



How Binding Financial Agreements can let you Decide the Terms of your Property Settlement Agreement

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A Binding Financial Agreement (BFA) allows couples to negotiate a property settlement agreement that suits their needs. Unless successfully challenged, it will prevent the Family Court from dealing with your future property or spousal maintenance claims.

Binding Financial Agreements can be made:

1. Before a marriage under a s 90B Agreement, also known as a “pre-nuptial agreement” or “prenup”;
2. During a marriage under a s 90C Agreement – this is typically exercised during the period between separation and divorce; or
3. After divorce under a s 90D Agreement.

A BFA can be drafted with your family law lawyer to formalise a property settlement agreement between you and your former spouse. It is an alternative means to going to Court which can be timely and expensive. The Court does, however, have the power to set aside a BFA in certain limited circumstances.

In order to be binding and enforceable on the parties, BFAs must adhere to certain requirements including:

- The Agreement must be in writing;
- There must not be previous financial agreements in force;
- The Agreement must contain a separation declaration if the parties are separated;
- The Agreement must be signed by each party; and
- Each party must be provided with a signed statement from their legal practitioner that they have been provided with advice on the advantages and disadvantages of the Agreement.

[For more information, visit our page on Property Settlement.](#)

For advice about your property settlement agreement contact us on **1800 300 170** or email us at famlaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.