



Navigating child support - from assessments to private agreements

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E&A Lawyers has made the decision to no longer provide family law services. While we no longer take on any new family law matters, we are happy to assist by referring you to lawyers specialising in this area. Please don't hesitate to contact us if you would like a referral.

[CALL US IF YOU'D LIKE A REFERRAL TO A FAMILY LAWYER: 02 9997 2111](tel:029972111)

Child support is an essential aspect of the Australian family law system. It ensures both parents contribute financially to the well-being of their children after separation. Navigating child support can be challenging, but understanding the options available, such as child support assessments or private agreements, helps parents make informed decisions.

This blog will explore child support assessments, child support agreements and how family law ensures that both parents share the responsibilities of raising their children.

What is child support?

[Child support](#) is payments or payment arrangements made between separated parents to help with the costs of caring for children. It is usually paid up until a child turns 18, but in some cases, it may be payable for longer.

Child support can be obtained in two ways:

1. by application to the Child Support Agency for an administrative assessment; or
2. by a private Child Support Agreement.

Applications for Child Support through the Child Support Agency

Parents can make [applications to the Child Support Agency](#) (“**the Agency**”) through Services Australia. This involves an administrative assessment where the Agency will estimate and conclude what payments should be made by one or both parties.

Generally, the Agency will calculate each parent’s child support income using a specific formula based on;

- the number and ages of the children;
- the costs of caring for children (based on Australian research);
- the income of both parents;
- the percentage of care (number of nights) which each parent (or carer) has for the children;
- whether the parents have any other dependent children living with them; and
- whether the parents have any other children for whom they must pay child support (i.e. any other children in child support cases).

There is a basic formula that can be varied to cover different family circumstances.

If the Agency has calculated child support payments for you to either make or receive, and you feel that calculation is inaccurate or unfair, you should seek legal advice from a family lawyer.

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What is a Child Support Agreement?

A Child Support Agreement (“**CSA**”) is a private written agreement between parents or carers about child support payments. The agreement can be drafted to reflect the parents’ specific set of circumstances and can be for an amount more or less than the amount that would be payable under a child support assessment through the Child Support Agency.

Parents can choose from two types of child support agreements: a limited child support agreement or a binding child support agreement.

Limited Child Support Agreement

- To receive child support under a limited agreement there must be a child support assessment by Services Australia already in place.
- The annual amount payable under a limited child support agreement must be equal to or more than the annual amount assessed by Services Australia.
- They have to be in writing, signed by both parents and lodged with the Child Support Registry to be enforceable, but separate legal advice is not required.
- They may be ended by making a new child support agreement, by a Court Order setting it aside or by giving notice to the Child Support Registrar if 3 years have elapsed.

Binding Child Support Agreement

- To receive child support under a binding child support agreement a parent must have at least 35% care of a child.
- A child support assessment does not have to be in place (unless a non-periodic provision is included in the agreement), however, you must be eligible for an assessment.
- Both parents **must** seek independent legal advice, and each parent must get a legal certificate from their respective legal advisors. If they don't, the binding child support agreement will not be valid.
- The agreement may only be ended by a new binding agreement (for which independent legal advice is also required) terminating the agreement or a Court Order setting it aside.

Advantages of a private Child Support Agreement

A formal agreement enables parents to better plan their financial future because they will know what is going to happen in relation to expenses relating to the children.

The CSA is registered with Services Australia and can also be registered with the Family Court. If one parent does not comply with it, the other parent can enforce the agreement through the Family Court. This can give peace of mind to a parent who may be concerned about the other possibly not fulfilling their verbal agreement to cover particular expenses in the future.

A CSA may be appropriate if there is a child with significant medical or educational needs. Detailing the anticipated costs associated with this may give a parent a sense of security and certainty, as opposed to a standard child support assessment done by the Child Support Agency.

Another reason people choose private child support agreements is if they have children they are planning on sending to private schools. This type of agreement allows for funding arrangements to be outlined.

A CSA can also outline things such as private health insurance, medical payments, therapists, tutoring and extracurricular activities.

Get help from a family lawyer

With binding child support agreements, it is a requirement that in order for it to be binding, you have to get independent legal advice, and you must receive advice about:

- the effect of the agreement on your rights; and
- the advantages and disadvantages of entering into the agreement at the time you are entering into it.

Our experienced family lawyers can assist with drafting a child support agreement (limited or binding) or any disputes you may have with your former partner about child support obligations.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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