

# UNDERSTANDING PROPERTY SETTLEMENT



## What is a Property Settlement?

Following the breakdown of a marriage or de facto relationship arrangements made between the separating couple around the division of joint assets is known as a Property Settlement.

Property includes assets such as real property (homes), personal property, shares, business interests and trusts regardless of whether it is in sole or joint names or held by the third party. This does not include monies spent on lifestyle and living expenses.

## How is it determined?

The legal considerations in determining a property settlement include assessing and weighing each person's contributions made during the relationship towards the "property of the relationship". Contributions can be made directly or indirectly and include financial contributions, non-financial contributions, homemaker and parenting contributions.

There is no preferential weighting given to financial contribution. In most cases the traditional breadwinner contributions are weighted equally to those of a traditional homemaker/parent however, the circumstances of the relationship such as length of the relationship and roles undertaken will impact the outcome.

The law also requires consideration of relevant factors in the future such as age, health, care arrangements of children, difference in income earning capacity and financial resources.

The overall outcome must be "just and equitable" in the circumstances of the relationship, that is in the context of the relationship as a whole.

## Do we divide joint property equally?

No, there is no presumption of equal division of property after separation in Australia. The Family Law Act 1975 does not specify the percentage nor how to divide property between a separated couple however it does provide factors that must be considered by a Court in determining any property settlement.

## Do we need to engage a Family Lawyer for a Property Settlement?

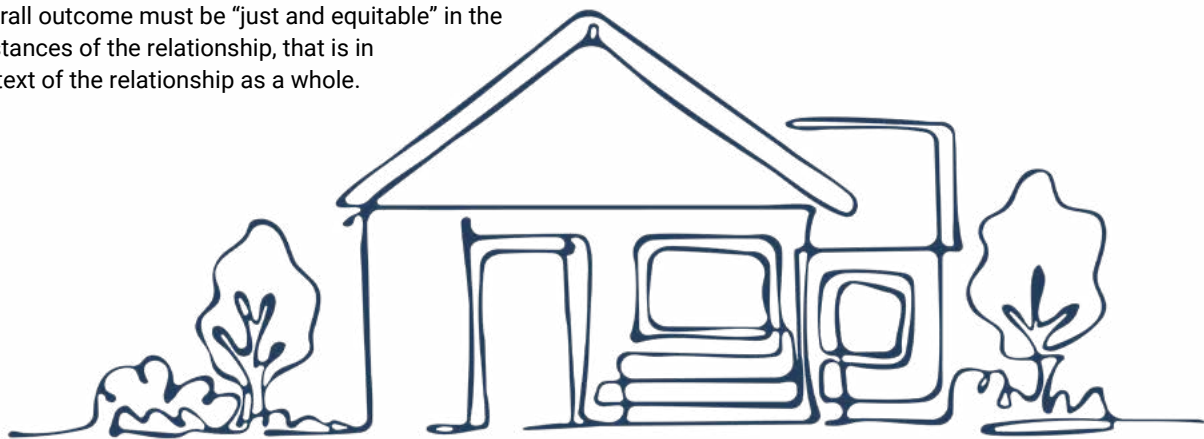
No, many separated couples come to their own agreement over private discussions without the involvement of lawyers or the Courts.

However, we always recommend that the separated couple seek legal advice and assistance to legally document the agreement to ensure compliance with the terms of agreement, avoiding possible disputes in the future.

## What if we can't reach an agreement?

Where an agreement cannot be reached, Family Lawyers can play an important role in negotiating and assisting the separated couple by resolving issues in dispute so that each party can move on with certainty.

They can also advise you on what is a likely outcome of your case should it go to Court, helping you to make an informed decision and possibly avoid expensive and protracted court proceedings.



## We're Here to Help

If you have any questions, are unsure about next steps or would like legal assistance speak to our team of experienced family lawyers or visit our website for more information.

Learn more: [Free Discovery Call](#)

For Legal Advice: [Book Initial Consultation](#)