

UPON SEPARATION

Your Finances and Property Settlement



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Financial Separation & The Property Settlement Process

If you are reading this, you are likely considering separation or you are already separated and you have some degree of concern about what to expect both in the short and long term regarding your finances and assets.

We regularly write articles for our clients and our professional network to explain concepts and issues surrounding the separation and divorce process. We know that it is in your interests and in ours, for you to be as informed as possible about what is ahead for you.

This resource focuses on the immediate and longer-term needs of anyone going through separation, with a specific focus on finances and the division of property/assets.

We have compiled a series of excerpts from the most relevant articles along with links to learn more. We have organised these into six sections:

- Your First Steps - What to Be Aware of Immediately Upon Separation
- The Property Settlement Process in Australia
- International Property Settlements
- Superannuation, Gifts & Inheritances and Trusts
- Dispute Resolution: Finances and Property
- Finalising & Formalising A Property Settlement

The information provided throughout this resource, is applicable when married couples divorce and also when a de facto relationship comes to an end.

We hope you find this resource helpful.

Disclaimer: The content in this resource provides general information however it does not substitute legal advice or opinion. Information is best used in conjunction with legal advice from an experienced member of our team.

What to Be Aware of Immediately Upon Separation

How To Financially Separate From a Spouse or Partner

As family lawyers who work with people going through separation and divorce every day we see where people can go wrong. The consequences can be significant, even in the most amicable of separations. We recommend some key steps you should take and things you shouldn't do, in relation to your finances and your property settlement after separation

[Right click and open the article in a new tab here](#)

Why You Do Not Need To Wait 12 Months

The decisions that you and your former partner make and put in place informally now may be detrimental to you and those you care for, later down the track. Even people with the very best of intentions for each other can have the whole experience evolve differently to what they intended, through no intentional fault of either party. We explain why starting the property settlement process early is important

[Right click and open the article in a new tab here](#)

The Property Settlement Process in Australia

How Divorce Settlements Are Worked Out

Figuring out who gets what in the property settlement process is rarely as easy as splitting everything down the middle. Seeking clarity about what to expect from the separation and divorce process, including the property settlement process is essential. Having this knowledge in your toolkit can help to minimise poor decision making, uncertainties and disputes.

[Right click and open the article in a new tab here](#)

The Financial Disclosure Process

The very first step in the division of finances and property is the process of financial disclosure. Knowing what must be provided, what happens if the other person does not provide all of the required information, and what is important to consider if you wish to avoid a protracted battle over your finances and assets.

[Right click and open the article in a new tab here](#)

Why a Lawyer Cannot Give You a Precise Answer About Your Property Settlement

People often ask us what we think they will likely get upon the finalisation of their property settlement. Everyone likes certainty, especially when it relates to financial security. If any lawyer at your first meeting tells you that they can help you get an exact amount or an exact percentage, they are setting you up for failure. Why family lawyers should not give precise answers about your property settlement is explained

[Right click and open the article in a new tab here](#)

Processes to Get to An Agreement After Separation

In the event you are close to an agreement but cannot get over the line to finalise your property settlement or you are in dispute about a number of issues, there are a range of methods and processes available to move the issues forward. These approaches can also be used if you need some of your immediate or short-term financial arrangements to be settled.

[Right click and open the article in a new tab here](#)

International Property Settlements

Separation and Divorce When You Have Assets in Australia & Overseas

There are unique considerations to be aware of when a separating couple has assets in Australia and overseas.

This can result in having to go through the property settlement process twice. To understand how that can occur and how to avoid that outcome, learn about what needs to be considered.

[Right click and open the article in a new tab here](#)

Superannuation, Gifts, Inheritances & Trusts

Superannuation and the Property Settlement Process

Many people are unaware that superannuation is considered part of the property pool that is available for division in a property settlement. While this article was written for professionals and their clients, it is a helpful read to understand the way in which superannuation is treated in divorce (or a de facto relationship ending) and how the splitting of superannuation occurs in your property settlement must be considered with caution.

[Right click and open the article in a new tab here](#)

Gifts and Inheritances - How are they Treated in a Property Settlement?

While this article was also written for professionals, it will provide insights into how gifts and inheritances can be treated in a property settlement. While it can be a complex area to navigate, to give you some easy to understand context, read the article.

[Right click and open the article in a new tab here](#)

Property Settlements and Trusts: What You Need To Know

Can trusts be considered assets that are available for division upon separation? Although this article was written for accountants and financial advisors, if you have interests in trusts, read on. We unpack what you should know about how the Family Law Court treats trusts.

[Right click and open the article in a new tab here](#)

Dispute Resolution: Finances and Property

Separation & Divorce Without Court: The 4 Steps Before a Dispute Can Go To Court

Divorce without Court is achievable. The Australian Family Law Court system is now set up to help people resolve their property and parenting disputes before it can proceed to Court. We unpack the four steps that are now in place to reduce the pressure on the Family Court system and help people avoid the stress, costs and time delays that come with going to Court.

[Right click and open the article in a new tab here](#)

Finalising & Formalising Your Property Settlement

Finalise a Property Settlement Before EOFY

In our work as family lawyers, each year we see a surge in requests to assist people who wish to finalise their property settlement in time for the end of the financial year. Learn why this is the case, how it is beneficial, what to be aware of that can hamper the process and what you need to get in motion. Additionally, learn when this may, or may not be possible.

[Right click and open the article in a new tab here](#)

Financial Settlements Without a Lawyer

While many people hold the view that negotiating the terms of your property settlement should be done without the 'interference' of a lawyer, we want you to be aware of the risks that we have seen arise. While this article was written for accountants and financial advisors and their clients, it provides insights into how even the most amicable negotiations and agreements can turn sour. We invite you to be alert to the potential issues.

[Right click and open the article in a new tab here](#)

How to Get the Most Out of Your First Appointment With a Family Lawyer

As we have identified throughout this resource, there are significant advantages to seeking early advice from a specialist family lawyer.

Choosing your family lawyer is a decision that can have a significant impact on how your property settlement negotiations and resolution unfolds. We have compiled a list of considerations to help you select the right lawyer for you along with what to ask and what to prepare in the lead up to your initial appointment.

[Right click and open the article in a new tab here](#)

A Message From Tony Phillips, Fiona Caulley & Olivia Phillips

We hope you found our articles about your finances and property settlement after separation helpful.

For some of our clients who have come to us, often some time after separation, many reflect upon their experience and say they wish they had spoken to us earlier. They wish they hadn't agreed to certain arrangements with their former partner, and had they understood the consequences of those seemingly innocuous decisions, they never would have made them.

A family lawyer, like those on our team, can foresee the ways in which you can take steps which avoid putting yourself in a vulnerable position from the start. Importantly, conversations with us are always private, irrespective of whether you choose to engage us or not.

We are here to help make you aware of your options regardless of where you are at in your decision making process.

An initial phone call or meeting with us is not a commitment to proceed, it is your opportunity to be informed before you act. It is always your decision as to whether you want to do something, or do nothing. It is always your decision to speed up or slow down. What is important is for you to be confident that you have made your decisions from an informed basis.

When you are ready we invite you to speak with us to discuss your specific circumstances.

Tony Phillips, Fiona Caulley & Olivia Phillips
Directors



Phillips | Family Law