

Property Settlement – Legally Finalising the Property Agreement

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 Circuit 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 parties' income, assets, liabilities and financial resources; both parties must sign this application.

Once the Order is signed and lodged in the 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 one (1) to four (4) weeks of filing.

Binding Financial Agreements

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 in writing and signed by the parties which satisfy mandatory requirements of the *Family Law Act 1975* to ensure that the agreement is binding upon both parties.

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