



DIVIDING YOUR PROPERTY POOL

When a marriage or de facto relationship breaks down, parties may have assets, liabilities and superannuation to divide. This is referred to as a 'property settlement'. A property settlement finalises the financial relationship. Below is an overview on how the division of property occurs having regard to the law as defined in the Family Law Act 1975 and the current case law.

<p>Step 1 Identify and detail the property pool</p>	<p>What are the assets, liabilities and superannuation benefits available for division between the parties? Assets can include, amongst other things:</p> <ul style="list-style-type: none"> • Family home and mortgage • Motor vehicles • Shares • Interest in a company and/or Trust • Superannuation <p>There may be a debt attached to an asset. We cannot include an asset without the associated liability.</p>
<p>Step 2 Is a division necessary?</p>	<p>Each matter is different and no facts are the same, therefore the question is asked – "Is it 'just and equitable' to make a property settlement order dividing the property pool?"</p> <p>A property settlement order can be made by consent between the parties or by a Judge based on the evidence.</p>
<p>Step 3 Assess relevant factors</p>	<p><i>If a division of property is necessary, what is the division? This requires an assessment of the factors in sections 79(4) and 75(2) of the Act (sections 90SM(4) and 90SF(3) for de facto matters).</i></p> <p><i>The 79(4) factors require consideration of:</i></p> <ul style="list-style-type: none"> • <i>The contributions made by each party to the relationship/marriage – financial, non-financial and welfare contributions; and</i> <p><i>Some of the 75(4) factors include:</i></p> <ul style="list-style-type: none"> • <i>The current financial circumstances and future needs of each party and any children of the relationship/marriage. For example, income, earning capacity, health and age and arrangements for children under 18 years of age</i>
<p>Step 4 Assess and divide</p>	<p>Assessing the factors in step 3, what division would be 'just and equitable' remembering each family is different.</p>

Please contact us at Parry Grace Family Law for further advice regarding your property settlement matter or other family law issue.



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