

What is Child Support and do I have to pay it?

Child Support is an amount of money transferred between separated parents to help raise your children. If you are not the primary carer of your children, it is in their best interests if you can contribute financially to supporting them. **Child Support** should not be seen as giving money to the other parent, but rather fulfilling your parental responsibility to support your own children.

How do I work out a Child Support arrangement that is fair?

The primary carer of the children is able to claim **Child Support** from the other parent. The amount to be paid can be agreed upon in a private arrangement between parents or assessed and decided upon by the *Child Support Agency (CSA)*. If both parents share the care of children equally, only one parent can apply for **Child Support**.

Can we work out our own agreement?

Some separated parents are able to make a private arrangement regarding the ongoing financial support of their children. These agreements can include any details about the financial support of children and can go beyond what is included in a **Child Support Assessment**. For example the agreement may cover regular and occasional expenses, day care, schooling, medical and health insurance expenses, extra curriculum activities, holidays and travel etc.

In order to prevent future issues arising regarding the agreed payment, it is advisable that you formalise your arrangement by asking the CSA to accept it. This can be done in two ways:

1. A Binding Child Support Agreement

This is a written and signed agreement made between parents, nominating an amount of **Child Support** that both parents agree is appropriate. A **Child Support Assessment** by the CSA is not necessary for this agreement but prior to signing the agreement each party must receive independent legal advice about the implications, advantages and disadvantages of the agreement. This agreement cannot be varied and it can only be terminated on limited grounds.

2. Limited Child Support Agreement

This is a formal written agreement between parents that can only be made if a **Child Support Assessment** has already been undertaken by the CSA. The annual rate payable in this agreement must be equal to, or greater than the annual rate indicated by the **Child Support Assessment**. Legal advice is not needed before entering into a limited agreement. **Limited Child Support Agreements** must be lodged and accepted by the CSA before they take effect.

What if we can't agree on how much Child Support is reasonable?

If parents are unable to agree on the financial support of their children, the parent who feels they are eligible to receive **Child Support** can apply to the CSA to make a **Child Support Assessment** and organise for the assessed amount to be collected. The CSA works out the amount of **Child Support** to be paid using a formula that takes into account the cost of care of the children (dependent on each child's age), the income of both parents and the number of nights of care each parent provides.

The CSA has many ways to investigate and obtain information or evidence relating to **Child Support** issues and it can enforce payment. If a party fails to pay the assessed amount of **Child Support**, the CSA can arrange for employers to allocate wages to the debt. The CSA can also intercept tax returns and/or social security benefits and if necessary seek to have the assessment enforced through the Court system. The CSA have the power to stop someone from leaving Australia until payment has been made.

Adult Child Maintenance

If a child who has turned 18 has not yet completed the last year of their secondary schooling, the CSA assessment extends until the completion of their last year of secondary school.

Only under limited circumstances is it possible to make an application to the Court for Adult Child Maintenance for a child over the age of 18 who has completed school. This application may be considered if, for example, an adult child is completing their first university degree and is not able to support themselves adequately by participating in part time work. The Court generally only orders the minimum support needed to enable the child to continue his/her university studies.

Do we have to go to Court?

In most cases it is not necessary to go to court to formalise **Child Support** and it is important that you don't bring an application to the Court unless you are absolutely sure that an application could not have been made through the CSA.

It may be possible to make an application through the Court if:

- you already have a case in court about other issues
- one party is not eligible to have a **Child Support Assessment** made against them because of their country of residence (although Australia has an agreement with numerous countries, referred to as 'reciprocating jurisdictions', some of these jurisdictions only recognise a Court Order regarding **Child Support** arrangements)
- the child is not eligible to have a **Child Support Assessment** made for them because s/he does not reside in Australia for the purposes of a **Child Support Assessment**, and
- the proposed payer is a step parent of the child (a step parent would only be asked to pay maintenance for a child if neither parent can support the child)

The Court will consider the financial details and information provided about the needs of the child(ren) and the capacity of the parent to pay. When orders are made by the Court they can then be registered with the CSA.

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