

The sneaky loophole your ex could be using to dodge paying child support

Nicole Madigan | June 19, 2019

There's a work-around you need to know about.



Here are a few tips to make things smoother when navigating the world of co-parenting.

During the first five years of their relationship Katie* and her partner, Andrew* worked together to run Andrew's successful business and pay down the mortgage on the home Katie purchased when they first got together.

It was a bumpy road though, with Andrew becoming increasingly verbally abusive (<https://www.kidspot.com.au/news/mum-shares-how-she-eventually-fled-her-abusive-marriage/news-story/2c50b20023daf984da4726947dba7a8a>) and using drugs.

Financially, they were fine, with business turnover up to \$450k annually, and Andrew's wage kept on paper through the business structure, averaging around \$70k.



(<https://content.api.news/v3/images/bin/8896032088d1c4d4dfb8eab1fd3514a7>)

Sadly, it's the kids who lose out from this selfish behaviour. Image: iStock

Want to read more about co-parenting? Here's how to make it work with a toxic ex.

(<https://www.kidspot.com.au/parenting/parenthood/relationships/how-to-coparent-with-a-toxic-ex/news-story/798efa962464238ed61eb32713ce5f29>) On the plus side, see how this blended family is getting it so right. (<https://www.kidspot.com.au/parenting/real-life/in-the-news/dad-and-stepdad-pose-with-our-daughter-and-its-major-coparenting-goals/news-story/94af292d3a2687bc1cf915fe646bba5f>)

When the couple's daughter was four, Katie decided it was time to put a stop to the abuse (<https://www.kidspot.com.au/parenting/parenthood/relationships/12-signs-youre-in-a-financially-abusive-relationship/news-story/e9a94b84eeef7df350b7374603cc9718>) and left the relationship.

And the money dried up

More than two years later, Andrew has paid less than \$300 towards their daughter's care, despite Katie submitting a child support claim (<https://www.news.com.au/lifestyle/parenting/kids/dna-test-proves-man-who-paid-58k-in-child-support-isnt-the-dad/news-story/4108c9386c5f13724f203639a9830fcd>) through the Child Support Agency (CSA) a few months post-separation.

"I had 100 percent care, with him having only supervised day visits," she explains

"Andrew's provisional income initially was \$55,000, and child support was accruing at this amount, which equalled approximately \$85 week, which he was not paying.

"In February 2018, Andrew completed his tax and I was paid \$218, which was withheld from his tax return."

The following year, Katie received a letter from Centrelink and Child Support saying there had been a re-assessment, and that she may owe money.

"I called child support, and they said Andrew had lodged his tax," she said.

"I was incredulous!! How can a tax return be accepted with a gross annual income of \$201?"

"This man is travelling overseas, driving around in a BMW, using drugs, always working, advertising his business on FB and all sorts of places."

“Child support told me that they need to accept figures as provided by the ATO. The ATO told me that if I don't have any documented proof, they won't even take a report from me about my concerns.

“I have been paid that one amount of \$218 through child support. Nothing else. Despite court orders.”



(<https://content.api.news/v3/images/bin/2cce00c297ddf6b9fb70e2165c23f288>)

Parents are cheating the system with this loophole. Image: iStock

A common refrain

Unfortunately, Katie's story isn't an isolated one, with many self-employed parents reducing their reported income, and even refusing to pay child support payments.

And they're getting away with it.

Former CSA employee Steven Cross, whose business My Options Consulting helps parents navigate the child support process, says while many loopholes have been closed off, self-employed parents are more easily able to avoid their child support obligations.

“When it comes to money, there are some parents that will go to any lengths to hide their financial position to the now ex-partner.

“Some of the most common ways parents try to hide income are to change the ownership of their company, or declare their own determined salary from the business lower than the actual income of the business.”

If a parent has a debt with Child Support, it never goes away and Child Support will always pursue payment, however this becomes more difficult for those who are self-employed.

“Where the parent is a wage and salary earner, it is easy for Child Support to require an employer to deduct the parent's child support liability.

“If a self-employed parent chooses to be non-compliant and there is no clear way to collect, there is little Child Support can do.

“This is why there is over \$1.6 billion in unpaid child support liabilities.

“That burden is then placed on the parent who is the primary carer and ultimately, the children of Australia miss out.”

There are options though, it's just that most parents aren't aware of the processes involved.

There is something you can do

Under the Child Support legislative Guide, Child Support have the power to look beyond the circumstances claimed by a self-employed parent, to look at what the parent's actual financial position is, regardless of the ownership structure, or declared income.

"A Change of Assessment application is the only current way for a parent to investigate the financial position of the other parent," says Mr Cross.

Change of Assessment applications allow Child Support to access tax returns and bank statements, among other things, to determine whether the reported income accurately reflects reality.

If valid, applications are often successful in increasing a parent's taxable income, sometimes by up to tens of thousands of dollars.

"The onus is on the parent applying for a Change of Assessment to lodge their application as soon as they believe there may be a reason to apply.

"A parent cannot just lodge an application out of curiosity. There must be a justification for the application, such as a drop in salary or a parent being involved in a company or Trust structure."



(<https://content.api.news/v3/images/bin/8bf3ff91ba06a355144753d653204291>)

There are ways to investigate, but they are difficult. Image: iStock

Sadly, financial abuse doesn't stop when a relationship does

Unfortunately though, applications aren't always successful and this can make things more difficult for the applying parent, particularly if the reassessed parent becomes angry or aggressive.

And even if applications are successful, if the reassessed parent refuses to pay, the applicant may be worse off financially, having potentially lost Family Tax Benefit payments.

“Child Support said I could apply for a reassessment but also pointed out that if he continues not to pay, it won't make any difference, and I know it will just inflame his abuse against us,” says Katie.

“People who do not pay child support and use this to further their abuse against partners are abhorrent.

“This is financial abuse, against both the ex-partner as well as their child.

“My child is limited to one extracurricular activity per term, as I just cannot provide for more.

Mr Cross recommends parents in this situation keep a diary of any correspondence or financial transaction relating to their children.

“When it comes to Child Support, document everything, including days of care, money spent or given, and what agreements have been made between the parents.

“Knowledge is power.”

****Names have been changed***

If you or someone you know is in a financially abusive relationship, support is available. Contact 1800 RESPECT to speak to someone who can help.

we recommend

(https://go.babbel.com/v1/tl?bsc=engunb-15min-short-t2-xx-global-xo-tb&btpr=default&utm_source=Taboola&utm_medium=CON&utm_campaign=XX_ENGALL_gEN_cXO_15minT2_Global&utm_content=11)

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(<https://www.kidspot.com.au/parenting/real-life/reader-stories/i-breastfed-my-kids-for-19-years/news-story/2fc4ef12a8e8f41bf32ab033911322dc>)

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'I breastfed my kids for 19 years'

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