

InfoSheet: Child support

A parent's responsibility to provide financial support for their children takes priority over all other commitments, even when the children do not live with that parent.

Our service commitment

We take a personal interest in you and want to help take the stress out of one of life's most challenging times. We are here to help you, give you guidance and professional advice. We will take the time to listen to you.

Our commitment to you is that we will:

- outline how long we expect it to take
- regularly update you on how your matter is progressing
- give you a clear indication of the costs before starting work for you
- provide flexible payment options
- give you access to our Accredited Specialist in Family Law as required

The first steps

For a discounted fee of \$250 you can consult with one of our specialist lawyers who will provide you with advice in relation to your specific issues and point you in the right direction for the best outcome for you and your family

alternatively

You can consult with one of our specialist lawyers at our Free Family Law Clinic held monthly at our Dapto or Shellharbour offices. This appointment is restricted to 30 minutes and provides a summary of the family law process.

Child support agency

In an attempt to ensure that more children receive realistic levels of child support from parents, the Child Support Scheme was introduced.

Under the scheme the Child Support Agency assesses the amount of child support payable by undertaking a child support assessment. Most cases will be assessed using this formula.

How much child support is payable?

The Child Support Agency calculates the amount of child support payable by a formula.

The basic formula takes into account both parent's incomes, the costs of maintaining the child at different ages, and the percentage of time the child spends with each parent.

If you know the other parent's approximate income, we can give you an estimate of the child support you are likely to receive or required to pay. Your own income will be taken into account and may reduce the amount payable.

How to apply for child support

- complete the form available from the Child Support Agency
- the Agency will undertake an assessment and advise you of the amount payable
- you can ask the Agency to collect payments on your behalf

Variation or departures from child support assessments

When your circumstances change you should contact the Child Support Agency who can undertake a review of your child support assessment.

If you believe that your child support assessment is not fair or accurate you can apply for departure from that assessment.

You must satisfy one of 10 grounds before bringing a departure application. We can discuss these with you and help you determine if you have grounds to bring a departure application.

A departure application is determined by the Child Support Registrar.

If you are unhappy with the decision of the Child Support Registrar you may appeal to the administrative tribunal such as the Social Security Appeals Tribunal.

Court Proceedings

The court only has the power to hear certain types of child support applications and appeals. In most situations, parents or eligible carers must first satisfy all administrative requirements with the Child Support Agency. This may involve firstly having your matter heard by the Child Support Registrar and an administrative tribunal such as the Social Security Appeals Tribunal.

We can help advise you of the steps to have your matter dealt with quickly and effectively.

The court does have the power to make orders to enforce payment of child support arrears. The court can also make orders for child support to be refunded where there has been an overpayment or make orders for parentage testing.

Binding child support agreements

It is possible for you to reach an agreement with the other parent as to how much child support will be paid. The agreement can make provision for child support other than by way of periodic payments, e.g. lump sum payments.

There are two types of agreements:

- Limited agreements
- Binding agreements

Limited agreements

Limited agreements are formal agreements that are signed by both parents. You do not need to seek legal advice before signing a limited agreement, however we strongly advise that you do.

For a limited agreement to be entered into:

- there must be a child support assessment already in place
- the amount payable under the limited agreement must be equal to or more than the child support assessment already in place.

Parents can end a limited agreement if:

- the limited agreement is more than 3 years old
- there is a court order that sets aside the agreement
- a new agreement replaces the existing agreement.
- the amount to be paid under the limited agreement is 15 per cent less than what would be paid under a child support assessment.

Limited agreements are registered with the Child Support Agency. We can help you with this procedure.

Binding agreements

Binding agreements are formal agreements that are signed by both parents.

Each parent must receive their own independent legal advice regarding the binding agreement for it to be enforceable.

Each parent's lawyers must provide a statement that they provided the parent with independent legal advice and these statements are included in the agreement.

A binding agreement can provide for any amount of child support to be paid as agreed to by the parties.

The amount of child support to be paid can also be less than what one parent may have been assessed and required to pay by the Child Support Agency.

There does not have to be a child support formula assessment already in place for the parties to enter into a binding agreement.

A binding agreement requires careful consideration before being entered into. The agreement can only be ended by a new binding agreement or a court order setting it aside. For this reason you need to consider any changes that may occur in the future that may affect the fairness of the binding agreement.

We can provide you with further advice regarding the advantages and disadvantages of a binding agreement.

Binding agreements are registered with the Child Support Agency. We can help you with this procedure.

