

Agree With Me
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Property
Settlement

PROPERTY

Negotiation Handbook



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INTRODUCTION

WHEN COUPLES SPEERATE THEY USUALLY HAVE TO MAKE ARRANGEMENTS TO DIVIDE THEIR PROPERTY BETWEEN THEM. THE MAIN OBJECTIVEIS TO FINALLY DETERMINE THE FINANCIAL RELATIONSHIP BETWEEN THE PARTIES AND AVOID FURTHER PROCEEDINGS BETWEEN THEM,.

Whether you have been married or living as a de facto couple, whether you have been living together for many years or only months, separation is a painful and disruptive time.

Finanlising arrangements for property (and for children if you have them) can be complex and emotionally draining. While the majority of couples resolve things satisfactorily, other take time.



WHAT IS PROPERTY?

Most couples have some idea as to what is classed as property but there are some common misconceptions about what is considered "property of the relationship" when negotiating a property agreement. This includes:

- All assets (things you own) held by you and your former partner in joint or separate names such as:
 - Family home, holiday home, cars, boats, household effects from stereos to cutlery, personal items such as jewelry and clothing.
- All assets under your own or your former partner's control such as
 - a business, superannuation, a share in an extended family business or investment property held under a family trust
- All liabilities (things you owe money on) in joint or separate names such as
 - mortgage debts, credit cards, hire purchase agreements.

It may also include property you held in your own name prior to entering into the relationship, or property you have acquired since separation.

IMPORTANT ADVICE

YOU ARE NOT ALONE

One of the biggest reasons disputes do not resolve is the fear of the unknown or misinformation.

Depending on your circumstances and goals, you will need to speak with:

- a lawyer
- doctors and other specialists
- accountants
- financial planners



LEGAL ADVICE

Proper legal advice helps avoid unrealistic expectations about the possible outcomes and can help speed up the negotiation process.

You should inform your lawyer you are intending to use the FDR process. You may wish to seek out a family lawyer by word of mouth or reaching out to the Law Society in your state. You may be eligible for Legal Aid, you may wish to contact your local legal aid office to check. Your lawyer may be able to advise you on the possible best and worst case outcomes and the likely costs. You may wish to ask your lawyer when you should come back for further advice along the course of the process.

FINANCIAL ADVICE

You may need to get some independent financial advice from a financial planner or accountant or speak to your lending institution before you start family dispute resolution. Good advice can help you understand the financial impact of different ways of dividing property.

You may wish to ask your financial planner about your current and future situations based on proposed outcomes as a result of mediation.

For example, you may wish to enquire whether you are in a position to "buy out" a former partner? Could you obtain a mortgage that would enable you to finance yourself into a property? Can you access your superannuation before you retire? Can you finance to manage debts?

MEDIATION PROCESS

Every mediation is different. Your mediator will advise you whether mediation is appropriate in your situation and if so, what form the mediation will take. For example, shuttle, co-mediations, in person or zoom.

The mediation will generally follow the following formula.



- 01 Introduction and mediator's opening statement
- 02 Parties' statements: concerns and identifying issues
- 03 Common Ground and agenda setting and prioritisation
- 04 Exploration of each agenda item
- 05 Option development on each agenda item
- 06 Private (seperate) sessions
- 07 Negotiations: refine options into possible solutions
- 08 Agreements and/or termination

Please note the following in preparation of your mediation:

- There is an obligation for each party to make full and frank disclosure of their financial circumstances.

AGREEMENTS

The vast majority of matters are settled by negotiation and do not proceed to a contested hearing.

Where a matter is settled (at any stage), the settlement can be recorded and implemented in a number of ways:

- By a financial agreement signed by both parties with a certificate of independent advice by both parties' legal representatives. A court is not involved.
- By consent orders. Where proceedings have not commenced, an application for consent orders form is filed with the Court and both parties must make and sign a statement of truth.
- The parties may independently implement their agreement without the benefit of court orders or financial agreement. This is strongly discouraged due to lack of enforcement options.

It is strongly recommended that every settlement be appropriately documented by consent orders or financial agreement.

RESOURCES

Save time and money by having these details available for your FDR practitioner, financial adviser, accountant and lawyer.

1. Details of the financial history of your relationship including:

list of assets (cash, real estate etc) that you brought to the relationship (your initial contribution)	(mark when complete)
recent valuation or market appraisal on any real estate	
list of all the other assets of the relationship, such as vehicles, investments, shares and valuable household goods in your name, joint names or your former partner's name. Include approximate market values	
details of any benefits or windfalls received such as redundancy or inheritances and the dates and amounts received	
details of any assets or liabilities acquired since separation	
a list of all household items that you have not already been able to split.	

2. Details of your income and superannuation entitlements in your name, joint names, or your former partner's name including

mortgage or home loan documentation	(mark when complete)
credit cards	
hire purchase agreements, including hire or rental agreements	
any outstanding bills or accounts you have been unable to resolve	
Details of your non-financial contributions to the relationship	

RESOURCES

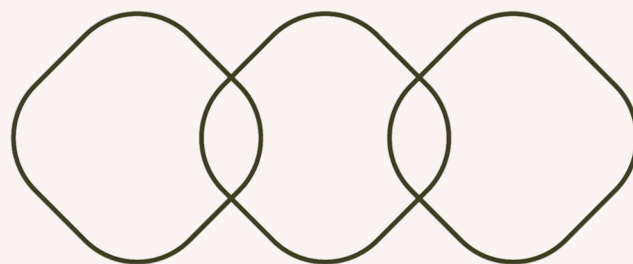
List all property owned by you and your former partner, estimating the value of each in the Equity column

Details	Responsible party (you,, former partner, both)	Current estimated market value \$	Less amount owing \$	Equity (value - owing) \$
Real Estate #1 Real Estate # 2 Real Estate #3 etc				
Funds in cheque accounts, savings accounts, other investments				
Motor vehicles				
Shares				
Insurance policies				
Businesses				
Furniture				
Anticipated tax refunds				
Other (eg time share, boat, caravan, paintings, etc)				
Superannuation				
TOTAL				

RESOURCES

List all debts owing by you and your former partner

Details	Responsible party (you,, former partner, both)	Debt amount \$
Credit cards		
Other personal loans		
Any amounts owing on purchases (eg lay by, afterpay)		
Other debts or loans not included above		
TOTAL		



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