

## *Property & Financial Matters Family Dispute Resolution*

### Information Sheet 4 - Dividing The Property

Once all the required information has been gathered, it will be necessary for parents to decide how their property will be divided in a “just and equitable” manner. Legal advice in relation to the division of property is generally provided in terms of percentages. For example, a legal practitioner may suggest that the property could be divided in the range of 55 to 70% for one parent and 45 to 30% for the other parent. Once such advice is obtained, it is necessary to consider which parts of the property assets (and liabilities) will be transferred to each parent.

Some considerations are:

- **Borrowing Capacity:** If one parent is wishing to buy out the other parent’s interest in a home or property, that parent will need to ascertain the limit to which they can borrow and their capacity to make repayments.
- **Sale of Property:** If it will be necessary to sell a property as part of the settlement, what preparations need to be undertaken for that sale and what will be the timeframe for the sale?
- **Taxation Liabilities:** In dividing the property, for example by sale of an investment property or shares, will there be any taxes payable, and how will these be covered in the agreements reached?
- **Household & Personal Belongings:** What is planned for the division of these items, some of which may be of significant sentimental value, and in circumstances where two separate households need to be established?
- **Priorities and Trade-offs:** Has there been any consideration of the sequence of events and needs, in particular, if conflicts exist between the parents? What possible trade-offs or items for negotiation are there?
- **Child Support:** Are the legal and other requirements of child support understood, and have appropriate arrangements been agreed?
- **Other Future Expenses:** Are there additional or extraordinary expenses relating to the children which need to be funded, e.g., dental expenses, schooling or tertiary education expenses. Is it necessary for agreement to be reached for the funding of these expenses?

The information contained in this handout is general information only. It is supplied on the understanding that the Family Relationship Centre is not providing legal advice on a particular matter, or at all. The handout contains information that is intended to assist those attending Property & Financial Matters Family Dispute Resolution.

Errors and omissions can occur in the preparation of material.

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**We strongly recommend the obtaining of specific independent legal advice.**