

InfoSheet:

De facto property settlement

Our service commitment

We take a personal interest in you and want to help take the stress out of one of life's most challenging times. We are here to help you, give you guidance and professional advice. We will take the time to listen to you.

Our commitment to you is that we will:

- outline how long we expect it to take
- regularly update you on how your matter is progressing
- give you a clear indication of the costs before starting work for you
- provide flexible payment options
- give you access to our Accredited Specialist in Family Law as required

The first steps

For a discounted fee of \$250 you can consult with one of our specialist lawyers who will provide you with advice in relation to your specific issues and point you in the right direction for the best outcome for you and your family

alternatively

You can consult with one of our specialist lawyers at our Free Family Law Clinic held monthly at our Dapto or Shellharbour offices. This appointment is restricted to 30 minutes and provides a summary of the family law process.

Family law rights for separating de facto couples

Legislative changes have commenced that change the way de facto couples can seek orders for the amendment of property interests after the breakdown of a de facto relationship.

If you were in a de facto relationship and separated from your partner after 1 March 2009 you may have certain rights under the Family Law Act 1975.

Under the Family Law Act a person is considered to be in a de facto relationship with another person if:

1. the persons are not legally married to each other; and
2. the persons are not related by family; and
3. having regard to all the circumstances of their relationship, they have a relationship as a couple living together on a genuine domestic basis.

If you have separated from your de facto partner and want to find out more about the options available to you, call Kells the Lawyers today.

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Family law

Family law is a complex area of law with each case being as unique as each relationship.

At Kells the Lawyers we provide you with tailored legal advice to specifically suit your needs and circumstances.

We explore all possible avenues to resolve your matter as quickly and effectively as possible, including negotiation, conciliation, counselling, mediation, collaborative law and (if necessary) litigation.

At Kells the Lawyers we have a dedicated expert family law team which includes a Law Society accredited specialist in family law.

Our fees promise

We provide you with an outline of the likely costs of your matter at the start of your case and will regularly update you. We are committed to keeping your costs down and will explain to you the costs at each stage of your case as well as any alternatives available to you to keep costs down.

Keeping you informed

We will regularly notify you in writing of any updates in your case as your matter progresses. We understand that separation can be a very difficult time and we are committed to ensuring you are consistently updated as your case progresses.

Common questions

Do I have to go to court?

There are a number of different avenues available to you to come to a property settlement. At Kells the Lawyers we work with you to develop an approach that best suits your individual needs.

The Family Law Rules require that you explore all possible avenues to resolve your matter by way of negotiation, conciliation, counselling, collaborative law and mediation. However, sometimes parties are not able to negotiate their own settlement and it is necessary to commence proceedings in court.

Most cases settle out of court. However, there may be a need for the court to help you negotiate with your former partner to make a final decision if you cannot agree.

How long will it take?

We endeavor to come to the most efficient and quick settlement possible.

It is available to the parties to come to their own agreement at any stage and if this does occur we can help you formalise and file that agreement with the court, or prepare a Financial Agreement which is not filed in the court.

If an agreement cannot be reached and your case proceeds to a hearing we will keep you informed of the timeframes involved in your matter.

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Are there any time limits?

If you and your spouse have separated, or are about to separate, you should see us immediately to talk about your rights and to take any urgent steps necessary to protect them.

For parties who were in a de facto relationship, proceedings must be commenced within 2 years of the breakdown of the relationship.

Your case

Initial interview – financial details

We will discuss your circumstances and provide you with advice about your entitlements. More specific advice will be given when we have received all of the financial documents related to the assets of your relationship.

You will need to provide details about:

- the property that you own
- Your contributions during the relationship, including both financial and non financial contributions such as domestic duties or caring for any children of the relationship
- your future needs.

Settlement negotiations

We will have settlement negotiations with your former spouse so where possible Court action can be avoided and your costs reduced. You will be advised when settlement offers are made by your former spouse prior to commencing proceedings or if we believe you should make a settlement offer. We will provide our recommendations as to the appropriate figures.

If it is not possible to negotiate an agreement, you will need to go to court.

Going to court

If it becomes necessary to go to court we will prepare the court papers and arrange to have them delivered to your former spouse, or their solicitor. Your spouse will have time to prepare their court documents in response.

You may already have received court papers from your spouse. If you have, you should bring them to us immediately.

Conciliation conference

If your case is not settled the court will order that you and your spouse see a registrar of the court. We will go to that meeting with you. The aim of the meeting is to try to reach an agreement. If an agreement is reached, it will be written down and signed by you and your former spouse. The registrar will make orders, and the agreement will have the same effect as if a judge had made the decision for you.

At the hearing

Your case will be heard in either the Family Court, or the Federal Magistrates Court. You will have to give evidence. We will be in court with you. At the end of the hearing the judge will make a decision. The judge's decision is final, subject to your rights of appeal.

Urgent steps to protect your rights

It may be necessary to act quickly to protect your property. You need to think about the possibility of assets being sold or money being taken out of bank accounts without you knowing. If you think your matter requires urgent attention contact us immediately.

