

SEPARATION AND PROPERTY

wire



Helping women
make the right
choices

**Women's
Information**

Introduction

Often one of the most difficult issues to resolve when separating is the fair division of property. It is important to get legal advice about property settlement, and what you would be entitled to receive. Regardless of whether you were in a heterosexual or same sex relationship, married or in a de facto relationship, you may be entitled to apply for property settlement after your relationship ends.

Women make decisions about whether they pursue a property settlement for many reasons including safety considerations and their children's financial and emotional needs. Unfortunately, forgoing entitlements may mean that they end up worse off financially. This financial inequity may become particularly obvious in later life. This is why it is always important to get legal advice about what you may be entitled to receive, so that you can realistically plan for the future and have all the relevant information you need to make a decision.

The *Family Law Act 1975* (Cth) gives separated couples (married and de facto) certain rights to a property settlement. Under a property settlement the wealth built up during the relationship is divided between the parties.

If you have separated, or are thinking about separating from your spouse or partner, this booklet can be a useful a guide to help explain:

- how property settlements under the *Family Law Act 1975* (Cth) work
- the process of negotiating property settlements
- applying for property orders.

In this booklet, **'property orders'** refer to **orders made by a court in relation to property, finance and spousal maintenance.**

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Am I entitled to property settlement?

Under the *Family Law Act 1975* (Cth) married and de facto couples have certain rights to a property settlement. However, the *Family Law Act 1975* (Cth) does not apply to all de facto relationships.

A court will only make a property or maintenance order in relation to a de facto relationship if the court is satisfied that any of the following applies:

- the period, or total periods of the de facto relationship, is at least 2 years
- there is a child from the de facto relationship
- the de facto partner applying to the court made substantial contributions and a failure to make a declaration or order would result in serious injustice to that partner
- the relationship is, or was, registered under prescribed State or Territory law.

If your relationship with your de facto partner does not fall into any of the above categories, you may not be entitled to apply for a declaration or order in relation to property under the *Family Law Act 1975* (Cth). In this case you should get legal advice about whether other remedies or legal avenues are available to you.

A ‘de facto relationship’ is a relationship between two persons where:

- the persons are not legally married to one another and
- the persons are not related by family and
- they have a relationship as a couple living together on a genuine domestic basis.

De facto relationship applies to heterosexual and same-sex couples. It can also apply where one of the partners is still legally married to another or in de facto relationship with another person. De facto relationships can come in all shapes and sizes (e.g. you may be living together or separately), but whether you are legally considered a couple, depends on various factors (see section 4AA(2) of the Act).

MYTH:
We’re not divorced, so we can’t settle our property yet.

REALITY:

Married couples can apply for property settlement before they are divorced. Timing is important as there are some legal hurdles to property division that come up a year after a divorce or two years after the separation of a de facto couple — make sure you get legal advice as soon as possible.

Note down the date of your separation in a safe place. Separation is when one person in a relationship (it doesn't necessarily have to be both of you) considers the relationship ended, and no longer wants to remain a couple.

What is property?

Property includes assets (things you own) and liabilities (debts and property you owe money on). Property can be owned individually, jointly (with another person/s), through a family trust or family company. Property includes anything of value, such as:

- real estate e.g. family home
- cash
- bank accounts
- investments
- insurance policies
- shares, stocks and bonds
- superannuation
- any other assets e.g. cars, furniture or jewellery
- debts e.g. mortgages, loans, credit cards and personal debts
- other entitlements e.g. inheritances, long service leave and personal injury claims.

All property can be considered as part of property settlement, even if it has been recently sold or given to someone else, such as a sibling or parent. It may not matter:

- whose name the property is in
- who purchased the property
- who acquired the debt.

Where the value of any property cannot be agreed upon, it is important to arrange an independent property valuation.

The family home?

MYTH:
Because
it's in their
name, they
own the
house.

REALITY:
Property includes all assets that are owned individually, jointly or by a family trust. If the house is in your partner's name it will still be considered part of the settlement between both of you.

*However, if your name is not on the property title, you may need to lodge a caveat or take other legal action to prevent it being sold before final property settlement. A caveat is a document that any person with a legal interest in a property can lodge at Land Victoria. See WIRE's information booklet, *Leaving a relationship under 'Getting my finances in order'* page 9.*

If you have to leave the family home for any reason, you will not lose your proprietary interest in the home when you leave. Whether your name is on the family home title or not, you may still be entitled to a percentage of the home.

If your name is not listed on the property title, you can lodge a caveat with the Land Titles Office so that the property cannot be sold without your prior knowledge and consent before the final property settlement. Once a caveat is lodged you will be notified of any attempts to dispose of the land, but you must take additional steps to protect your interest in the property. If you are notified, seek legal advice immediately. If you think your partner may try to sell the family home before you have agreed on a property settlement, you should apply for an urgent property order from the court.

Even if your ex-partner does not own the home or property in their name, and it is owned by third person, such as a relative, you may have a right to a share of that property in certain circumstances.

What happens to the home will depend on the agreement you make with your ex-partner or spouse, or a court order. It may be decided that one person will retain ownership of the home, in exchange for other assets or property. This may mean that the person who retains ownership of the home buys their ex-partner's share of the house or re-finances the mortgage into their sole name.

Checklist: renting

- **If you are renting your home, find out if your name is on the lease.**
- **If you are leaving your rental home due to family violence,** but hope to return and live there safely at a later date, contact the Tenants Union about your options before you leave. This helps ensure that you have the right to tenancy and are not left homeless.
- **If you are leaving a rented property and do not wish to return,** you may need to change the lease or risk being held liable for any damage or rent arrears caused by your ex-partner. Contact the Victorian Civil and Administrative Tribunal (VCAT) or the Tenants Union.
- **If you are staying at the property,** it is important to ensure your name is on the lease. Contact VCAT or the Tenants Union.

Superannuation

MYTH:
It's their job and their superannuation — I have no claim on that

REALITY:
Superannuation is included as part of the overall property assets. Since December 2002, separating married couples have been able to split their superannuation in the same way as other assets.

As part of a property settlement, separated couples can include the value of their superannuation entitlements. While superannuation can be a large asset in property division, it cannot be converted to cash as it is still subject to superannuation laws.

An agreement or court order can be made to split the superannuation, where a portion of one partner's superannuation entitlement is transferred into the superannuation account of the other partner. This usually means that you cannot physically access the superannuation until the policy can be paid out (e.g. when you reach retirement age).

Women's superannuation capacity is often less than their ex-spouse or ex-partner if they have taken time out of the workforce to have children and have limited working capacity. This is often because of primary caregiving and household responsibilities and because women (still!) earn less than men for equivalent jobs.

Debts

If you and your partner have joint debts, these should ideally be worked out at the time of settlement. It is important to know that even if you have not benefited from borrowing the money, you may still be liable for half or even all of the debt. If, however, the loan was contracted unfairly there may be something you can do.

Checklist: finances

- Seek legal advice about whether to freeze joint accounts at banks and other financial institutions
- Open your own account at a bank, credit union or community bank; ensure your ex-partner cannot access your account via phone or internet banking
- Redirect your pay and other income into your own account
- Consider your financial situation and draw up a budget; get help from a financial counsellor
- Do you need to change your will? Have you nominated your partner as a beneficiary? Or do you need to make a will? Making a will gives you control over the distribution of your property and assets when you die.

What is financial abuse?

Financial abuse is a form of family violence. You are experiencing financial abuse when your partner uses money and other things that you might both own, to control you. Your partner's behaviour may include:

- controlling your access to finances e.g. cash, bank accounts and benefits or pensions
- refusing to contribute financially to you or the family
- doing things that cost you or the family money; taking out loans and running up debts in your name
- stopping you from working or studying
- abusing the Child Support and Centrelink system to penalise you financially, even after you have left the relationship.

Victorian law now states that financial abuse is a form of family violence and includes socially and financially controlling behaviour. For details read WIRE's information booklet, *Money problems with your partner? Dealing with financial abuse*.

It is also important to tell any lawyer you have engaged that you are experiencing financial abuse, as your ex-partner may use the court process to harm you financially and emotionally. Some lawyers may not fully understand financial abuse in family violence; if you are concerned about your lawyer or how to find an appropriate one, contact WIRE for more information. See page 23 'Where do I go for help?'

How can we formalise a property settlement?

If your relationship ends, property may be divided between you and your ex-partner by:

- **agreement** — either informally, or by a written binding financial agreement or consent order
- accessing a **family dispute resolution** service or practitioner to help reach agreement
- applying to court for **property orders**.

How you formalise a property settlement with your partner will depend on your individual situation and what would work best for you both.

Sorting it out without going to court

MYTH:

The only way property can be settled is through the courts, which is complex, long-winded and expensive.

REALITY:

Over 95% of property disputes are settled out of court. It is important to know that you must document your agreement properly or there will be problems with enforcing it legally.

If you and your ex-partner or ex-spouse can work out and agree on a property settlement, you do not have to go to court. Going to court can be an expensive, lengthy and stressful process. When you reach an agreement, make sure it is **legally binding** (see next section). Otherwise if there are difficulties later on, the agreement may not be legally enforceable. Even if you and your ex-partner are on good terms, always get independent advice from an experienced family lawyer or community legal service before you start negotiating or signing anything.

Many women compromise on their property entitlements to avoid further conflict or the costs of getting legal advice. This decision often significantly disadvantages them later in life. Getting legal advice does not mean that you have to ‘get nasty’ or go to court; it means being properly informed about your rights and entitlements.

Making an agreement on property settlement

If you and your ex-partner or ex-spouse agree about how your property will be divided, you can:

- **make an informal agreement** — This can be written or verbal (spoken). This is not recommended as informal agreements are not enforceable by a court, and may not be legally recognised. It may not prevent either party from applying to a court for a property settlement in the future.
- **make a ‘binding financial agreement’** — A binding financial agreement is a written document made before, during or at the end of the relationship about property settlement and financial support if you separate. This does not have to be approved by the court; but to be legally enforceable both people must sign it and it must contain a statement that each person received independent legal advice covering how the agreement will affect their rights and how it benefits them

(or not) prior to signing. In circumstances such as fraud or a major change in children's care or welfare, the court can declare the agreement invalid and set it aside (cancel it).

- **apply to a court for a 'consent order'** — A consent order is an agreement that can be negotiated between ex-partners regarding the financial and property settlement and/or ongoing financial support. An application for consent orders is filed at the court, and once approved by the court, consent orders are legally binding and enforceable just like any other court order. The court must be satisfied that the agreement meets the legal requirements under the *Family Law Act 1975* (Cth) before it will make a consent order. You can download an 'Application for Consent Orders Kit' directly from the Family Law Courts website at www.familycourt.gov.au

Changing or cancelling consent orders

Consent orders made in property disputes are difficult to change. To 'set aside' (cancel) consent orders in property disputes you need to prove that:

- there has been a miscarriage of justice due to fraud, duress or suppressed evidence/information
- the orders are not practical to carry out (not just inconvenient)
- a person has not carried out an obligation imposed by the order
- a major change in your child/children's care and welfare was unforeseen when making the order
- an order has been made for property (gained through criminal activity) to be confiscated by the government
- a person has acted in an 'unconscionable' (unethical or unfair) way.

Before going to court — Family Dispute Resolution

*If you cannot reach an agreement with your ex-partner or spouse, then you must follow **pre-action procedures** before applying to a court for property orders. These procedures aim to help explore potential areas of resolution and narrow down issues to try and resolve disputes quickly and outside of court. They apply to all parties in property settlement and their lawyers (if involved).*

All parties must make a genuine attempt to resolve any disagreement before applying for **property orders**, by:

1. inviting the other party to participate in family dispute resolution
2. agreeing to and participating in family dispute resolution services, such as mediation, conciliation or arbitration
3. if family dispute resolution is unsuccessful, contacting the other party setting out the claim and potential options for settlement, and notifying of any future intentions
4. making full and frank disclosure of all relevant materials, facts, documents and other information.

Getting help to reach an agreement: Family Dispute Resolution

if you are having trouble working out an agreement with your ex-partner or ex-spouse consider using a registered Family Dispute Resolution (FDR) service (e.g. Relationships Australia, LifeWorks or a Family Mediation Centre) or a private FDR practitioner/mediator to help both parties negotiate a property settlement in a safe and more relaxed environment outside court.

A FDR practitioner/mediator will ensure all parties' views are heard, and all options for agreement are explored. Their role is to help resolve disputes outside court; not to take sides. This can be quicker and cheaper than going to court. You may not need a legal representative; however, it is a good idea to seek legal advice before using a FDR service or practitioner.

Have you experienced family violence during the relationship or after it ended? Or feel you will not be able to say what you really want?

Discuss your concerns with the FDR service or practitioner, so that they can create a safe, fair and appropriate process for both parties where possible. Mediation is not recommended when there is family violence, due to the power and control imbalance.

For details see the Domestic Violence Resource Centre Victoria (DVRCV) information sheet *Preparing for Mediation: Tips for Women who have Experienced Domestic Violence*. Available at www.dvrcv.org.au

If mediation is not for you, try getting a lawyer to negotiate on your behalf.

What you must do when following 'pre-action procedures'

At all stages during property settlement, from negotiations through to any court proceedings, you have to ensure that you:

- identify all potential issues as soon as possible and explore options for settlement
- avoid protracted and heated exchanges with the other party
- consider how you communicate with the other party (particularly in correspondence)
- seek orders that are realistic based on the evidence and consistent with the law
- be proportional and try to control costs — it is unacceptable for legal costs to be high in comparison to the property value
- give full and frank disclosure.

What is 'full and frank disclosure'?

All parties to a case have a duty of 'full and frank disclosure'. If a party fails to make full disclosure, serious penalties can be imposed. The parties must promptly exchange copies of documents in their possession and control that are relevant to the dispute.

In **maintenance cases** 'full and frank disclosure' includes:

- tax returns and tax assessments for the most recent financial year
- last 12 months bank records
- 3 most recent payslips if a party is in paid employment
- if a party owns or controls a business, Business Activity Statements for last 12 months
- any other documents relevant to determining the income, assets, expenses and liabilities of the party.

In **property cases** 'full and frank disclosure' includes:

- 3 most recent tax returns and tax assessments
- documents detailing any superannuation interest or entitlement
- financial statements for any trust of which a party is trustee or beneficiary
- financial statements for any company of which a party is a director or shareholder
- if a party owns or controls a business, Business Activity Statements for last 12 months
- for any company, information about most recent annual return, directors, shareholders or company's constitution
- for any partnership, any partnership documents
- market value or appraisals of any property
- information on any liabilities
- information on disposal of any property.

When are you exempt from pre-action procedures?

Pre-action procedures do not apply to applications for child support or cases involving bankruptcy. The court may also consider the procedures inappropriate if:

- the case is urgent
- it involves allegations of family violence
- it involves allegations of fraud
- there is a genuine intractable dispute in that one party refuses to negotiate
- a party would be unduly prejudiced or adversely affected if another person became aware of their intention to formalise property settlement
- a time limit is close to expiring
- there has been a previous property application in the last 12 months
- there is a genuine dispute about jurisdiction under the *Family Law Act*.

The requirement for full and frank disclosure still applies.

Going to court: applying for a property order

If you have followed the pre-action procedures and still cannot resolve your property issues and need a court to decide, you must apply to the **Family Court of Australia** or the **Federal Circuit Court of Australia** for orders.

For married couples, you can apply for property settlement at any time after you have separated, but once your divorce has been finalised, you only have up to 12 months to apply. For de facto couples, you must apply for a property order within two years of separating from your partner; otherwise you will need to ask the court for special permission to apply outside of that time. Unless you have good reasons for not being able to apply for orders within the time period, the court may not let you apply.

You can apply to the court for property orders relating to:

- property — how property, income, financial resources and debts should be shared between partners
- maintenance to provide ongoing financial support for a spouse or de facto partner.

Which court?

Unless you already have current proceedings with the Family Court of Australia, you can apply to the Federal Circuit Court for property orders. The Family Court of Australia and the Federal Circuit Court of Australia are separate independent courts but share jurisdiction in all family law matters.

The Family Court deals with more complex matters such as financial issues involving multiple parties, the valuation of complex interests in trust or corporate structures, or relating to superannuation. All other cases, such as child support, should be filed in the Federal Circuit Court, which deals with less complex matters that are likely to be decided quickly.

Court process in property cases

The court follows a four-step process when determining how property will be divided.

1. **Identify and value all property of the parties:** Property value is determined when the matter goes to court; not at separation. If there is no agreement about property value, an independent assessor may have to provide a sworn valuation.
2. **Identify contributions towards property:** The court considers the direct financial contributions and indirect non-financial contributions that both parties made towards the property during the relationship or marriage. **Direct financial contributions** include wages or earnings,

savings, gifts or inheritances, or property either party brought into the relationship or marriage; **indirect non-financial contributions** to the property include **home improvements and household contributions, such as caring for children, cooking and cleaning. Both types of contributions are considered equally valuable.**

3. **Consider specific factors set out in the *Family Law Act 1975* (Cth):** The court looks at other factors including each individual party's future earning capacity, and the care and financial support of children.
4. **Consider justice and equity:** Finally the court considers if the orders to be made are just and equitable to all parties. **Do not** rely on the court overturning anything you have previously agreed to, just because you now feel it is unfair.

Court orders in property cases

In making **property orders**, the court can order:

- payment of money to another person by way of lump sum or instalment within a certain time
- transfer or settlement of property
- dividing up superannuation
- signing or producing documents so that orders can be carried out
- payment of maintenance.

When a property order is made, each person listed in the order must follow it. Otherwise you can make an **enforcement application** for the court to enforce the order if the other party is not complying. However, please get legal advice before making an application. [For details, see page 17 'Enforcement orders'](#).

You may receive an added share of the property if the court believes your income and financial resources are relatively low compared to your ex-partner or ex-spouse. Women's income capacity is often less than their ex-spouse or ex-partner as they have often taken time out of the workforce to have children and have limited working capacity because of primary care-giving and household responsibilities.

Spousal and de facto maintenance

Under the *Family Law Act 1975* (Cth), you may be able to make a claim for maintenance if you were married or in a de facto relationship. Your ex-partner or ex-spouse has a responsibility to financially assist you if you cannot meet your own reasonable expenses from your personal income or assets (or vice versa). When the need exists, both parties have an equal duty to support and maintain each other as far as they can, even after separation and divorce.

If you were married, you may have a right to **spousal maintenance**. If you were in a de facto relationship, you may only apply to the court for **de facto maintenance** if you and your ex-partner were ordinarily resident in a participating jurisdiction (under the Act this includes the State of Victoria) when the application is made. The relationship must fulfill requirements of a de facto relationship. [See page 3 'Am I entitled to property settlement?'](#)

In deciding whether to make a **maintenance order** for you, the court must consider whether your ex-partner or ex-spouse must maintain you, only to the extent that they are reasonably able to, and only if you are unable to support yourself adequately. Reasons why you may not be able to adequately support yourself include:

- you care for a child (under 18 years) of the relationship or marriage
- due to age or a physical or mental incapacity you cannot gain appropriate employment
- any other adequate reason.

The court then takes into account different factors such as:

- age and health of the parties
- income, property and financial resources of each party, and whether they are physically or mentally well enough for appropriate employment
- whether either party has care or control for a child (under 18 years) of the relationship or marriage
- commitments of both parties to support themselves, any children or any other person
- whether either party is eligible for a pension, an allowance or a benefit from the government or superannuation scheme
- standard of living
- how any maintenance would increase your earning capacity
- effect of any order on any creditors
- how much you have contributed to the income, earning capacity, property and financial resources of your ex-partner
- length of your relationship
- need to protect your role if you wish to continue as a parent
- terms of any other property orders made
- any child support provided or to be provided in the future
- terms of any financial agreement that is binding on a party.

If a court determines that you are eligible for a maintenance order, then the court can make an order for payment of a lump sum (either in one amount or by instalments) or by transfer or settlement of property. As many women receive a lump sum payment as part of their property settlement, make sure this does not affect your right to a pension or benefit by first checking with a financial counsellor.

A maintenance order will end if either partner or spouse dies, or you re-marry; unless in special circumstances the court otherwise orders it should continue.

Enforcement orders

Courts do not automatically enforce family law orders. So if your ex-partner has not complied with property orders, your options include:

- attending a dispute resolution service,
- getting legal advice or
- applying to the court for an **enforcement order**.

Where your ex-partner is not complying with their obligations under property orders, you can make an **enforcement application** for an enforcement order that requires them to comply with their obligations. However, as the process can be complex, you should first get legal advice before applying to the court for an enforcement order. For details, read 'Complying with financial orders' under 'Property & Finance' on the Family Court of Australia website at www.familycourt.gov.au

In an enforcement order the court can:

- identify the total amount owing under an obligation to pay
- order that the total amount owing be paid in full or by instalments
- order enforcement of the obligation
- prevent the disposal of property or wasting of assets
- stay the enforcement of an obligation (including an enforcement order)
- make orders for costs.

In certain circumstances, the court can impose a penalty. For details, see 'Enforcement Hearings (Prescribed brochure)' under 'Reports & Publications | Publications, Brochures and Fact Sheets Court Events' on the Family Court of Australia website at www.familycourt.gov.au

Attending court

Going to court can be stressful and difficult. You can get a support person to accompany you on your days in court, or explain to you how the court system works in person or over the phone, by calling Court Network **1800 681 614**

Understanding how the court system works can better prepare you for court appointment and hearings. Read Victoria Law Foundation's publication *Victoria's legal system: An introduction to the legal system in Victoria* available at www.victorialawfoundation.org.au

Worried about your safety while attending court? Call Federal Circuit Court of Australia **1300 352 000** before your hearing or make an appointment so that safety arrangements can be discussed and put into place. By law, you must inform the court if there is an existing or pending family violence order involving you or your children. You should also ring safe steps Family Violence Response Centre **1800 015 188** or speak to your family violence worker on how you can stay as safe as possible.

Childcare arrangements When going to court, make separate childcare arrangements for your children on that day. Generally, children cannot go into the courtroom. If you cannot arrange separate childcare arrangements and have to bring your children with you, arrange for a friend or family member to attend with you so that they can look after them while you are in court or meeting with a lawyer.

Interpreter service Should you need an interpreter to assist you at court, inform the court staff **at least two weeks before** your court appointment or hearing. They will organise to have a professional and independent interpreter available for you at no charge. To access Translating and Interpreting Service (TIS) outside of court, call **131 450**.

Getting legal advice

Get as much information as soon as possible about your legal rights and entitlements, even if you believe your partner will take the separation well and do the right thing by you. Getting legal advice does not mean you are 'getting nasty' or trying to get more than your fair entitlement; it ensures that you are properly informed about your rights and entitlements.

Laws around separation are complex and, for most of us, quite confusing, so if you are considering separation or have separated, you should seek legal advice. A lawyer can help you understand your legal rights and

responsibilities and explain how the law applies to your situation. A lawyer can also explain and help you reach an agreement with your former partner without going to court.

You may be able to get legal advice from:

- Victoria Legal Aid
- community legal centres such as Women’s Legal Service
- private law firms

Court staff can help you with questions about court forms and processes but cannot give you legal advice. Going to court can become expensive with court fees and lawyer’s charges, and there is no guarantee on the outcome. If you can, try and resolve your issues out of court with legal assistance.

Before seeking legal advice, make sure you have everything you need to avoid unnecessary delays and expense:

- list all your sole and joint property, debts, income and contributions
- gather copies/originals of important documents.

Checklist: important documents

- passport
- birth certificate
- citizenship papers
- marriage certificate
- driver’s licence
- Medicare card
- bank books, ATM and credit cards
- bank statements
- last tax return and notice of assessment
- titles of ownership and property deeds
- partnership and company records
- details of joint and personal debts
- guarantees
- wills
- car registration and engine number (VIN)
- mortgage and property details e.g. council rates
- rental agreement
- Centrelink/Austudy number
- insurance policies e.g. home, contents, car and life
- superannuation details
- contact details for your accountant and lawyer

Victoria Legal Aid

Victoria Legal Aid (VLA) can help you with legal issues including family breakdown, child protection and family violence, tenancy and debt. VLA runs a **Legal Help phoneline** and free clinics on specific issues. You can get information on family law matters from the Legal Help phoneline, regardless of your eligibility for legal aid or even if your ex-partner is receiving services from VLA.

VLA can also fund your legal representation by a private lawyer or a VLA staff lawyer, provided you meet its eligibility criteria. For details, visit www.legalaid.vic.gov.au or call **1300 792 387** (Legal Help phoneline).

Community Legal Centres

Community Legal Centres (CLCs) are located across Victoria and provide free legal services to the public — particularly if you are facing economic and social disadvantage, are ineligible for legal aid and cannot afford a private lawyer.

Some centres are generalist and can assist you with a wide range of legal issues including family law, credit and debt and family violence. Others specialise in certain legal areas and may not deal with property issues, or may only assist specific groups of people such as women, young people or people with disabilities. Each CLC has different eligibility guidelines as to who they can help, what legal issues they can help with and how much help they can provide. To find a community legal centre near you, visit www.fclc.org.au/find_a_clc.php or call **(03) 9652 1500**.

Private lawyers — how to choose one

Private lawyers provide legal advice and representation for a fee. Engage a lawyer that you feel comfortable with and that you can afford. If you have experienced family violence or financial abuse, it is important to choose a family lawyer who understands and has experience dealing with these issues.

Shopping around will allow you to speak to different lawyers and compare their services and fees. Whenever you are unclear about any advice given by a lawyer, make sure you ask to have it explained in a way that you can understand. The Law Institute of Victoria website offers guidelines on choosing your lawyer and preparing for your first appointment.

Visit www.liv.asn.au or call Legal Referral Service **(03) 9607 9550**.

Legal fees

A lawyer's charges are made up of fees for professional services and disbursements — expenses paid for you by the lawyer, such as court fees for filing documents or paying barrister fees. When you first meet with a

lawyer, you should ask what their fees are to avoid surprises. In Victoria, lawyers must provide you with a ‘costs disclosure statement’ if costs are likely to exceed \$750. This means giving you written information that explains how the estimated fees are calculated and your rights as a client. Even if the fees are under \$750 you have the right to request progress reports, reasonable information and a bill.

Lawyers’ fees vary depending on the law firm and the legal work involved. Some lawyers may offer a free 30-minute initial consultation. Payment structures can also vary with different lawyers. Lawyers must use a costs agreement if your fees exceed a certain amount — a contract with you that sets out the fees you will be charged. If your lawyer does not provide you with a costs agreement you have the right to request one.

WIRE has a list of private lawyers in Melbourne CBD that provide up to an hour of free consultation. Call WIRE **1300 134 130** to be referred to one.

Where do I go for help?

Courts

- **Commonwealth Courts Portal** www.comcourts.gov.au
- **Court Network** 1800 681 614 www.courtnetwork.com.au
- **Family Court of Australia** 1300 352 000 www.familycourt.gov.au
- **Family Court of Australia: Separation and Divorce**
www.familycourt.gov.au/wps/wcm/connect/fcoaweb/family-law-matters/separation-and-divorce
- **Federal Circuit Court of Australia** 1300 352 000
www.federalcircuitcourt.gov.au
- **International Social Services** 1300 657 843 www.iss.org.au
- **Online Application for Consent Orders Kit** (Family Court of Australia)
www.familycourt.gov.au Search: kit-diy-application-consent-orders
- **Online Application for Divorce Kit** (Family Court of Australia)
www.familycourt.gov.au Search: kit-application-for-divorce
- **Victorian Civil and Administrative Tribunal (VCAT)** (03) 9628 9800 (Melbourne metro), 1800 133 055 (regional callers only)
www.vcat.vic.gov.au

Family violence services

- **1800RESPECT** 1800 737 732 www.1800respect.org.au
- **Domestic Violence Resource Centre Victoria** (03) 9486 9866 www.dvrcv.org.au
- **safe steps Family Violence Response Centre of Victoria** 1800 015 188 www.safesteps.org.au
- **SmartSafe: Technology Abuse and Your Safety** www.smartsafe.org.au

Government agencies

- **Department of Human Services** (Centrelink) — Parenting payments 136 150 | Report income 133 276 (131 202 multilingual) | Newstart Allowance 132 850 www.humanservices.gov.au/customer/dhs/centrelink
- **Department of Human Services** (Child Support) — Applying for child support and changes to circumstances 131 272 www.humanservices.gov.au/customer/dhs/child-support
- **Department of Human Services** Interpreting service 131 450
- **Medicare** 132 011 www.humanservices.gov.au/customer/subjects/medicare-services
- **Parents' guide to child support** www.humanservices.gov.au/customer/subjects/parents-guide-to-child-support
- **Separated parents** www.humanservices.gov.au/customer/dhs/child-support

Legal advice and mediation

- **Aboriginal Family Violence Prevention & Legal Service Victoria** (FVPLS Victoria) 1800 105 303 www.fvpls.org
- **Australian Institute of Family Law Arbitrators and Mediators** (AIFLAM) (07) 3117 0849 www.aiflam.org.au
- **Family Law Registries (Victoria)** 53-55 Robinson St, Dandenong 3175 and 305 William St, Melbourne 3000
- **Federation of Community Legal Centres Victoria** (03) 9652 1500 www.communitylaw.org.au
- **Law Institute of Victoria** (03) 9607 9311 www.liv.asn.au
- **Everyday-Law** www.everyday-law.org.au for reliable, easy-to-understand legal information in Victoria and the Law Help Directory for free/low cost legal help in Victoria
- **LawTermFinder** lawtermfinder.mq.edu.au

- **Tenants Union of Victoria** (03) 9416 2577 www.tuv.org.au
- **The Law Handbook** www.lawhandbook.org.au Victoria's practical guide to the law
- **Victoria Law Foundation** *Victoria's legal system: An introduction to the legal system in Victoria* www.victorialawfoundation.org.au
- **Victorian Legal Aid Legal Help phonenumber** 1300 792 387
- **Victorian Legal Aid** (Separation, divorce, annulment) www.legalaid.gov.au | Find legal answers | Separation, divorce, marriage annulment
- **Women's Legal Service Victoria** (03) 8622 0600 (Melbourne), 1800 133 302 (regional) www.womenslegal.org.au

Relationship services

- **Family Relationship Centres** Advice Line 1800 050 321 www.familyrelationships.gov.au
- **Relationships Victoria** 1300 364 277 www.relationshipsvictoria.com.au

Specialist support services

- **Council of Single Mothers and Their Children Support Line** (03) 9654 0622 (Melbourne metro) or 1300 552 511 (regional) www.csmc.org.au
- **Switchboard Victoria** LGBTIQ counselling, referral, information service 1800 184 527 www.switchboard.org.au
- **Translating and Interpreting Service (TIS National)** 131 450 www.tisnational.gov.au

Contact WIRE 1300 134 130

For an up-to-date contact list of support services available

- **Call 1300 134 130** for the cost of a local call. Mobile charges may vary according to your phone plan. You can call WIRE using your mobile, leave your number and we will call you back. (Interpreter Service available.)
- **Women's Information Centre** at 372 Spencer Street, West Melbourne
- **Email** inforequests@wire.org.au
- **Website** www.wire.org.au to access LiveChat and online resources

Funded by
a grant from
**Victoria Law
Foundation**

WIRE gratefully thanks the Victoria Law Foundation for kindly funding the development and printing of this **Separation and Property** information booklet. We are also grateful to Senior Lawyer Jessica DeVries from Inner Melbourne Community Legal for her generous advice and input.

Every effort has been made to ensure the information contained in this booklet is accurate and current at the time of printing – May 2016. However, no responsibility will be taken for the accuracy or reliability of the information, or for any loss that may arise from errors, omissions, or changes to government policy or law.

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Call WIRE 1300 134 130

for the cost of a local call (Telephone Interpreter Service available). Hearing-impaired women can use LiveChat support www.wire.org.au or email inforequests@wire.org.au

Drop in Women's Information Centre,
372 Spencer Street, West Melbourne

Email inforequests@wire.org.au

Visit or chat online www.wire.org.au

Printed on 150gsm Maine recycled silk. Certified Carbon Neutral

