

Family Dispute Resolution (Mediation) Service

What Documents You Need to Bring for First Property Mediation

As part of the Full Disclosure requirement, it is vital that you bring all documentary evidence of assets and liabilities to the *first session*. These will be recorded, tabled and sighted by all. We will be unable to prepare a written Agreement until all documentary evidence has been sighted and recorded. The sort of information that we ask you to bring is set out below:

Assets:

Real Estate – Address, Certificate of Title Volume and Folio numbers, any financial interests held by any other party (Bank/financial institution or other person) as well as the value of the property. These can be found on:

- Bank documents with Current mortgage value (if there is a mortgage) or with the Lands Titles Office.
- Rates notice.
- Current market value from either appraisals (which are free) from real estate agents or pay for a valuation from a licenced valuer.
- If sold or under contract - a Settlement Statement.
- If one interest transferred to the other – documentary evidence of that transfer.

The information/documents required for mediation are:

- **Volume and Folio numbers from the Certificate of Title**
- **Appraisals or valuation reports if no agreement as to value**
- **Settlement statement if property sold**
- **Evidence of transfer if property transferred**

Motor vehicles (+ boats, bikes, caravans, trailers etc.) – The year of manufacture, make, model, registration number, registered owner and the value. Estimates of the value of similar models can be found on the website www.redbook.com.au. The printed document will be required as proof of value. The documents required for mediation are:

- **Registration papers – car and owner details**
- **Redbook printout if relevant**

Household Furniture/Contents/tools/equipment – Considered joint assets to be divided equitably between you, either through a verbal agreement in a mutual way or these can be itemised and second hand values used to discuss the division during the session.

- **Lists of items each of you have, or wish to retain, or mutual agreement value, or share retained by each party**

Bank Accounts – The financial institution, account number, name on account and balance. Joint accounts require current value, if closed, the amount and date at closure and proof where/how money was distributed. Individual accounts are valued at the date of separation. The documents required for mediation are:

- **Current bank statements for joint accounts**

- **Statements as at the date of separation for individual accounts**

Businesses – Any interest in any business in either name. We record the name of that business and the ABN and the value of all equipment (second hand) or stock (current) as well as the income it generates (proof provided from an accountant or ATO). The documents required for mediation are:

- **ATO statements including ABN**
- **Documentary evidence of value of business and any plant, stock and equipment**
- **Official evidence from accountant or ATO of income generated**

Shares/Investments – The name or type of investment, account/ID numbers, name on title and current value. The documents required for mediation are:

- **Most recent statement and current sale value**

Life Insurance Policies – separate from Superannuation with a redeemable value.

This is considered an asset if it has a redeemable value and can be liquidated.

- **Surrender Value on statement showing company and Policy Number**

Jewellery/Art/Other Valuable Items – Any items of significant value that were purchased during the relationship.

- **Valuation reports**

Any other asset disposed of – The value of assets from the relationship disposed of by either party, or joint monies withdrawn post-separation. The documents required for mediation are:

- **Receipts for sale of items**
- **Bank statements for cash withdrawals**

Inheritances or gifts – The value of any inheritance or gift received by either party prior to separation with the value, who received them, when received and what has happened to them:

- **Documentary confirmation**

Superannuation – The name of your super fund/s, Member No/s and the current balances. If a short relationship, seek legal advice about super and determine what is to be considered. Bring supporting documentation stating balances from the start and end of the relationship and the current balance. Any superannuation intending to be split or flagged requires the completion of a Form 6 Superannuation Kit (see separate handout). The documents required for mediation are:

- **Current Super statement/s**
- **If a short relationship, statements for the beginning and end periods of relationship and current**

Pensions – Defence or Government – The name of your pension fund/s, Member Number/s and the current and ongoing value of the pension. If the relationship was very short, the accrued amount only can be considered after legal advice. The documents required for mediation are:

- **Documentary evidence of the pension and the value**
- **If a short relationship, statements for the beginning and end periods of relationship and current**

Liabilities:

Mortgages –The name of the financial institution, names on the mortgage, account number and current amount owing. The document required for mediation is:

- **Current bank statement**

Loans, credit card debts and any other debts –The financial institution/ company, name on account, account number and current amount owing and/or amount owed at separation. The documents required for mediation are:

- **Credit card statements – current and/or at the date of separation**
- **Any other statements confirming debts**

Hire Purchase or lease

- **Current statement of lease and the share owing**

Private debts i.e. to family members etc. –Amounts owing to family members, supported by documentary evidence that it was intended as a loan and proof that an attempt to repay it was made.

- **Statutory Declaration by lender**
- **Bank statement identifying payments made for loan**

Potential liabilities for Capital Gains Tax or ATO debts –Official documentary evidence of debts, TFN and other relevant identifying details.

- **Documentary evidence of potential debt**

HECS Help debts –Official documentary evidence of debts, name, date debt accrued and value at separation

- **Documentary evidence of debt and identifying number and name**

Financial Resources:

Interest in any Trust, or expectation of receiving money from a personal injury claim, court case or from a deceased estate.

- **Documented proof of whom and what will be received and for what purpose**

CHECK LIST FOR FIRST PROPERTY MEDIATION SESSION

As the first session of a property mediation is about compiling a list of the assets and liabilities from the relationship and agreeing on values please make sure you check you have all the correct documents ready for on the day of your appointment and bring them all.

Assets	Value	Check
Real Estate – Volume & folio numbers If sold	Current Settlement statement	
Motor Vehicles – year, make model, Rego number	Current Value	
Household Contents	2 nd hand value	
Shed/equipment	2 nd hand value	
Funds in banks – name & a/c number	Current if joint a/c DOS if individual a/c	
Business/es – name & ABN	Current & if ongoing total value	
Stock or Equipment	2 nd hand value	
Shares or investments – ID number, amount & Sale price	Current Value	
Redeemable Life insurance policies – organisation & number	Current	
Inheritances/gifts/significant contributions	Proof of with dates	
Any other assets – eg boats, bikes, caravans etc	Current/2 nd hand value.	
Assets disposed of since separation	sale notice	
Superannuation Fund – Name & ID number	Current	
Pensions – name & ID number	Current	
Financial resources – expectation of money	Value	

Liabilities	Value	Check
Mortgages – bank, a/c number	Current	
Credit cards – joint & Individual, a/c number, balance	DOS & amount paid by whom	
Store cards – Joint/Individual – a/c number, balance	DOS & amount paid by whom	
Loans – Organisation/bank & a/c number; balance	Current or as agreed	
Hire Purchase/Lease	Current	
Joint Debts from prior to separation paid by one person	DOS & amount paid since	
Private debts – to whom, amount and date	Statutory declaration	
Capital Gains Tax – ATO number	Current	
ATO debts – Tax file number	DOS	
HECS/HELP – ID number	DOS	
Any other liabilities		

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Factors Relevant in Property Settlement

The Family Law Act 1975 (Cth) (FLA) requires that any property settlement be fair and equitable depending on various factors. It is always important to obtain legal advice about your property settlement prior to mediation to enable you to negotiate from an informed position. Furthermore, it is also a requirement that parties maintain an ongoing duty of “Full and Frank Disclosure” during the process.

In Property mediation, we will follow the same principle of the 4-step process in line with the FLA. This process allows us to:

- 1) Gather basic facts about the relationship and current employment and incomes and identify the Asset and Liability pool
- 2) Consider the Financial and Non-Financial contributions to the relationship
 - Financial contributions are any monetary contributions made by the parties to the marriage or relationship and include contributions made before the marriage, during the marriage/relationship or after separation.
 - Non-Financial contributions are contributions made which have contributed to the accumulation of the asset pool i.e. care and management of the family, children and home.
- 3) Consider the future needs of each party
 - Respective incomes
 - Future earning capacity
 - Care arrangements for children
 - Future employment opportunities
 - Age and State of health of each party
- 4) Outcome to be fair and equitable
 - The outcome to be fair and equitable and suitably reflect the relevant circumstances of the parties

It is very important to understand that your practitioners will not be able to give you legal advice about your specific circumstances and must facilitate discussions that are considered fair and equitable under the FLA. However, if any of the factors listed above are relevant (or any other issue your lawyer considers relevant) then those may be discussed and included in negotiations on how to share your assets and liabilities. Please bring written proof of any special considerations already discussed with your lawyer.

Information about Superannuation/Family Law

1. On 28.12.02 changes to Family Law Act 1975 (Cth) regarding superannuation came into force.
2. Superannuation is considered a joint asset of the relationship and must be included in the asset pool.
3. If you wish to, and you both agree, you may “split” or “flag” your superannuation interests.
 - 3.1 **A Splitting Agreement**

This allows both parties to split a current superannuation entitlement or interest in proportions, if it is over \$5,000.00 in value. There is also a provision for pension splitting.
 - 3.2 **A Flagging Agreement**

This prevents the Trustee of the superannuation fund from dealing with the superannuation interest until the payment flag has been lifted.
4. It is strongly recommended that parties:
 - 4.1 Seek financial advice on the value of superannuation, taking tax into account, and
 - 4.2 Seek legal advice in relation to their proposed ‘splitting’ or ‘flagging’ order.
5. Parties who intend to split or flag their superannuation and make their property settlement legally binding, must complete a Form 6- Superannuation Kit, which is available from a lawyer, the Family Court and/or the Family Court website at www.fccoa.gov.au.
 - 5.1 This is then sent to the relevant superannuation fund and is valued by the fund for Family law purposes.
 - 5.2 Most superannuation funds will charge a fee for this service.
6. It is important to be aware that procedural fairness will need to be accorded to the superannuation fund’s trustees. This means that the trust is to be provided with **at least 28 days’ notice** of an intention to seek splitting orders. Therefore at least a 28 day period may elapse before you have the information necessary to finalise your mediation agreement.