

IN THIS ISSUE

New Infosheets

How do I get my child back?

Divorce or property
settlement - what comes
first?

Child support agreements
tips

Online safety

Initial consultation

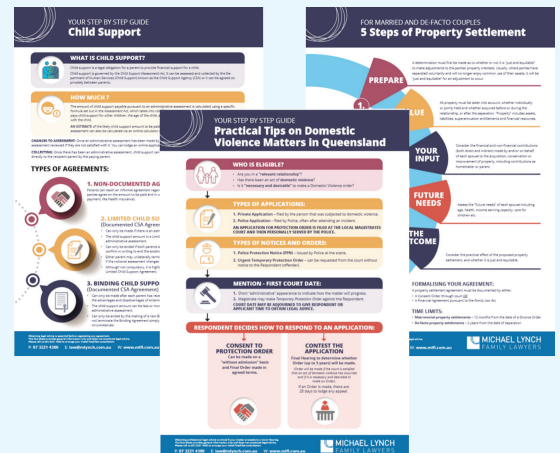
OCTOBER 2018

Three New Infosheets: "FAMILY LAW PRACTICAL TIPS"

We are pleased to announce the release of our 3 latest Infosheets. These infosheets are on Domestic Violence, Child Support and Property Settlement. The infosheets simplify family law jargon and make it easy for you to remember and refer to.

The infosheets are available on our website under Publications.

If you'd like a printed copy contact us on **(07) 3221 4300**.



HOW DO I GET MY CHILD BACK?

What happens when one parent refuses to return the child to the other parent's home? Can the Court take action?

Yes! – With a Recovery Order.

Here is a recent example of a case where a mother filed an urgent interim application seeking a recovery order for the return of the child, from the father's home.

The Facts:

- The mother and father had two children, boys aged 14 and 8. The 14-year-old child had behavioural problems and moved in with the father a year before the hearing.
- The mother arranged for the 8-year-old son to spend a few days with the father and his brother over Easter. When the mother went to collect the younger child from the father's home, the father said the child didn't want to leave.
- The mother called the child a few days later and the child said that the father wouldn't let him come home to the mother. The mother was worried that the child wasn't safe in the father's house due to the aggressive behaviour of the eldest child.
- The father argued that the child was afraid of the mother because she had threatened the child with a knife.
- The mother sought a recovery order for the return of the child to continue living with her and for the child to spend alternate weekends and half of the holidays with the father.
- The father argued that both children should live with him.

Interim Court Order:

- The father return the youngest child to the mother and an Independent Children's Lawyer be appointed.

DIVORCE OR PROPERTY SETTLEMENT – WHAT COMES FIRST?

This is a common question.

A divorce is an application to the court that dissolves the marriage. You need to have been separated for 12 months to apply for this. A divorce application does not address any other issues, e.g., property settlement or children's arrangements.

In contrast, there is no time requirement (after separation) in property or parenting matters. You can commence negotiations or document a settlement agreement (or go to court, if that is required) at any time after separation. Therefore, property settlement and parenting arrangements usually occur prior to a divorce application.

The answer then, is that – in the normal course a property settlement will be addressed first and a divorce application later.





QUICK TIPS ON CHILD SUPPORT AGREEMENTS

If you have separated and have children and the suggestion of a Child Support Agreement has come up, it is important that you think carefully about what to do. Here are some quick tips.

What is a child support agreement?

A child support agreement is a written agreement between parents on the amount of child support to be paid and how it will be paid. An agreement must be in writing and signed by all parties.

There are two types of agreements: limited and binding.

- **Limited child support agreements** can only be accepted if there is an agency assessment (CSA) in place and the annual rate payable under the agreement is equal to, or more than, the annual rate of child support payable under the Agency assessment. You are not required to get legal advice before entering into a limited agreement, however you can choose to do so. A limited agreement can only be made for a maximum of (3) years.
- **Binding child support agreements** can be made and accepted even if an agency assessment (CSA) has not been made. The agreement can be made for any amount that the parties agree to. Each party must obtain independent legal advice and attach a certificate that is signed by each party and their solicitor.

What can be in a child support agreement?

The parties can agree to the amount to be paid and how it will be paid, including agreements for;

- Periodic payments
- Non-periodic payments (e.g. non-cash)
- Lump sum payments, and
- Modifying the child support formula

Acceptance of the agreement

Once completed, a Child Support Agreement needs to be accepted by the Agency.

If you are considering signing an agreement, it is important that you understand what you are signing. If you are unsure about anything in the agreement, you should get independent legal advice. Call us today on **(07) 3221 4300**.



eSAFETY – HELPFUL INFORMATION

The eSafety Commissioner is responsible for promoting online safety for all Australians. The website for the eSafety Commissioner is **www.esafety.gov.au** and it provides a wealth of free resources, videos and online safety programs that can assist a whole range of people.

The resources on the website can assist young people, teachers, women, seniors and community groups. The Office deals with online safety and provides services, such as:

1. A complaints service for young Australians who experience cyber bullying;
2. Identifying and removing illegal online content; and
3. Tackling image-based abuse.

The Office of the eSafety Commissioner is a really great resource for online safety and is definitely worth looking at.



FIXED COST INITIAL APPOINTMENT GIVES CERTAINTY

With anything urgent or serious in life, you speak to an expert – Family Law is no different.

Having assisted over 8,000 clients through separation, over almost 25 years, one thing is clear to us – getting Family Law advice **early** will minimise your stress and costs.

Separation is stressful, so any certainty you can get is a good thing. We have a **fixed cost** initial appointment of \$385 (including GST). Our initial appointments are 1 hour – if extra time is required, that is provided without any additional cost – the cost remains fixed.

If you are separating and wish to discuss your personal circumstances with a Family Law expert, please contact us on **(07) 3221 4300** or **law@mlf.com.au** for a fixed cost initial appointment.