

## RELATIONSHIP/MATRIMONIAL PROPERTY

Upon separation from your spouse or defacto partner it is important that the relationship assets and debts are dealt with and divided.

The way in which the assets and debts are divided between the parties is dependent on individual and relationship factors, therefore it is important that you seek legal advice in how the law relates to your circumstances.

If you and your ex partner/spouse have decided on how your property is to be divided you can formalise the agreement into *Consent Orders* or a *Binding Financial Agreement*. It is important to seek legal advice to determine which avenue is appropriate for your circumstances.

If you and your ex partner/spouse cannot agree on how your property is to be divided, you may consider mediation or a conference. If agreement is reached then you can formalise the agreement by entering into *Consent Orders* or a *Binding Financial Agreement*. It is important to seek legal advice to determine which avenue is appropriate for your circumstances.

If you or your ex partner/spouse cannot agree on how your property is to be divided, an application may be made to the court. You will need legal advice about this option.

Partners who were married have one year after the date of divorce order taking effect and parties in a defacto relationship have two years after the date of separation to **apply** to the court for property and maintenance proceedings unless permission is given by the court or by consent of the parties to apply out of time provisions.



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[f](#) [t](#) [yfslogan](#)

WOODRIDGE

To Woodridge  
Train Station

Wembley Road

Logan Central  
Shopping  
Centre

SLACKS CREEK

Paradise Road

YFS Legal WE ARE HERE

Rowan Street

YFS  
#376

TO  
KINGSTON



**FOR MORE INFORMATION  
PLEASE CALL 3826 1500**

To make a Wednesday evening appointment contact us  
Monday - Friday between 8:30am and 5:00pm

### Disclaimer

- This is general information only.
- It is not intended to give individual legal advice.
- Each person should seek independent legal advice relating to their special circumstances.
- We do not accept responsibility for any loss or damage caused to anyone who relies on the information in this brochure.

YFS Legal is funded by the Australian Government and the Queensland Government  
and is certified by the National Association of Community Legal Centres.



BUILDING INDEPENDENCE & PARTICIPATION  
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This Centre is accredited by



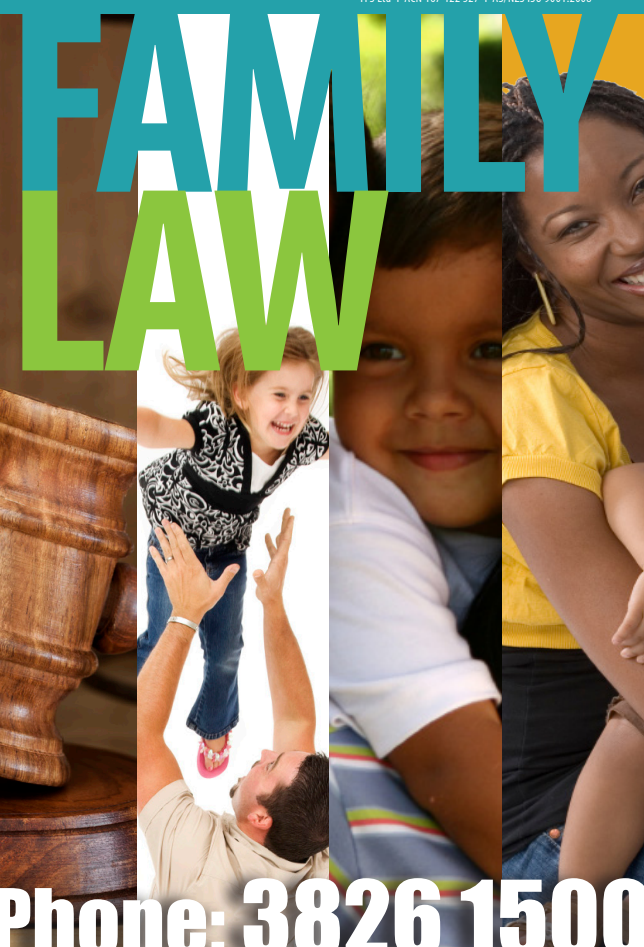
## CLIENT INFORMATION



WELCOME TO

**YFS LEGAL**  
COMMUNITY LEGAL CENTRE

YFS Ltd | ACN 167 122 527 | AS/NZS ISO 9001:2008



**Phone: 3826 1500**

**FOR FREE LEGAL ADVICE**

E: [legal@yfs.org.au](mailto:legal@yfs.org.au) | [f](#) [t](#) [yfslogan](#) | Feedback Line: 3826 1596

YFS Legal is a Community Legal Centre based at YFS  
2-4 Rowan Street, Slacks Creek.

YFS Legal runs a free legal advice clinic on Wednesday  
evenings to provide legal advice to anyone in the community.  
Bookings are required.

## PARENTING ISSUES

**Arrangements for children maybe initiated by:**

- ▶ Parents: biological, adoptive, step-parents.
- ▶ Family members: grandparents, aunts and uncles.
- ▶ People who are concerned with the child/ren's welfare and wellbeing.

**Parental Responsibilities for children include:**

- ▶ the care, welfare and development of child/ren until they are 18.

**Long-term parental responsibility**

- ▶ Education, religion, culture, health and names of children.

**Day-to-day parental responsibility**

- ▶ Bed-time, meals, clothes, hygiene etc.

## LIVING ARRANGEMENTS

- ▶ A child can live with one parent, all or most of the time.
- ▶ A child can live with both parents at different times.
- ▶ A child can "spend time with" the parent the child doesn't live with.

For example, a child who lives with one parent, spends time with the other parent through regular commitments such as weekends, school holidays, and special occasions, through phone calls, letters, emails and SMS texts, or through "supervised" visits.

All families are different. What works for your family may not work for another family. Each parent should seek their own independent legal advice about where a child is to live and whom the child spends time with.

## OPTIONS

- ▶ If parents can agree about the parenting arrangements for their children, the arrangements can be reflected in a parenting plan.
- ▶ If an agreement can not be achieved between the parents on their own, the parents might consider a mediation or conference. At a mediation or conference, the parties are able to discuss the arrangements. A mediator can assist the parties in reaching agreement.
- ▶ If the parties wish the agreement to be enforceable at law, the agreement will need to be reflected in a consent order, filed and approved by the Family Law Court.
- ▶ If parents can't agree and mediation fails or one party won't attend mediation or mediation is deemed inappropriate. You will need legal advice about this option. The mediator will issue you a certificate which will need to be filed with an application.

## DOMESTIC VIOLENCE

The success of family law dispute resolution processes depends on the abilities of the parties to freely and confidently participate in the process. Domestic violence can affect your ability to mediate, especially if you feel intimidated, pressured or afraid.

If you think you can not freely and confidently participate in the mediation process, you must inform your mediator because arrangements can be made to address this. For example: mediation can be undertaken in separate rooms or over the phone.

**Remember when you mediate:**  
(Whether or not DV has occurred)

- ▶ You have a right to be safe;
- ▶ You have a right to speak, to be respected, to be heard;
- ▶ You have a right to take a break and/or end the session;
- ▶ Any agreements reached should include safety measures for yourself and your children; and
- ▶ Take time to reflect on any agreements and consider their suitability and safety before you agree.  
This is a good time to get more legal advice.

**There are some things that you can do to help achieve safe outcomes for you and your children:**

- ▶ Tell the mediation service about the abuse you have experienced.
- ▶ Get legal advice before and after the mediation.
- ▶ Identify your wishes and know your bottom line.
- ▶ Talk to the mediator beforehand to be ready for the session.
- ▶ Find support.
- ▶ Find and prepare any documents.

**Where to get help:**

YFS 3826 1500

Legal Aid Queensland 1300 651 188

DV Specialist Services

(please note some of these may specialise in assisting women)

If an emergency call the police - 000

## DIVORCE

**Applying for divorce:**

You can apply for divorce in Australia if either you or your spouse;

- ▶ Resides in Australia and intends to remain in Australia indefinitely.
- ▶ Are an Australian citizen.
- ▶ Ordinarily live in Australia and have lived in Australia for the last twelve months.

The pre requisites for a party to make an application to the court for a divorce are that;

- ▶ the parties have been separated for at least 12 months and one day (so date of separation is important. Note: It is possible for parties to be separated whilst still living together. If this applies to you, seek legal advice); and;
- ▶ There is no reasonable likelihood of the parties resuming married life.
- ▶ If there are children under the age of 18 the Court will only make a divorce order if they are satisfied proper arrangements have been made for them.

**Divorce Application**

Further information relating to divorce and divorce kits can be accessed on line through the Family Law Courts website [www.familylawcourts.gov.au](http://www.familylawcourts.gov.au)

This application can be filed by either spouse anytime after the 12-month one day separation period is up. For more information contact YFS Legal on 3826 1500.