one third felt it should be paid (35 per cent and 37 per cent). Other groups were fairly evenly divided.

Between 7 and 16 per cent volunteered "it depends" for one or the other of these variants. Information from interviewers suggested that concern for children's

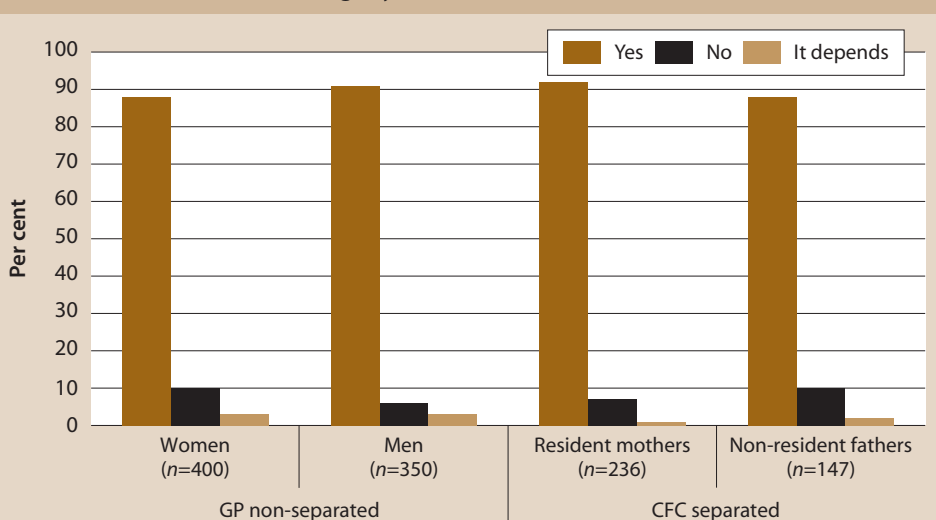
³⁸ The proportions answering either "yes" to both questions, "no" to both questions, or "it depends" to both questions were as follows: non-resident fathers (78 per cent, 6 per cent, and 1 per cent respectively); resident mothers (88 per cent, 5 per cent, and 1 per cent respectively); non-separated women (84 per cent, 6 per cent, and 1 per cent respectively); and non-separated men (87 per cent, 3 per cent, and 1 per cent respectively).

Figure 4.4a Do you think a father should have to pay child support if he's not interested in having any contact with his children?



Notes: GP nonsep = general population non-separated sub-sample; CFC sep = Caring for Children after Parental Separation sample comprising separated/divorced parents with at least one child under 18; $\chi^2(6) = 21.97, p < .01$.

Figure 4.4b Do you think a mother should have to pay child support if she's not interested in having any contact with her children?

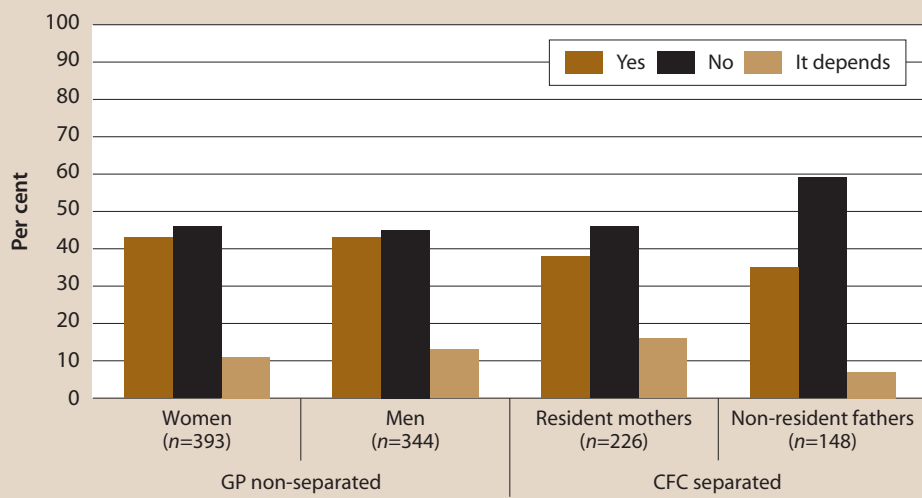


Notes: GP nonsep = general population non-separated sub-sample; CFC sep = Caring for Children after Parental Separation sample comprising separated/divorced parents with at least one child under 18; $\chi^2(6) = 5.81, p > .05$.

safety often underpinned these responses, although such issues were not raised by the interviewers themselves. The level of consistency across both questions was high for all groups (85–90 per cent).³⁹

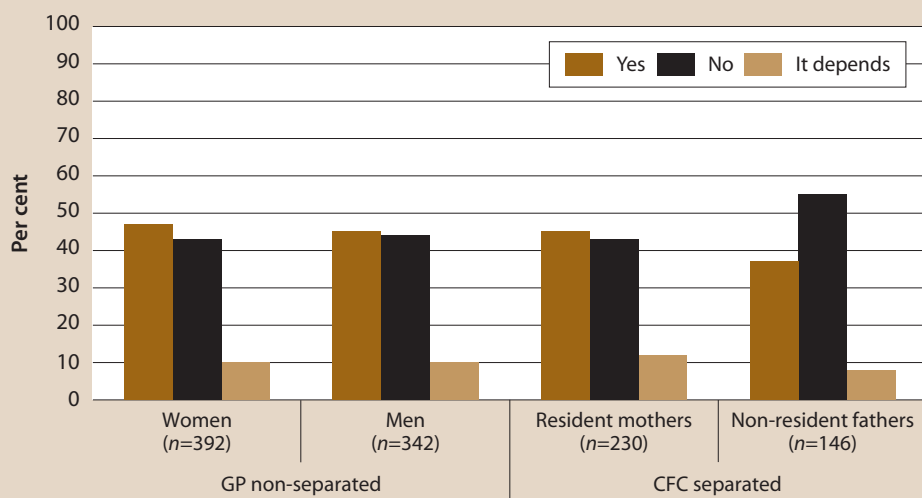
³⁹ The proportions answering either “yes” to both questions, “no” to both questions, or “it depends” to both questions were as follows: non-resident fathers (32 per cent, 51 per cent, and 3 per cent respectively); resident mothers (37 per cent, 42 per cent, and 10 per cent respectively); non-separated women (39 per cent, 40 per cent, and 7 per cent respectively); and non-separated men (39 per cent, 39 per cent, and 8 per cent respectively).

Figure 4.5a Should a father have to pay child support if he wants contact with his children but the mother is preventing it?



Notes: GP nonsep = general population non-separated sub-sample; CFC sep = Caring for Children after Parental Separation sample comprising separated/divorced parents with at least one child under 18; $\chi^2(6) = 14.33, p < .05$.

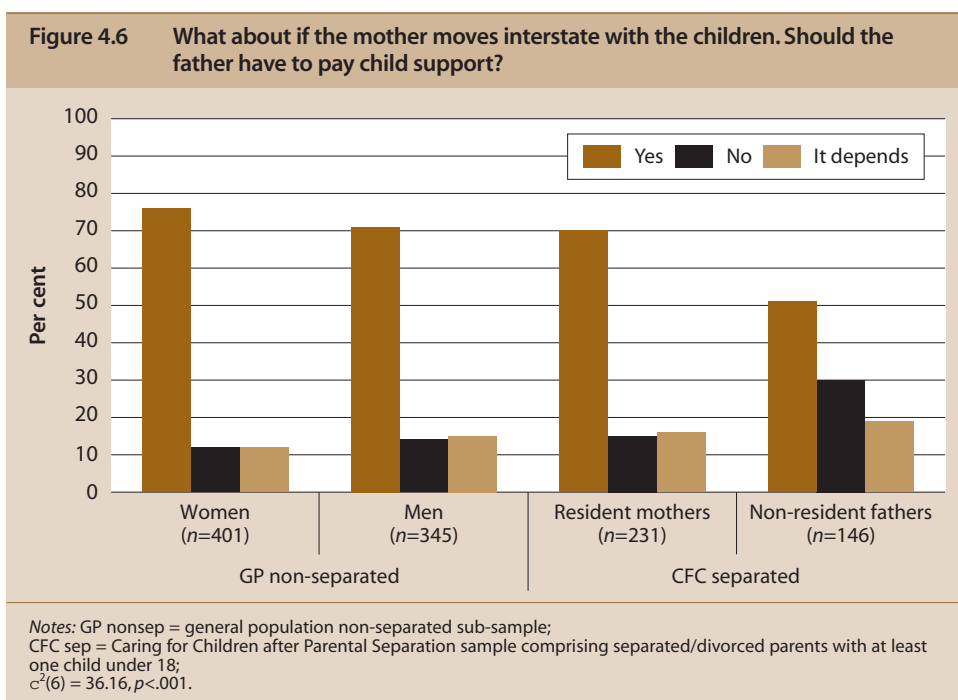
Figure 4.5b Should a mother have to pay child support if she wants contact with her children but the father is preventing it?



Notes: GP nonsep = general population non-separated sub-sample; CFC sep = Caring for Children after Parental Separation sample comprising separated/divorced parents with at least one child under 18; $\chi^2(6) = 7.80, p > .05$.

Scenario 3: Where the resident mother moves interstate

The first two scenarios involved either a clear intention to avoid contact or prevent it on the part of the non-resident or resident parent. However, with respect to a resident mother's relocation (contact scenarios 3 and 4), the intention remains ambiguous. Where a resident mother moves interstate, face-to-face contact would generally be possible although it may be considerably constrained and expensive. But where she moves overseas, face-to-face contact may be out of the



question. Figure 4.6 explores whether people think child support should be paid if a resident mother moves interstate.

The most common response in all groups was that fathers should continue to pay child support even where a mother moves interstate. This was the majority view for resident mothers and non-separated women and men, and the view of around half the non-resident fathers (70–76 per cent compared with 51 per cent).

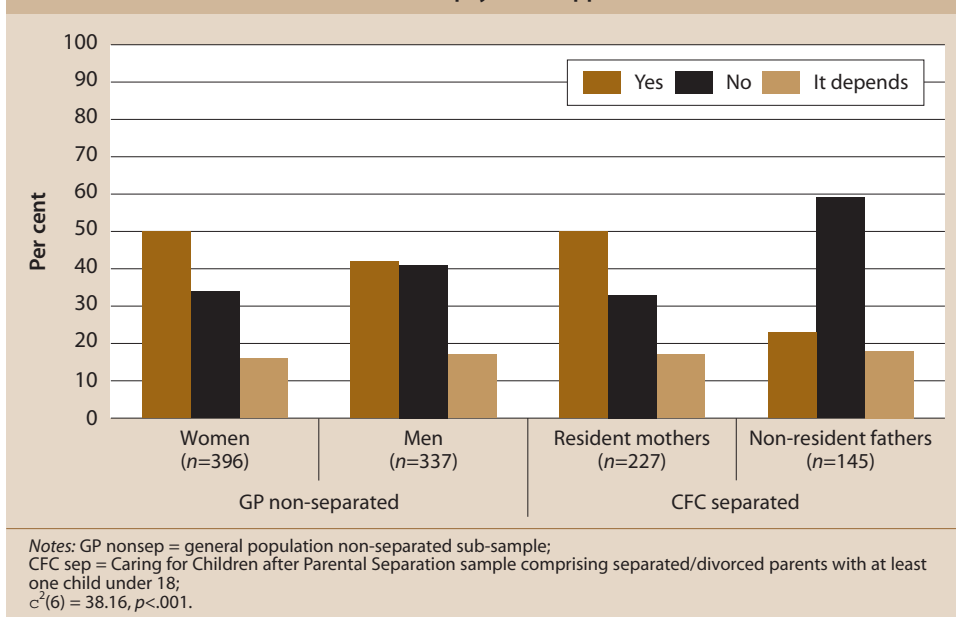
Non-payment under this condition was thus supported by a minority only (30 per cent of non-resident fathers and only 12–15 per cent of those in the other three groups). Another 12 to 19 per cent claimed that payment should depend on other factors, which would presumably relate to the circumstances surrounding the relocation.

Scenario 4: Where the resident mother moves overseas

Where relocation is particularly likely to impede contact (that is, where resident mothers move overseas), then the perception that fathers should keep on paying child support is attenuated (Figure 4.7).

While at least 70 per cent of resident mothers and non-separated women and men believed that fathers should pay child support when a resident mother moves *interstate*, only 42 to 50 per cent of respondents in these groups endorsed the notion that fathers should pay support if the mother moves overseas. Furthermore, the proportion of non-resident fathers endorsing the notion of payment of child support fell from 51 per cent in relation to interstate relocation to 23 per cent in relation to overseas relocation. Overseas relocation appears to matter for some people, which suggests that some make a link (conscious or otherwise) between seeing and paying. An alternative possibility is that some respondents might assume that the mother must be wealthy (and therefore not need child support) if she can afford to move overseas. Yet another possibility is the belief that child support transfers are a responsibility within Australia only. Of course, all of this is merely speculation.

Figure 4.7 And what if the mother moves overseas with the children. Do you think that a father should have to pay child support?



Men, especially non-resident fathers, were more likely than women to indicate that child support should not be paid when overseas relocation occurs (close to 60 per cent of non-resident fathers; 41 per cent of non-separated men, and around one-third of the two groups of women).

Scenario 5: Where children stay overnight

As noted by Fehlberg and Smyth (2000), there has been increasing emphasis on the need to recognise the financial costs of contact to non-resident parents who have on-going and regular contact with their children, particularly in relation to overnight stays.

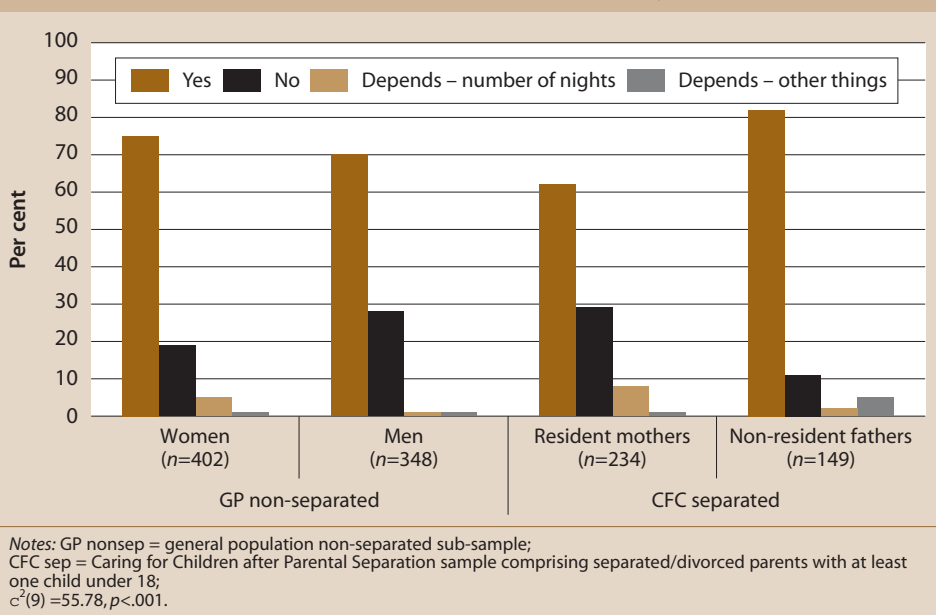
Respondents were asked whether overnight stays should be taken into account in determining child support payments, and if so, the minimum number of nights that should take place before child support payments should be reduced. Respondents' answers to the first of these questions are presented in Figure 4.8.

Most people in all groups believed that overnight stays should be taken into account in setting child support liability. Non-resident fathers were the most likely to hold this view (82 per cent), but close to three-quarters of non-separated women and men and 62 per cent of resident mothers also agreed.

Table 4.1 unpacks the minimum number of nights that respondents thought should count for a reduction in payments.⁴⁰

⁴⁰ The proportions of respondents who say "no nights should count" in Figure 4.8 and Table 4.1 differ slightly because of the way the answers to both questions were combined. Specifically, respondents were first asked whether they thought that frequent overnight stays with the non-resident father should be taken into account when calculating his child support payments (see Figure 4.8). The response "no" to this question was coded as "Overnight stays should not count" in Table 4.1 and combined with those who indicated this when asked about the minimum number of nights that should lead to a reduction in child support payments. Responses "it depends on number of nights" and "it depends on other things" from the former question are also represented in the above table where the respondents concerned did not proceed to suggest a minimum number of nights.

Figure 4.8 When children often stay overnight with their father, should this be taken into account when calculating his child support payments?



Non-resident fathers were the most likely to suggest that child support liability should take into account overnight stays amounting to fewer than 52 nights per year (for example, one night per fortnight or month) (22 per cent compared with 3–7 per cent). While responses varied markedly, there was nonetheless some clustering around 52 or 104 nights per year (that is, one or two nights each week).

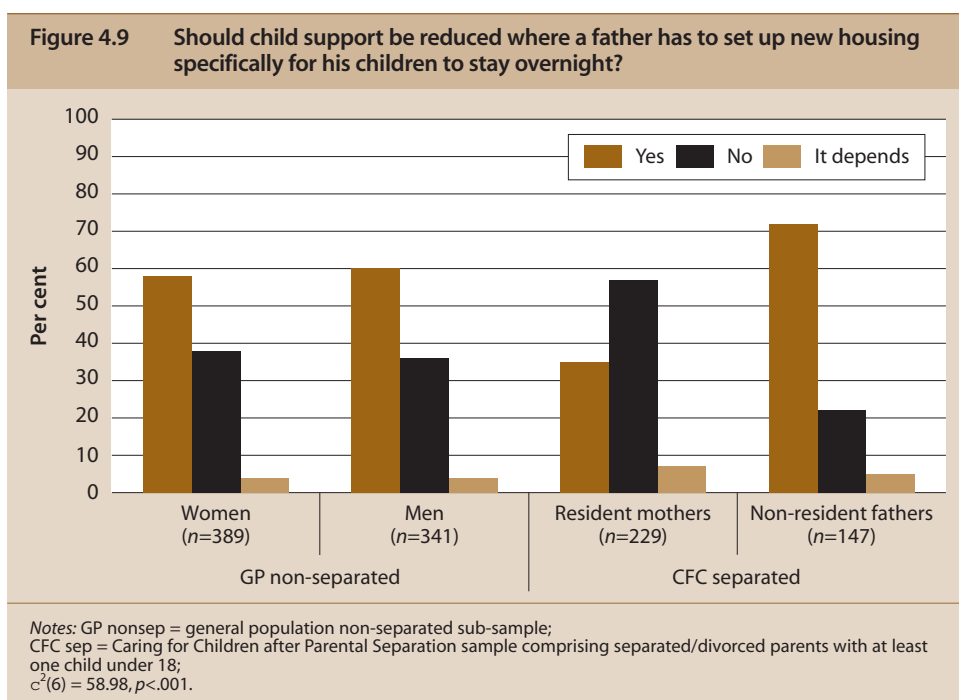
Table 4.1 What is the minimum number of overnight stays you think should be required before child support payments can be reduced?

Responses	GP Non-separated women (n=363) %	GP Non-separated men (n=322) %	CFC Resident mothers (n=223) %	CFC Non-resident fathers (n=139) %	All (N=1047) %
Overnight stays should not count	21	30	31	12	25
Minimum number nights per year					
1-51	3	7	5	22	7
52	15	21	14	22	17
53-103	4	2	7	9	5
104	28	20	15	15	21
105-155	1	0	1	4	1
156	14	12	9	7	12
157+	7	4	9	3	6
Total	72	66	60	82	69
It depends on number of nights (unspecified)	6	1	8	2	4
It depends on other things	1	2	1	5	2
Total	100	100	100	100	100

Notes: GP nonsep = general population non-separated sub-sample; CFC sep = Caring for Children after Parental Separation sample comprising separated/divorced parents with at least one child under 18.

Overnight stays can be quite costly for non-resident fathers (see, for example, Henman and Mitchell 2001; Woods and Associates 1999). This is especially the case where overnight stays take place on a weekly basis rather than in blocks of time (such as school holidays), where “roughing it” by sleeping on a couch, for instance, may be more tolerable than otherwise. But fathers may have to create the infrastructure (including at least one separate bedroom) to enable children to stay overnight more regularly in this, their other home.

Should child support be reduced if fathers have to establish new housing to enable his children to stay overnight? Patterns of responses to this issue are set out in Figure 4.9.



Most non-separated men and women (58–60 per cent), and particularly non-resident fathers (72 per cent), believed that the set up costs for new housing to accommodate children’s overnight stays should be taken into account in the setting of child support payments. Only one-third of the resident mothers felt this way.

Summary

This chapter focused on respondents’ views about child support liability where parents’ new pathways involve repartnering and stepchildren or new biological children, and the circumstances surrounding parent–child contact (including overnight stays) which might lead them to accept or reject eliminating or reducing child support liabilities.

Views about whether re-formed families should affect child support liability varied according to whether it was the mother or father who repartnered. Most non-separated respondents believed that continuation of child support liability should depend on the income of a resident mother’s new partner, but that a second family (involving step or new children) of a non-resident father should have no bearing on his child support liability.

While non-resident fathers maintained that a father's new children should be taken into account, they nonetheless agreed that the continuation of support to their first family should be contingent on the financial circumstances of their former partner's new husband. Resident mothers were evenly divided on the latter issue but gave primacy to continued support for "first families" regardless of a non-resident father's new responsibilities.

This pattern of results gives rise to some interesting positions on stepfathers and new biological children. From the perspective of non-separated women and men, money coming into the stepfather's household should depend on his financial situation but money going out should not. Nor should money going out depend on a non-resident father's responsibilities to new biological children.

There was some support for the idea that "seeing" and "paying" should be linked (the so-called "contact-child support nexus"). However, the vast majority believed that a non-resident parent's (father or mother) lack of interest in maintaining contact with children should have no bearing on the duty to support children financially.

Most also believed that a move interstate by a resident mother should not affect child support liability. However, there was far less agreement about the continuation of child support where the resident mother had moved overseas and where the resident parent (mother or father) was preventing contact. In these areas, where some groups were evenly divided, resident fathers were inclined to maintain that child support should discontinue.

There was much support across all groups for the idea that overnight stays should be taken into account in the calculation of child support. Most respondents also supported the notion that child support should be reduced where a father has to set up new housing to accommodate overnight stays, although resident mothers were inclined to disagree with this proposition.

Taken together, these results suggest that people tend to believe that (a) family reformation should only affect child support where a resident mother repartners with a wealthy man, and (b) seeing and paying should be linked – except where a non-resident parent lacks interest in maintaining contact with the children, or where a resident mother moves interstate. Some of these views were not shared by non-resident fathers.