

Property Settlements

Relationship breakdown is often traumatic. Not only do you have to deal with emotional impact but at some point, you need to make decisions about a fair division of property and assets – financial or otherwise. Property and assets may be divided between you and your partner by:

1. Private agreement
2. Using solicitors or going to court
3. Using a Family Dispute Resolution Practitioner to help reach agreement.

The division of property, assets and liabilities is not always straight forward. It is always recommended that you get legal advice so you understand your position fully and a Family Law Mediator can help you work out just what you need to ask your solicitor. It is important to get legal advice and formalise your agreement even if you amicably reached an agreement. If you go through the court, a judge's job in making a decision about division of property is neither simple nor straightforward and discretion plays a large part. Keep this in mind when getting legal advice and ensure you have made full disclosure including assets, liabilities and entitlements. Family Dispute Resolution Practitioners cannot give legal advice. Their purpose is to ask the right questions and find the right solutions for your situation. If you have children, they will always keep the best interests of children at the forefront of negotiations.

When should we divide our property?

You do not have to be divorced or separated before you divide your property. However, it helps if you have gone through the worst of the emotional upheaval and made some arrangements about your children. There are time restrictions for applying to court and they differ depending on your relationship. For divorced couples, you must apply to the court for a property settlement within 12 months of your divorce unless there are special circumstances. For de facto couples, applications regarding maintenance and property must be lodged within two years of the relationship ending.

De facto includes:

1. Couples who have lived together in a domestic relationship for two years or more
2. Have a child born of the relationship
3. One of the parties having made such a substantial contribution that if the court did not make an order it would be unjust
4. A registered relationship

Most people have never had to deal with the Family Court prior to the breakdown of their own relationship. Consulting a Family Law Mediator are exploring all your options before heading down a particular path is always a good place to start. Bayside Mediation offers a 15 minute phone consultation to help explain your options and help you decide where to next.