

# GOING TO THE ADMINISTRATIVE APPEALS TRIBUNAL

CHILD SUPPORT  
FACT SHEET

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If you disagree with a decision about your child support case, you might be able to appeal to the Administrative Appeals Tribunal (AAT). The AAT can review certain decisions made by the Department of Human Services: Child Support. The Child Support Service of Legal Aid NSW can give you advice about the AAT and how to appeal. This Fact Sheet explains the steps you can take. If you are unsure about any of these steps, please contact us to make an appointment.



## What Child Support decisions can the AAT review?

The AAT can review a decision that the Department of Human Services: Child Support (Child Support) makes on an "objection". An objection is where you or the other parent in your child support case request that Child Support reconsider a decision. Once Child Support makes a decision on the objection, it must write to both parents to tell them if it has changed the original decision. If either parent disagrees with Child Support's decision on the objection, they have 28 days to appeal to the AAT.

## How do I lodge an appeal?

It does not cost anything to appeal to the AAT about a child support decision.

The AAT's website [www.aat.gov.au](http://www.aat.gov.au) has an appeal form that you can complete and lodge online. If you prefer, you can print out an appeal form to complete and post or deliver to the AAT.

You can also lodge your appeal with the AAT by telephone on 1800 228 333 or in person at an AAT registry. You can find the location of the AAT's registries on its website.

## What if it is over 28 days since Child Support's decision?

You can apply to the AAT for an extension of time at the same time as lodging your appeal. If you do this, you must apply in writing and explain why you are lodging your appeal more than 28 days after Child Support advised you of the decision. The appeal is placed on hold until a decision is made about granting the extension of time.

If the AAT refuses to grant you an extension of time, you can appeal the refusal. These appeals are also made to the AAT and must be lodged within 28 days of the AAT's decision to refuse your extension of time application.





## What happens when the AAT receives my appeal?

You will receive a letter from an AAT case manager providing you with information about the AAT process. A letter will also be sent to the other parent to notify them of your appeal.

Child Support is also notified of your appeal and must provide a copy of its decision and other relevant documents to the AAT and to each parent. The AAT will then arrange a date for the hearing.

## What if the other parent has appealed to the AAT?

If the other parent appeals to the AAT, the AAT will write to you and give you the opportunity to participate by providing evidence and attending the hearing.

It is important for you to be involved so that the AAT can hear your side of the story. Also, if you choose not to participate you may lose your right to appeal against the AAT's decision, once it is made.

## Providing evidence to the AAT

You should send any documents or written material you want the AAT to consider promptly (usually at least 14 days before the hearing date). In some matters the AAT may make some directions about when documents must be provided. It is very important to comply with any directions made. If you don't, your evidence may not be considered or you may even be removed as a party to the review.

Copies of these documents will be sent to the other parent. You should receive copies of any documents the other parent sends to the AAT.

## What should I do to prepare for the hearing?

Child Support will send you a copy of the decision and any relevant documents. Reading over the Child Support documents will help you become familiar with the issues in the appeal.

You may also find it helpful to write down a list of points that you would like to discuss in the hearing.

You may provide additional information to the AAT up to 14 days before the hearing. Copies will be sent to the other parent and the Child Support.

## What happens at the hearing?

An AAT hearing is not as formal as a court hearing and is held in private. It is more like a meeting between the AAT members, the parents and occasionally a Child Support representative. The AAT members direct the hearing and give each party an opportunity to explain their situation.

The following points can also be made about the AAT hearings:

- Generally, hearings are held at AAT offices with each parent attending in person and making oral submissions.
- Hearings can also be conducted by telephone, for example if a party lives in a remote area.
- The AAT members will ask each party questions to clarify issues or to obtain any information they need to make the decision.
- You can ask questions about the other party's evidence but your questions must be directed to the AAT members and not to the other parent. The other party must direct their questions to the AAT member too.
- The AAT can require third parties to attend the hearing or produce documents if necessary for making its decision. The proceedings can also be adjourned for this purpose.
- Occasionally, the AAT will decide the appeal on documents only, without talking to the parties.
- The AAT may make a direction not to disclose information obtained during the hearing to a person who is not a party.

## Can a lawyer represent me?

You may have a legal representative or support person assist you at the AAT but the AAT must approve this **at least 21 days before** the hearing.

## How will the AAT make its decision?

The AAT has the same decision-making powers as the original Child Support decision maker. In making the decision, the AAT must consider the available information and apply the relevant child support legislation. It may decide to do any of the following:

- Confirm the original Child Support decision
- Vary the original decision
- Set aside the original decision and replace it with a new decision
- Set aside the original decision and send the matter back to Child Support to reconsider.

The AAT is to advise parties in writing of its decision within 14 days of the hearing. However, the AAT may adjourn the matter if necessary, for example to allow a party to provide additional information. You will be notified in writing of an adjournment and given an opportunity to respond to any new information.

## What can I do if I'm not happy with the AAT decision?

Child Support will send you a copy of its decision and any relevant documents. There are two appeal paths, depending on the type of child support decision. The AAT's notice of decision will explain which of these options apply in your situation.

### Option 1: for AAT decisions about the percentage of care of a child

If the AAT decision relates to how much care you (or the other parent) have of the children, you can make a further appeal to the AAT (this is called an AAT second review).

An application for an AAT second review must be lodged with the AAT within 28 days.

You should check with the AAT to find out whether a fee applies for an AAT second review.

### Option 2: for AAT decisions on all other child support matters

For all other child support matters, once the AAT has made a decision, there is no second review. You have a right of appeal to court (usually the Federal Circuit Court). However, your appeal can only be made on a question of law, not a dispute about the facts. You must file a Notice of Appeal with the Court within 28 days from when you receive the AAT decision.

It is often difficult to work out what a question of law is and it is important that you obtain legal advice if you are considering appealing to a court about an AAT decision. General information about the process of an appeal is available on the Federal Circuit Court website: [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)

## Is legal aid available for AAT matters?

A person who is applying or responding to an AAT appeal can apply to Legal Aid NSW for legal aid (whether they are the paying parent or the receiving parent). To qualify, the applicant for legal aid must satisfy a means and merit test and show that he or she is unable to adequately represent themselves before the AAT.

### Child Support Service

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1800 451 784

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