

LeachLegal

Divorce & Family Lawyers

Unwinding the Past



What we cover



Spousal and partner maintenance



Child & Parenting issues



Restraining Orders



Child Support



Property Settlement



Financial Agreements



Divorce



De facto Relationships



Wills



Estate Planning

We do this through first Unwinding the Past

To make informed decisions we first need to have all the relevant information at our fingertips. Unwinding the past begins the intricate process of finding out everything we need to know about your situation, financially and personally. We do this by examining the following areas:

1. Assets and liabilities
2. Contributions
3. Likely costs
4. Future needs
5. Children's Arrangements

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Assets and Liabilities

Real Estate

If you own property, list all the real estate you own together, and include the following information for each piece of real estate.

- When the real estate was purchased
- The purchase price
- Amount of down payment
- Where the down payment came from
- What the monthly payments are if there is an outstanding loan
- Any current mortgage balances
- The present fair market value of the property

Vehicles

Vehicles include automobiles you drive regularly plus motorcycles, recreational vehicles, and vehicles used for farming. You will need the following information about each vehicle.

- Year
- Make
- Model
- License number
- Fair Market Value
- Balanced Owed if there is a loan

Furniture and Appliances

- Make a list of all household items
- Estimated garage sale value or fair market value of all household items

Bank Accounts

- Name and address of bank
- Type of Account
- Account number
- Current balance
- Names on the account
- Date the account was opened

Life Insurance (only if redeemable)

- Name of Insurance company
- Policy number
- Face value of the policy or policies
- Cash value of the policy or policies
- Name of person insured
- Any outstanding loans against the policy or policies
- The outstanding amount
- The reason for the loan and the date of the loan

Superannuation/Pension Funds

This includes all superannuation funds and/or industry retirement plans. If both spouses have a pension fund or retirement plan you will need information related to both.

- Name of the plan
- Policy number
- Recent statement

Shares, Bonds, IRAs, Mutual Funds

- Name
- Number
- Purchase price
- Face value
- Market value
- Current Total

Inheritances

If you and your spouse own any property, inherited during the marriage or purchased with money from an inheritance, please provide the following information.

- Property description
- When and how the property was acquired
- What you paid for the property
- Fair market value of the property
- Current amount owed on the property
- Any other inheritances, including when, amount received, current amounts

Business you or your spouse own or have an interest in

- Date business was acquired or started
- Name of the business
- Whether or not the business is incorporated
- Number of shares in your name
- Number of shares in your spouses' name
- Number of employees
- Net worth of business (if known)
- Profit or loss business made last tax year
- Profit or loss made last tax quarter
- Location of business books (accountant?)

Tools, Sports Equipment, Art, Collectibles, Antiques, Wine

- Make a list of all such items and their fair market value.

Furniture and Appliances

- Make a list of all household items
- Estimated garage sale value or fair market value of all household items

Creditors

List all creditors and the following information about each debt.

- Name of creditor
- Amount owed creditor
- Amount paid monthly
- Who incurred the debt, you or your spouse



Contributions

While direct financial contributions to the relationship, such as wages, are a factor in determining contributions to the asset pool, so too are the non-financial and indirect contributions of each party to the relationship. Non-financial contributions are those made which have increased the size of the net asset pool. These can include the improvement and conservation of the family home through a spouse's labour (such as repainting the house, landscaping, or renovations).

An indirect financial contribution is a contribution or an action made by one spouse where that action or contribution allows the other spouse to contribute to the acquisition of assets directly financially. For example, a wife may work in the family business and not receive a wage, but it can be seen to be a contribution other than financial.

Likely Costs

When your relationship has broken down, the last thing you want to worry about is whether you can afford to pay for a divorce. But you need to think about it. Divorce can get expensive if parties don't agree. So it's normal to wonder how much it will cost, and what your options are available. First of all, you need to understand what impacts the cost of divorce, as it can vary significantly from case to case. These are the four main factors that contribute to the average cost of divorce:

- The method you choose
- The law firm you choose
- The complexities of your case
- The level of cooperation or conflict between you and your spouse

No two divorces are alike. When asking, "How much does divorce cost?" think about your situation and the complexities that surround it. At Leach Legal, we offer competitive, transparent pricing on likely costs, and we will guide you through our fee structuring after familiarising ourselves with your matter.

Future Needs

When deciding a "just and equitable" division of your assets, the Court must consider what will happen in the future. Section 75(2) of the Family Law Act sets out factors the Court needs to consider when deciding whether one of the parties has greater future needs than the other.

These factors include :

1. The age and state of health of each of the parties
2. The income, property and financial resources of each of the parties and the physical and mental capacity of each of them or appropriate gainful employment
3. Whether either party has the care or control of a child of the marriage who has not attained the age of 18 years
4. Commitments of each of the parties that are necessary to enable the party to support:
 - Himself or herself
 - A child or another person that the party has to maintain.

5. The responsibilities of either party to support any other person
6. The eligibility of either party for a pension, allowance or benefit under any law of the Commonwealth
7. Where the parties have separated or divorced a standard of living that in all the circumstances is reasonable.

The Court has broad discretion when determining the future needs in cases. It is essential to obtain legal advice for your property settlement, to gain understanding and insight into what your future needs arguments could be, to achieve a just and equitable outcome

Children's Arrangements

Parenting with an ex-partner can be tricky, but it is possible. Here are a few issues parents can struggle with:

- Dealing with unresolved feelings or issues - and the resulting arguments
- Worrying that one parent will get less time with the kids than the other
- Clashes in parenting styles or views
- A difficulty with decision making – when you can't seem to agree!
- One parent wants to spend more or less time with the kids
- Last minute changes to plans
- Kids being emotionally affected by the separation or divorce
- Adjusting to the involvement of step-parents

Caring for children after separation is much more than merely adding up the hours or days they spend in each parent's care. In situations where a child is spending time with both parents, usually in different locations, there is an adjustment and transitional period in which he or she is attempting to work through the significant changes to their life; as are the parents themselves. Each separation and the reasons behind it are unique, but the challenges remain similar.

The way each parent deals with this change, the enormous challenges that it presents, and the impact on the child, will go a long way to determining how well that child adjusts and copes with 'life', and negotiates obstacles.

Children are intuitive and work things out quickly, and soon realise where or if they feel safe and secure - this may be in both 'homes', one home or no home. It may vary from time-to-time, and, it's important to understand that each parent has pivotal role and responsibility in helping their child to accept and deal with change, and sponsor this through love, care, honesty and appreciation of their uniqueness.

At Leach Legal, we work with you to negotiate children's arrangements that put your children's best interests first. We think of issues you won't think of – like pupil free days and special events. Experiencing divorce and separation is challenging for all parties involved, but we strive to reduce your stress and produce the best result possible.

