

Organising child support and care arrangements for your children

Parents are responsible for supporting their children. If you are together, separated or if you never lived together, your obligation to support your children continues.

This factsheet has information for both parents, whether you pay or receive child support. If the children live with someone other than a parent, that non-parent/carer can also apply for child support.

You will find information here on:

- the child support system
- how child support is collected and transferred
- how to organise or change care arrangements for the children; this will affect your child support
- how Legal Aid Queensland can help.

How does the child support formula work?

When working out your child support payment, the Department of Human Services (Child Support) (DHS (CS)) looks at:

- both parents' income
- if you are supporting other children
- the ages and costs of raising children (based on the combined income of the parents)
- the amount of time you care for the children (your 'percentage of care').

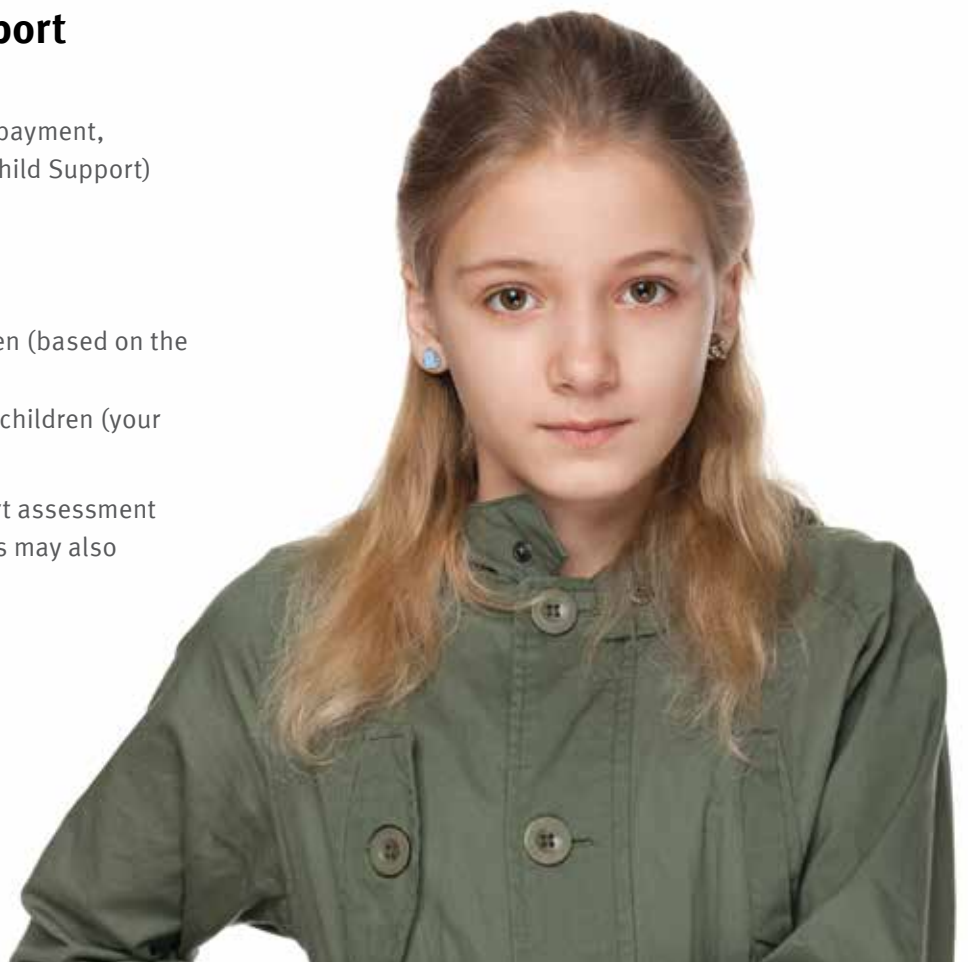
The DHS (CS) will make a child support assessment based on these and other factors. This may also affect your Family Tax Benefit.

Write down your phone calls with the Child Support Agency and get help with letters if you do not understand them. If you think the amount of child support the Child Support Agency have decided on is not correct or fair, get legal advice. There are ways to change an assessment. Legal Aid Queensland or a community legal centre can help. Strict time limits apply.

The amount of child support you pay or receive may also affect your Family Tax Benefit.

For more information see the Legal Aid Queensland factsheet *Child support, Family Tax Benefit and your child care levels*.

The child support scheme includes children from a previous same sex relationship.



What is a child support agreement?

Instead of using the Child Support formula assessment, you can reach your own agreement with the other parent. The agreement can be about how much, and in what form, child support should be transferred. You should always get legal advice before making a child support agreement.

There are two legal types of child support agreements.



Binding child support agreements

A binding agreement is a written and signed agreement that has been made after each parent has received legal advice. Your lawyer must attach a Certificate of Independent Legal Advice to the binding child support agreement after giving you legal advice. You must get legal advice from a different lawyer than the other parent.

You can make this agreement for any child support amount, including amounts that are less than the DHS(CS) would calculate. If you agree to receive less child support, your:

- Centrelink benefit will not be increased to make up for the smaller child support amount you have agreed to
- Family Tax Benefit (A) will be paid at the same rate as if you were receiving a DHS(CS) calculated amount.

You can only end a binding agreement by making a new one, no longer being an eligible carer, or by going to court. The court will need to agree to end the binding agreement. The court cannot change the agreement.

Limited child support agreements

A limited agreement can only be made if there is a child support formula assessment already in place with the Child Support Agency. The child support amount in your agreement must be equal to or more than the Child Support Agency formula amount. The law does not say you must get legal advice before making a limited child support agreement, however it is highly recommended that you do. It is best to do this before making any child support agreement.

The court can find a child support agreement is not legal if it was made using threats or pressure.

How is child support transferred between each parent (or carer)?

The DHS(CS) collects and transfers child support payments between each parent, or to non-parent carers.

Child support payments can also be transferred privately between yourselves if both parents agree to do this. You can collect and transfer child support between yourselves, whether you have a DHS(CS) formula assessment or a private child support agreement.



Which option should I choose?

If the payer:

- does not have a good payment history or
- is not likely to pay

it may be better for the DHS(CS) to collect your child support.

Transferring child support between yourselves is also not recommended if:

- there has been family violence
- tax returns have not been lodged or are usually lodged very late
- the other parents' income used in the assessment may not be correct. The assessment can be corrected later on and you may find you have not have been paid the full child support amount. The DHS(CS) cannot collect these amounts owed from a past period when a private collection arrangement was in place. You will be responsible for recovering this money.

If you have a private arrangement and child support payments are not made, the DHS(CS) can be asked to start collecting the payments. If this applies to you, act quickly. The DHS(CS) can only collect payments owed to you ('arrear') for the past three months. In special cases, you may receive arrears up to nine months.

If the payer is likely to pay on time and pay the right amount, then using either option may be suitable for you. Get legal advice before entering into a private arrangement.

What do I do when:

- my care arrangements change or
- the care provided is different to that set out in a parenting plan or order?

Tell the DHS(CS) immediately about any changes in the care arrangements for the children. If you and the other parent do not agree about the level of care being provided for the children, the DHS(CS) can make that decision.

In making a decision about the percentage of care to be used in an assessment, the DHS(CS) will consider:

- any parenting plan or parenting order
- any previous written agreement about care or pattern of care that is different to the plan or order
- if a parent is not following a written agreement, parenting order or parenting plan
- information provided by the parents or third parties.

If you disagree with the decision, you should get legal advice. You can lodge an 'objection' to the decision. You should do this within 28 days. You may need to try family dispute resolution with the other parent. Speak to Legal Aid Queensland or a community legal centre about this first. If there has been family violence always tell your lawyer and the family dispute resolution service.

Where to get help

For information on how child support and Family Tax Benefit are affected by:

- your income
- other family
- care arrangements and levels of care
- child support agreements

see the Legal Aid factsheet *Child support, Family Tax Benefit and your child care levels*.

Contact details

Legal Aid Queensland

Ph: 1300 651 188

for information, office hours, locations and for referrals to your nearest community legal centre and financial counsellor.

www.legalaid.qld.gov.au

Child Support Agency

Ph: 131 272



Centrelink

Ph: 136 150, from 8am to 8pm, Mon – Fri
133 677 (Relay: deaf and hearing impaired)

Family Assistance Office

Ph: 136 150

Family Relationship Advice Line

Ph: 1800 050 321

Domestic violence support

dvconnect womensline

Ph: 1800 811 811

dvconnect mensline

Ph: 1800 600 636

Do you need extra help accessing our services?



If you would like this factsheet explained in your language, please phone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. To make a call, go to the National Relay Service website and ask for 1300 65 11 88 (Legal Aid Queensland's legal information line). These are free services.

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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

Level 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
legalaid.qld.gov.au

or phone 1300 65 11 88
or 1300 650 143 (Indigenous Hotline)

