

BINDING CHILD SUPPORT AGREEMENTS

A PATHWAY TO PEACE ?

Reforms to the Child Support scheme have been implemented over the past 3 years and have included an overhaul of the formula that is used in calculating child support liabilities. The formula now calculates child support liabilities based on both parents' incomes, the time that parents spend with their children and the age of children (over or under 12 years of age).

The formula does not operate to address the needs or specific circumstances of individual families. Expenses such as private school fees, extra curricular activities and orthodontic treatment are not taken into account under the assessment. Parents with such expenses must apply to the Child Support Agency (CSA) for a change to the assessment based on the 'special circumstances' in their matter. That process can take several months from the date of the application to the date of decision. An objection process is then available from which one or both parents may appeal to the Social Security Appeals Tribunal. There is the possibility of a further appeal to the Federal Magistrates Court on a question of law.

It would not be surprising to find that for many parents involved in the child support scheme, they either give up on the way through, or become embittered or disillusioned about the process or the other parent.

As a part of the reforms to the Family Law system, Family Relationship Centres were introduced throughout Australia to provide a resource to assist separating parties resolve disputes. Such disputes primarily deal with child related matters.

The Child Support Agency is now operating a Pilot Scheme to see whether the role of the Family Relationships Centres can be extended to parents who have child support issues, for early intervention and mediation. Disputes often relate to the actual time children spend with their parents and the amount of child support paid by one parent to the other.

If independent research referred to by the Child Support Agency is accurate, it would appear that family dispute resolution mediation, is resulting in a discernable shift in the child support sphere with an increase in the number of parents identifying themselves as working 'co-operatively' with their ex-partners.

BUILD UPON CO-OPERATIVE PARENTING – A BINDING CHILD SUPPORT AGREEMENT?

If the amount of time parents spend with their children is more certain, it can lead to greater confidence between parents that they can arrange financial matters relating to their children's present and future support between themselves.

How Do We Pay for our Kids?

Some parents pay child support according to:

1. An informal arrangement – which either parent can change at any time; or
2. The child support formula – which may not be accurate, particularly if one parent is self employed or there are extra child expenses such as private school fees; or
3. A Limited Child Support Agreement – has limitations particularly if parents want to agree upon lump sum arrangements or include other benefits provided to the children, operative for a limited time only and can be changed by one parent in some circumstances.

Choice

As a consequence of the reforms to the Child Support System, there is now another alternative available to parents, a **BINDING CHILD SUPPORT AGREEMENT**.

A Binding Child Support Agreement is an agreement that is intended to provide certainty for parents in the long term. It can be changed by further agreement but it cannot be changed unilaterally by one parent.

A Binding Child Support Agreement allows a lump sum to be paid to one parent that can be offset against an ongoing obligation to pay child support. It could also provide for the parents to share specific expenses such as private school fees.

To ensure fairness, both parents are required to obtain independent legal advice. A certificate confirming the independent legal advice has been provided to the party must be attached to the Binding Child Support Agreement.

Parents do not need to be involved with the Child Support Agency if they do not want to be, they can decide for themselves the best way for them both to support their children.

As in other areas of Family Law, the best outcomes are often those outcomes that parties decide for themselves rather than outcomes that are imposed by either a Court or Government Agency.

ONE SIZE DOES NOT FIT ALL, so it is often worthwhile to obtain initial advice from a **FAMILY LAW SPECIALIST** about whether a Binding Child Support Agreement could suit your circumstances.