



# family flyer



## Introduction

The Family Flyer is a free community service by Michael Lynch Family Lawyers. The publication is designed to be informative and topical and to assist you in understanding the ever-changing field of Family Law.

## This edition includes:

- 50th Edition!
- Seminars - Great Response!
- How to Protect Property
- New Obligations on Family Counsellors
- Do you have a Will and Power of Attorney?
- Tips for Step-Parents
- Measuring the Homemaker Contribution
- What is Domestic Violence and who can apply?

## 50TH EDITION!

This edition celebrates our 50th issue of the Family Flyer.

The Family Flyer is now received by over 5,000 readers every month.

Our sincere thanks to all readers for your continued support and feedback over the last 10 years in making the Family Flyer such a success!

## SEMINARS - GREAT RESPONSE!

Many thanks to everyone who attended the recent Family Law Seminar Series entitled "A Guide to Family Law - Everyday Answers". We appreciate all the positive feedback that was received.

The seminars were conducted at Windsor, Indooroopilly and Cleveland. We were overwhelmed by the incredible response to the seminars.

In light of the positive response we intend to run a further seminar series early next year. Should anyone have suggestions regarding particular topic areas or seminar locations, please let us know.

## HOW TO PROTECT PROPERTY

ABS figures show that nearly 60% of second relationships breakdown.

A Pre-nuptial Agreement or Binding Financial Agreement is probably the last thing a new couple would want to think about however, planning for yours and your children's future may save heartache and conflict later on.

Seek Specialist Family Law advice regarding Pre-nuptial Agreements.

## NEW OBLIGATIONS ON FAMILY COUNSELLORS

The recent amendments to the Family Law Act now place an obligation on Family Counsellors to provide information to clients about non-Court based, as well as Court based, services and processes.

The legislation states that there is an obligation on a Family Counsellor who deals with a married person considering proceeding with a Divorce Application, or a Property Settlement or Children's Application, to give the person standard Court documentation about reconciliation.

This obligation is waived if the Family Counsellor has reasonable grounds to believe the person has already been given the documents or they consider there is no reasonable possibility of a reconciliation between the parties to the marriage.

## DO YOU HAVE A WILL AND POWER OF ATTORNEY?

Marriage and Divorce signal not only the beginning and end of married life but generally the start and finish of the power of your Will.

Marriage is the only life event which the law recognises as completely cancelling a person's Will. Divorce, while not cancelling your Will in its entirety, cancels any provisions in it concerning your former spouse. This ensures that your former spouse will not benefit from your Will if you die after your Divorce, but before you make a new Will.

It is important for couples to consider having Powers of Attorney to overcome any problems that may arise if one spouse loses capacity.

You should update your Will and Power of Attorney immediately if you are involved in Divorce proceedings. For straightforward assistance in preparing a Will visit our Will Enquiry Form at

[www.michaellynchfamilylawyers.com.au](http://www.michaellynchfamilylawyers.com.au)



## TIPS FOR STEP-PARENTS

Here are some tips for step-parents for getting along with step-children:

- **Listen:** Take time to listen to your step-children and take their concerns seriously;
- **Be patient:** Give your relationship with your partner's children time to develop;
- **Reassure them:** Let the children know that you are not trying to take their parent away from them or replace their other parent;
- **Compliment them:** If things are tense and your relationship is very negative, try giving your step-child a compliment. This lets them know that there are things you do like about them and takes the focus away from the negatives;
- **Maintain boundaries:** Don't go overboard with your step-children by trying to be extra nice. Children still need firm boundaries.

## MEASURING THE HOMEMAKER CONTRIBUTION

The Family Court has always struggled with how best to measure the (non-financial) contributions of a "homemaker" in a marriage compared to the (financial) contributions of the "breadwinner". Here are (2) examples:

- A childless couple cohabited for a period of 5 years. At the time of the trial the husband had assets of \$8,700,000. He had much the same at commencement. All the assets which existed at the date of the hearing existed at the time of cohabitation. The wife had domestic assistance in the course of the marriage. The Court awarded, the wife \$400,000 by way of 'contribution' and \$300,000 for 'future needs', a total of 8%.

- The parties cohabited for 12 years. The husband had significant assets at the start of the marriage but were depleted by extravagant joint spending during the relationship. There were no children. At date of trial the property pool was \$2,000,000 (much less than the husband had at the commencement). The wife had little earning capacity. The wife was given \$500,000, 25% of the reduced property pool.

## WHAT IS DOMESTIC VIOLENCE AND WHO CAN APPLY?

In Queensland "domestic violence" is defined as:

- Wilful injury or damage;
- Intimidation or harassment;
- Indecent behaviour; or
- A threat to commit any of the acts mentioned.

The domestic violence needs to occur within a domestic relationship. A "domestic relationship" is defined as either:

- A spousal relationship (i.e for couples who have been married or have been living together);
- An intimate personal relationship (i.e for people who have been dating);
- Family relationship (i.e for people who are relatives by blood or marriage such as grandparent, aunt, uncle, cousin but not children under 18 years);
- Informal care relationship (this is not a paid care relationship).

Children (under 18 years) experiencing domestic violence in any of these situations can apply for a Domestic Violence Order. It is not possible for a child to apply for an Order against a parent nor for a parent to apply for one against a child.

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Approved  
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