

SHOULD I STAY OR SHOULD I GO NOW?

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When you have relationship problems, the difficult decision of whether to leave is often compounded by not knowing what will happen next.

Divorce is separate to property settlement which is dividing your assets and liabilities. You do not need to be divorced to reach a property settlement.

If you are contemplating leaving a partner, married or not, you will be pleased to know that a Court hearing is not the only option available to you.

If both parties are willing to be amicable, they can enter into a legally binding property settlement which can occur without any party having to step a foot inside a Courthouse. Your paperwork will, however, need to be filed at the Court and reviewed by a Registrar of the Court.

In order to reach a fair assessment of how much each party should get or retain in a property settlement, the Registrar will, on reviewing the documents filed, make sure that the following four step approach has been considered by the Parties and/or their solicitor on reaching the agreement:

1. What were the initial contributions of the parties;
2. What were the direct financial contributions made by the parties during the relationship;
3. What were the non-financial contributions made by the parties during the relationship (i.e. cooking, cleaning, gardening); and
4. What were the contributions made by the parties in relation to welfare of the family (i.e. looking after the children).

The Registrar will also consider whether an adjustment has been made or needs to be made for either of the parties future needs (i.e. looking at their health and earning capacity of each of the parties).

If the Registrar determines that a fair agreement has been reached, taking into account the above factors, the paperwork filed at the Court will be sealed and Orders for property settlement made. It is critical that you consult a lawyer to determine what a fair agreement is before filing the document at Court, otherwise the agreement may later be challenged or set aside.

This is general information only, and does not constitute specific legal advice. If you would like further information in relation to this matter or other legal matters please contact our office at reception@hhg.com.au.

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