



Finalising the Deal

- It is important to finalise and document most arrangements post separation.
- In relation to parenting matters, this can be done by way of a Parenting Plan or Parenting Orders. Although, if parties are cooperative and coparent well, then they may not need Orders or Plans in place.
- In relation to property settlement, it is usually advisable in most cases to have a Property Settlement Order approved by the Court by consent, or alternatively enter into a Binding Financial Agreement by consent post separation.
- Typically, the parties will document their agreed financial arrangements by way of a Consent Order. This involves the filling out of an Application for approval of the Orders, together with a Minute of the Order setting out the terms of the agreed property settlement.
- The Consent Order and Application for those Orders are then lodged in Court and a Registrar of the Court will usually consider that Order and if they consider it to be just and equitable, they will stamp and approve the Order.
- Upon a sealed Order issuing, the parties will then be able to transfer assets and take advantage of Stamp Duty and Capital Gains Tax concessions, although legal advice should be sought from a specialist family lawyer in relation to these matters.
- The reasons for entering into a Consent Order post-separation are many, but include the following:
 - To provide certainty and finality in relation to financial relationships for property settlement between you and your former partner;
 - There are only limited grounds to set aside these Orders in future, and it is highly unlikely the Orders can be set aside, and that your deal is therefore a watertight deal.
 - It allows you both to move on with your life financially and to build up other assets, without the fear of those assets being identified and valued in some future property dispute with your spouse.
- It is always best to do property settlement deals sooner, rather than later after separation, because the Court always takes into account current property and its value at the current date, rather than just what existed at separation;
- It is necessary for both parties to have independent legal advice if your consent arrangement is via a Binding Financial Agreement. If your consent arrangement is via a Consent Order, then

both parties do not need independent legal advice, but it is strongly recommended that both parties do obtain independent legal advice before entering into such Orders.