

Collecting and enforcing child support

Information for receiving parents

How does the Department of Human Services (Child Support) ensure child support and child support debts are paid?

If you are registered with the Department of Human Services (Child Support) (DHS), and a person is required to pay you child support or has a large unpaid child support debt, the DHS can take steps to make sure this money is paid.

Legal Aid Queensland does not help people collect or enforce unpaid child support debts.

The DHS can enforce child support payments by:

1. Having an employer deduct the money owed from the paying parent's pay

This is where child support payments are deducted from the paying parent's salary or wages on a regular basis by their employer.

2. Collecting the money owed from the paying parent's pay

If the DHS is already collecting child support from the paying parent's salary or wages, they can increase the amount to cover what the paying parent owes in child support debts. They do this by writing to the paying parent's employer and organising for the amount deducted to be increased.

3. Collecting the money owed from Centrelink payments or veteran's pensions

The DHS can write to Centrelink or the Repatriation Commission for Veterans, asking for amounts to be deducted from certain payments to pay child support or a child support debt. Some of the payments that are eligible for deductions are Youth Allowance, Newstart, Austudy, Family Tax Benefits and parental leave payments.



4. Deducting the money from the paying parent's tax refund

The DHS may deduct or collect the paying parent's tax refund in order to pay or reduce child support debts.

The DHS works closely with the Australian Tax Office (ATO) to ensure a child support assessment correctly reflects the money earned by the paying parent. This ensures the child support assessment is calculated on the correct incomes of the paying parent and the receiving parent. This also helps to identify people who are trying to minimise their income to reduce their child support assessment.

Parents who pay or receive child support and are exempted from lodging a tax return with the ATO may still need to lodge a Non-lodgment Advice form. To find out if you are in this category please visit www.ato.gov.au. You can download a Non-lodgment Advice form from this website.

5. Collecting the money owed from a third party

If the DHS receives information that someone is holding money on behalf of a paying parent who has a child support debt, the DHS can issue a notice to a person who holds money to access these funds. This method is commonly used to collect money held in bank accounts and from the proceeds of property sales to pay child support debts.

6. Applying for a departure prohibition order

In very serious cases, the DHS can apply for a departure prohibition order, which prevents a paying parent who owes a child support debt from leaving Australia.

7. Intensive debt collection/optical surveillance

In very serious cases, the DHS can also use intensive debt collection activities to manage paying parents who have outstanding payments that have proven difficult in the past to collect

The DHS may also use optical surveillance to help them investigate complex avoidance arrangements.

8. Litigation

Where other enforcement methods have not worked, and where an asset or income stream is identified in the name of a paying parent who owes a child support debt, the DHS can take the paying parent to court to collect outstanding child support payments.

Prosecution is an option available to the DHS for the most serious actions or omissions involving criminal behaviour by paying parents who have outstanding child support payments and employers.

What if I am not registered with the DHS?

If you are not registered with the DHS to receive child support then you are responsible for collecting and enforcing the unpaid child support debt yourself.

Legal Aid Queensland does not help people collect or enforce unpaid child support debts.

If private payments get behind or stop, or if you cannot agree on the amount of child support that should be paid, you should contact the DHS and ask them to start collecting for you. They can take over responsibility for ongoing collection and any outstanding payments going back three months.

Can the DHS elect not to collect or enforce an unpaid child support debt?

The DHS will not try to recover an unpaid child support debt if the debt is found to be “irrecoverable at law” or “non-economical to pursue”.

For example, if the paying parent who owes the child support debt can prove they are seriously incapacitated and cannot work, or they are in such extreme financial hardship that they have no capacity to pay; the DHS will not try to recover the debt.

Further information about the decision to not enforce an unpaid child support debt is available in the online Guide to Social Policy Law: Child Support Guide at: <http://guides.dss.gov.au/child-support-guide/5/7/1>.

The DHS will not advise the paying parent if it decides not to continue trying to recover a child support debt. Instead, the DHS may tell the paying parent that it won't take any further action to recover the debt until their financial circumstances show that they are able to pay the debt. The paying parent will be asked to contact the DHS as soon as their circumstances change.



What can I do if the DHS decides not to collect or enforce an unpaid child support debt?

If you are the receiving parent and the DHS has refused to collect or enforce an unpaid child support debt on your behalf, you can:

- Contact the DHS, in writing, and ask them to explain the reasons for their decision.
- Contact the DHS feedback/complaints section on 1800 132 468 to make a complaint.
- Contact the Commonwealth Ombudsman. The Commonwealth Ombudsman handles complaints about Australian Government agencies. You can submit an online complaint form at www.ombudsman.gov.au or call 1300 362 072.

You should also provide the DHS with all relevant information about the paying parent, in writing, for example:

- If the DHS is not pursuing the child support debt because the paying parent is unemployed, contact the DHS if the paying parent starts working or receives money from another source (such as an inheritance).
- If the DHS is not pursuing the child support debt because the paying parent is overseas or is not living in a country where child support can be collected, contact the DHS if the paying parent returns to Australia for any reason. In serious cases, the DHS can apply for a departure prohibition order, which prevents a paying parent who owes a child support debt from leaving Australia.

Your previous relationship with the paying parent means you may have access to information or be able find out things that the DHS is not aware of.

How do I contact the DHS?

You should always contact the DHS in writing. If you have registered for an online account, you can communicate with the DHS in writing electronically. Remember to keep a copy of all of written communication and supporting documents that you send to the DHS.

Information about how to contact the DHS is available on the following links:

- <https://processing.csa.gov.au/contact/form.aspx>
- <http://www.humanservices.gov.au/customer/contact-us/write-message-us>
- <http://www.humanservices.gov.au/customer/information/feedback-complaints>



What if English is my second language?

If you would like this factsheet explained in your language, you can contact us through the Translating and Interpreting Service (TIS) on 13 14 50. TIS will organise an interpreter in your language and will connect you to Legal Aid Queensland. This is a confidential and free service.



Your local Legal Aid Queensland office:

BRISBANE

44 Herschel St, 4000

BUNDABERG

3rd Floor, WIN Tower,
Cnr Quay & Barolin Sts, 4670

CABOOLTURE

Ground Floor, Kingsgate
42 King St, 4510

CAIRNS

Level 2, Cairns Square Complex,
42-52 Abbott St, 4870

INALA

Level 1, Inala Commonwealth
Offices, 20 Wirraway Pde, 4077

IPSWICH

Lvl 7, 117 Brisbane St, 4305

MACKAY

Ground Floor,
17 Brisbane St, 4740

MAROOCHYDORE

Ground Floor, M1 Building
1 Duporth Ave, 4558

MOUNT ISA

6 Miles St, 4825

ROCKHAMPTON

Ground Floor, 35 Fitzroy St, 4700

SOUTHPORT

Level 2, 7 Bay St, 4215

TOOWOOMBA

1st Floor, 154 Hume St, 4350

TOWNSVILLE

3rd Floor, Northtown
280 Flinders St, 4810

WOODRIDGE

1st Floor, Woodridge Place,
Cnr Ewing Rd & Carmody St, 4114

For more information
about our services visit
www.legalaid.qld.gov.au
or phone 1300 65 11 88.

