



3 September 2021

Dear [REDACTED]

Your request made under the Official Information Act 1982 (OIA), to the Department of the Prime Minister and Cabinet was transferred to Inland Revenue on 6 August 2021. Your request to the Minister of Finance was also transferred to Inland Revenue on 13 August 2021. You requested the following (numbered for ease of response):

*Under the Official Information Act please advise as below, information that will help me understand practices and policies around recovery of child support in NZ: <https://www.justice.govt.nz/family/care-of-children/child-support/enforcing-child-on-support-payments/>.*

1. *How many applications were made a for border stops by child support agency/IRD- for what levels of debt, accrued over what time period, since this facility was introduced into law?*
2. *What criteria were applied to the decision by IRD/CSA to apply for a border stop.*
3. *How many times has IRD/child support agency been authorised to make a border stops on liable parents with child support debt since this facility was introduced into law?*
4. *By category What were the contributing factors in the court decision to grant a warrant for these border Stops?*
5. *How many stops resulted?*
6. *What was the amount of debt owed in each case, what dates were the stops, what amount was paid, over what time period?*
7. *Other than attachment to a known income source What mechanisms does IRD/CSA have to recover child support debt?*
8. *What triggers IRD/CSA action towards debt recovery- an amount of debt accrued or a percentage of the assessed amount unpaid or a number of periods unpaid.*
9. *Does the receiving parent have to request action or does IRD/CSA initiate action on principle in all cases meeting the criteria?*
10. *What is the status of this work: <https://taxpolicy.ird.govt.nz/news/2019/2019-11-27-hague-convention-child-support#statement> if it has been put into effect how many successful recoveries have resulted? How many actions have begun? How many cases have been considered?*
11. *Please can I have the relevant select committee reports?*
12. *Please can you describe the criteria and process that would see IRD/CSA action taken towards child support recovery under this policy? Is action triggered by IRD/CSA or the owed parent?*
13. *For example, does the policy target avoidance based on the volume of debt above a certain threshold or does it consider a percentage of the assessment owed to the receiving parent?*

14. *How do the two policies and enforcement structures recognise that debt owed to parents is significant for those on low income even though the dollar value may be low?*
15. *Can you explain the rationale of law changes that came into effect April 2021 in the context of parity for the receiving parent accruing debt and the children being negatively impacted financially and no financial implication for the liable parent for non-payment? I understand the associated publicity cited the rationale for these changes as simplicity, please explain.*

On 30 August 2021, the following questions relating to arrest warrants, and contributing factors in the court decision to grant an arrest warrant at the border, were transferred to the Ministry of Justice as the information is more connected to that department's functions.

1. *How many applications were made a for border stops by child support agency/IRD*
3. *How many times has IRD/child support agency been authorised to make a border stops on liable parents with child support debt since this facility was introduced into law?*
4. *By category What were the contributing factors in the court decision to grant a warrant for these border Stops?*

### **Questions 1 and 6**

*[How many applications were made a for border stops by child support agency/IRD]- for what levels of debt, accrued over what time period, since this facility was introduced into law?*

*What was the amount of debt owed in each case, what dates were the stops, what amount was paid, over what time period?*

Providing the requested information of the amount of debt, length of time the debt was accrued, the stop date at the border and the amount that was paid over a specific amount of time for each arrest warrant case can identify the liable parent. Therefore, I have decided to withhold the specified information of each case under section 18(c)(i) of the OIA, as making the requested information available would be contrary to the provisions of a specified enactment, namely Inland Revenue's confidentiality obligation in section 18 of the Tax Administration Act 1994 (TAA).

Disclosure of this information does not fall within any of the exceptions to the confidentiality obligation listed in sections 18D to 18J of the TAA.

### **Question 2**

*What criteria were applied to the decision by IRD/CSA to apply for a border stop.*

In order to be able to apply for an arrest warrant under section 199(1) of the Child Support Act 1991 (CSA), we must meet the criteria set out in the legislation:

*Where a District Court Judge or, if a District Court Judge is not available and the case appears to be one of urgency, any Registrar (not being a constable), is satisfied on application in writing made by the Commissioner that there is reasonable cause to believe that any liable person is about to leave New Zealand with intent to avoid payment of any liability under this Act, the District Court Judge or Registrar may issue a warrant for the arrest of the person.*

We use this along with the other information we have available to us to look at each case on its own merits and decide if taking this action will achieve the right outcome for all parties involved, and is efficient use of the Commissioners resources.

## **Question 5**

*How many stops resulted?*

Data from 1991 to 2005 requires a manual search through each liable parent's account in order to determine if they were subject to an arrest warrant under section 199(1) of the CSA. Data from 2005 to 2010 requires a manual search through each arrest warrant's case notes to see the outcome, i.e. if it resulted in an arrest at the border. As such, I have decided to withhold the data from 1991 to 2010 under section 18(f) of the OIA, as the information cannot be made available without substantial research and collation.

As per our response to you on 9 July 2020 (20OIA1530), we advised from 1 July 2010 to 30 June 2020, 95 arrest warrants were executed. From 1 July 2020 to 30 June 2021, no arrest warrants were executed.

## **Question 7 and 8**

*Other than attachment to a known income source What mechanisms does IRD/CSA have to recover child support debt?*

*What triggers IRD/CSA action towards debt recovery- an amount of debt accrued or a percentage of the assessed amount unpaid or a number of periods unpaid.*

Inland Revenue examines the merits of each parent's ability to pay child support on a case-by-case basis. When liable parents fail to pay child support, we attempt to contact them to establish why payment has not been made and to encourage them to pay voluntarily. When we are unable to secure funds through all voluntary channels, we look to enforce payments from liable parents by placing a deduction notice, under section 154 of the CSA, on any funds payable to that person. This includes income from salary or wages or from a bank account in the name of the liable parent.

If these collection actions are unsuccessful Inland Revenue may also pursue other legal avenues to secure payment, set out in Part 11 of the CSA. These avenues include, but are not limited to, applying for arrest warrants from the courts, issuing summons for examination of financial means, applying to the courts for charging orders against property, and applying for warrants to seize property through the courts. We take these actions as a last resort, we take into account all information we hold and determine if taking this action will achieve the right outcome, and is efficient use of the Commissioners resources.

## **Question 9**

*Does the receiving parent have to request action or does IRD/CSA initiate action on principle in all cases meeting the criteria?*

Inland Revenue completes different types of campaigns to initiate collection, the selection process is sensitive, but depending on what information we hold the liable parent may be selected for further action.

As well as this a receiving carer can contact Inland Revenue to provide us with any information they hold which would assist in collecting funds owed to them. We consider the information that has been provided, the information that is already available to us and determine what action is available and appropriate under the CSA.

## **Question 10**

*What is the status of this work: <https://taxpolicy.ird.govt.nz/news/2019/2019-11-27-hague-convention-child-support#statement> if it has been put into effect how many successful recoveries have resulted? How many actions have begun? How many cases have been considered?*

The Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance 2007 (the Convention) will come into force in New Zealand on 1 November 2021.

Therefore, under the Convention:

- There have been no successful recoveries;
- No actions have begun; and
- No cases have been considered.

### **Question 11**

*Please can I have the relevant select committee reports?*

The relevant select committee report and submissions and advice are publicly available:

- Final report of the Social Services and Community Committee: [https://www.parliament.nz/resource/en-NZ/SCR\\_96350/afed3db3ab27429e798a996aec0280b85cab8d56](https://www.parliament.nz/resource/en-NZ/SCR_96350/afed3db3ab27429e798a996aec0280b85cab8d56)
- Submissions and advice: [https://www.parliament.nz/en/pb/sc/submissions-and-advice/all?custom=ITE\\_94888](https://www.parliament.nz/en/pb/sc/submissions-and-advice/all?custom=ITE_94888)

### **Question 12**

*Please can you describe the criteria and process that would see IRD/CSA action taken towards child support recovery under this policy? Is action triggered by IRD/CSA or the owed parent?*

Article 23 of the Convention outlines the standard process that needs to be followed for recognition and enforcement when an application made under the Convention is received.

Once an application is received by Inland Revenue it will either be declared enforceable or registered for enforcement, in accordance with the regular process and criteria used under the CSA.

Once Inland Revenue registers the decision or declares it enforceable, no further request or application by the applicant is required under the Convention in order to have the decision enforced.

Once the decision has been declared enforceable or has been registered, both parties will be notified of the decision to register or to declare the decision enforceable. The applicant may be notified through the Central Authority of the requesting State or directly, depending on the procedures of the requesting State.

A similar process applies when New Zealand is the requesting state and Inland Revenue requests enforcement action in another member country. Once the New Zealand decision has been registered or declared enforceable in the requested state, enforcement action will follow the laws and procedures of that country.

The Convention is a multilateral international treaty that enables member countries to recover child support and other forms of maintenance (such as spousal support) from liable persons residing in another Contracting State.

The Convention would allow recognition of both administrative and court-ordered maintenance between member countries. This would be initiated through the Central Authority of another country contacting Inland Revenue.

In some cases, Inland Revenue will be able to make an application for recognition and enforcement of a New Zealand liability in another member country. The owed parent will also be able to initiate the application.

The Convention also enables Inland Revenue to assess child support for New Zealand children whose liable parent is not a New Zealand citizen or lives in a member country. This would be initiated through Inland Revenue.

### Question 13 and 14

*For example, does the policy target avoidance based on the volume of debt above a certain threshold or does it consider a percentage of the assessment owed to the receiving parent?*

*How do the two policies and enforcement structures recognise that debt owed to parents is significant for those on low income even though the dollar value may be low?*

The policy (the Convention) does not target avoidance based on the volume of debt above a certain threshold or consider a percentage of the assessment owed to the receiving parent.

### Question 15

*Can you explain the rationale of law changes that came into effect April 2021 in the context of parity for the receiving parent accruing debt and the children being negatively impacted financially and no financial implication for the liable parent for non-payment? I understand the associated publicity cited the rationale for these changes as simplicity, please explain.*

The changes made to the penalty rules under the Child Support Amendment Act 2021 recognise that the rules for penalties are overly punitive and complex, and act more as a disincentive, rather than an incentive to pay. The changes to the penalty rules are intended to help customers get things right from the start, which should result in better ongoing compliance, and more financial payments being available for receiving carers and their children.

The Bill simplifies the penalty rules by:

- repealing monthly incremental penalties and simplifying the penalty write-off rules;
- moving the imposition of the second phase of the initial penalty to 28 days after the initial due date;
- repealing the rule that provides that the minimum penalty imposed is \$5; and
- introducing a grace period of 60 days from the first due date during which a newly liable person, or a person returning to the child support scheme, will not be charged late payment penalties.

### Right of Review

If you disagree with my decisions on your OIA request, you can ask an Inland Revenue review officer to review my decisions. To ask for an internal review, please email the Commissioner of Inland Revenue at: [CommissionersCorrespondence@ird.govt.nz](mailto:CommissionersCorrespondence@ird.govt.nz).

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decision. You can contact the office of the Ombudsman by email at: [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz).

Thank you again for your request.

Yours sincerely



Sue Gillies  
**Customer Segment Leader - Families**