

What is the difference between Property/Financial Settlement, Parenting Orders and Child Support?

You are able to apply to the Family Court of Australia (“the Court”) to have your property and parenting orders approved, but it is the Department of Human Services that is responsible for administering Australia’s child support scheme.

Property settlement, parenting orders and child support are separate legal matters.

Property settlement (how your property is divided) can happen at any time from the date of separation until 1 year after a divorce for married couples or 2 years from date of separation for de facto couples. It is a one-off process.

Parenting orders detail the parenting arrangements for child/ren.

Child support payments are payments made by one party to the other to help with the cost of supporting the children. Child support is an ongoing process and is separate from: property settlement, parenting orders and divorce.

Parents are responsible for the financial support of their child/ren and this responsibility is not changed by

- separation and divorce;
- where the child lives or the amount of time they spend with each parent;
- the remarriage of one or both parents.

Child support amounts can be determined 2 ways:

1. Parents can make a child support agreement.

You and your ex-partner can decide how you want to manage your child support – you can decide how much, when and how to pay child support; this method is commonly classified as self-management. You decide on the child support amount and how to pay it and do not need to involve CSA. You cannot use self-management if you receive more than the base rate of Family Tax Benefit.

You can make a child support agreement on your own. This is a formal agreement between parents. The two agreement types available are:

- Limited child support agreement; and
- Binding child support agreement

You and the other person may agree to:

- cash payments, or
- non-cash items such as health insurance and school fees, or
- a combination of cash payments and non-cash items.

If self-management ceases to work out for you, then you can apply for a child support assessment instead.

2. Parents can apply to the Department of Human Services (Child Support) for a child support assessment.

Parents can apply to the Department of Human Services – Child Support Agency (“CSA”) for a child support assessment.

The CSA use a set formula to determine how much child support is to be paid, based on each parent’s income and the care arrangements for the children.

Once a child support assessment has been completed and accepted by both parents, the person receiving the child support payments can ask for the payments to be made in 1 of 2 ways:

1. Private Collect

This is when you and your ex-partner set up payments in a way that works for both of you without involving the CSA.

Details might include: the frequency and amount of payments and the method of how the payments will be made (e, cash, bank transfer, salary deduction etc).

This option works well for parents that can talk and agree on timing of payments and can rely on payments being made on time and in full (as agreed).

It is a good idea to put this in writing and both sign it. It is also a good idea to keep records of every payment made in case the CSA needs to get involved in the future.

2. Child Support Collect

This is when the CSA: set, collect and transfer, the child care payments for each of you on a monthly basis.

The CSA will collect the payments from the paying parent and transfer them to the receiving parent. The receiving parent can apply for Child Support Collect.

The CSA can also make arrangements with the Payer’s employer to have child support payments deducted from their salary.

For more information on Child Support options go to:

<https://www.humanservices.gov.au/individuals/subjects/your-child-support-options>

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