

BFA - Finalising and Recording Financial Arrangements

In all disputes relating to the breakdown of a relationship, it is extremely important once a resolution in regards to financial and/or property matters is reached that the terms of that resolution are recorded in a way that provides legal certainty and finality to the agreement.

Exchanging letters, handwritten, and verbal agreements are not binding ways of finalising financial agreements under the *Family Law Act*.

In order to provide certainty and prevent any future claim by an ex partner against you, you need to finalise any financial agreement by either one of two ways:

Consent Orders

This is the most commonly used method to resolve financial matters by consent.

This is a typed written Order, which is signed by you and your partner and then lodged with the Family Court or Federal Magistrates Court of Australia. The Order contains express terms upon which you and your partner have agreed.

In addition to the Consent Order, an Application to approve the Consent Orders must also be completed and lodged with the actual Consent Order. This Application contains details of both parties' income, assets, liabilities and financial resources; both parties must sign this application.

Once the Order is signed and lodged in the Family Court, together with the Application for approval of the orders, then the orders are considered by the Court and usually approved, stamped and issued within three (3) to four (4) weeks of filing.

Binding Financial Agreements

Reference should be made to our Information Sheet entitled "**Pre-Nuptial/Binding Financial Agreement**". A Binding Financial Agreement can also be entered into after a relationship has ended and be used as a means to document the actual division of assets after the separation.

A Binding Financial Agreement is a complex and detailed agreement reduced to writing and signed by the parties which satisfies mandatory requirements of the Family Law Act to ensure that the agreement is binding upon both parties.

It is important to remember that unless you have recorded your financial agreement by a Consent Order or Binding Financial Agreement, then the issue of property settlement between yourself and your former partner may still be "alive" and either of you can still institute proceedings in Court and make a claim despite separation occurring many years ago (subject to time limits).

It is therefore very important to have any financial agreement properly recorded and documented in a Consent Order (which is approved by the Court) or a Binding Financial Agreement. Contact us to work out which option is best for you; we have extensive experience in drawing up comprehensive financial agreements.

Disclaimer:

This website does not give legal advice.

The information on this website, together with the information sheets, is produced by Hartley Healy Lawyers. It provides general information only on relevant topics of interest in relation to Family Law current at the time it is produced. No reliance should be placed on such general information as contained on this site and in the information sheets and legal advice should be sought about the particular circumstances of your particular case.