

If you've separated or you're planning to, here's some of the most commonly asked questions in relation to property matters...



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Q Do I have to be divorced before I can have a property settlement?

A No

Q Must I stay at home to protect my interests?

A No, leaving the family home does not result in a loss of your financial entitlement.

Q Do women always get 60% of the asset pool?

A No. There are no set percentages. Division of property depends on what is just and equitable in the circumstances of each case, having regard to the value of the assets, contributions made by each person to those assets and future needs.

Q What happens to business assets and investments?

A These are treated in the same way as other assets. However, the issue of contribution can be very relevant. Protracted negotiations and court proceedings can have a detrimental effect on business as assets can be “frozen” and restraining orders made which impact on the usual running of the business.

Q Superannuation?

A Superannuation is “property” and is divided in the same way as other assets. Dividing Superannuation can be complex and different options can have significant tax consequences.

Q Can I legitimately keep certain assets out of the reach of my ex?

A No – all assets are taken into account in property settlements.

Pre-Nuptial Agreement or Binding Financial Agreement – should I consider one?

Yes if:

- you are entering into a second or further marriage and would like to avoid the emotional and financial costs that can arise from a financial settlement, or if you wish to protect your existing assets for your children;
- you have accumulated significant pre-relationship assets or if you have more than your partner;
- you are likely to inherit family assets or to receive a gift from family and wish to quarantine those from your joint assets;
- you wish to clarify your financial responsibilities and/or expectations before marriage.

We advise *all* people about Family Law, including the owners (and their spouses) of large and small businesses.