

Answering your questions about child support and proving paternity

Information to help you plan your next steps

Centrelink has reduced my family tax benefits because I am not claiming child support from my child's father. Why do I have to ask them for child support?

If you're separated from the other parent of your child and you're claiming family tax benefits, you must apply for child support if you're eligible. (This is called taking 'reasonable maintenance action'.) Centrelink usually reduces family tax benefits to minimum payments if a person doesn't claim child support through Services Australia (Child Support).

You can ask Centrelink to remove this requirement if you have experienced domestic violence from the other parent and claiming child support might put you or your child at risk. Ask to speak to a social worker at Centrelink or ask us for advice.

My baby's father won't sign the baby's birth certificate or a 'stat dec.' This is stopping me from claiming child support. What should I do?

We might be able to help you prove paternity showing this person is the father and get a court order to give to Services Australia (Child Support) to support your child support claim.

For free legal help, call us on 1300 65 11 88. You'll need to apply for a grant of legal aid and also send us a recent 'refusal' letter from Services Australia (Child Support).

The father wants DNA testing. Who has to pay for this?

We can arrange parentage testing for you if you get a grant of aid. This will not cost you anything. We ask the father to sign a paper agreeing to undergo testing and to pay the testing cost if proven to be the father.



The father and I had a DNA test done and it says they are the biological father. Why won't Services Australia (Child Support) accept this as proof of paternity?

Services Australia (Child Support) can't use a DNA test result to prove paternity. It will only accept a decision from the court.

Why would we do a DNA test if Services Australia (Child Support) can't use it?

The father may sign a statutory declaration or the birth registration form once they are given proof they are the father. If the father doesn't agree to this, then the DNA report can be used as evidence for a court to decide paternity and that the father must pay child support.



The father wants to buy a cheap DNA test on the internet. Will this be OK?

There are two types of tests – a ‘legal paternity test’ and a ‘peace of mind test’. It is worth paying a little more for a ‘legal paternity test’ as it can be used to prove paternity in court.

For a ‘peace of mind test’, the donors are sent a collection kit and they take their own samples (mouth swabs) without any check on who has really given the samples. In a ‘legal paternity test’, a pathologist or doctor takes the samples and the donor must show photo identification, so there is no question as to who has given the sample.

If the father pays child support, does it give them the right to see the baby, or have the baby on weekends?

Paying child support does not give the father any rights to see the child, and not paying child support does not give the mother any rights to refuse to allow the father time with the child.

When considering how much time a child should spend with each parent, a court will look at what is in a child’s best interests, and this involves factors about the parents’ and child’s lifestyles—not just child support payments.

Can I get child support payments backdated to when the child was born?

A court can’t order child support be backdated unless you successfully appeal a child support refusal decision.

You must lodge your court application within 56 days of receiving the rejection/refusal letter. If you are later than 56 days, you have to ask for more time and give reasons for being late. If the court doesn’t give you extra time to appeal, you have to restart the process from the beginning.

Why is it so difficult to have child support payments backdated?

If you delay claiming child support, you risk missing out on payments. Backdating payments can cause difficulty for the paying parent as they will start their payments with a debt. If you apply to appeal a child support refusal decision within the time limits, the court will consider some backdating fair because the other parent had notice of your claim.

If payments are backdated, Centrelink might also decide they have overpaid you, and you might have to repay the debt.

Can Legal Aid Queensland represent me in court so I can get backdated child support?

No, we do not give legal aid to get backdated child support. We only give legal aid to prove paternity so a mother can register with Services Australia (Child Support) for child support payments.



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

Level 4, Northern Securities
Building, 22 Walker 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**
(Aboriginal and Torres Strait Islander Information Line)

