



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:

- “Close-up Series”
- Saving Marriage for Last
- Parenting Contravention Applications
- Communicating Through Children
- Child Support – What are NAPs?
- Property Settlement – High Income Earner

‘CLOSE-UP’ SERIES

Want to know more about when and how to make a Divorce Application? Read this edition’s article on ‘Divorce Applications’. To read more just follow this link:

www.mlfl.com.au/media/articles.

SAVING MARRIAGE FOR LAST

Recent statistics show that Australian couples are marrying later or opting not to marry at all!

In 2007 the average age of couples marrying for the first time was close to 30 years for men and 28 years for women. Previously, in the 80’s the average age for women marrying was 24 years old and for men the average age was 26 years old.

Since 2000, three-quarters of couples who have married have already been living together. This is a significant increase compared to the 60’s when only 3% of couples had lived together before marriage. (ABS)

PARENTING CONTRAVENTION APPLICATIONS

The Rules under the *Family Law Act* for filing a contravention application in Court have changed. An applicant must now also file one of the following:

1. a certificate of mediation; or
2. an affidavit claiming an exemption from having to file a Certificate of Mediation.

COMMUNICATING THROUGH CHILDREN

Separation can be a difficult time for parents, especially when it comes to communicating with each other. The Court recently heard a case where the parents only communicated through their 15 year old daughter.

Facts:

- The Mother was 42 years old and the Father was 45 years old.
- They were married for 15 years and had 2 children, aged 15 and 9 years.
- There was no dispute between the parents that the children live with the Mother.
- The Father wanted to spend time with the children on alternate weekends and one week in each of the school holidays.
- The Mother only wanted the Father’s Orders to be made for the 9 year old child and not the 15 year old child. She claimed that the 15 year old told her she didn’t want any Orders to be made.
- Through a Family Report the 15 year old child said that her parents did not communicate with each other and since the separation any arrangements were made through her.
- Both children expressed views that they wanted to spend regular time with their Father.



Court Order:

- The children spend alternate weekends and one week in each of the school holidays with the Father.
- The Orders were only a “framework” for the 15 year old. Her arrangements would be determined by her wishes, to avoid her being in the middle of her parents’ negotiations.

CHILD SUPPORT – WHAT ARE NAPS?

‘Non-Agency Payments’ (NAPS) are ‘non-cash payments’ made by a paying parent that are credited by the Agency as an approved payment. E.g: the paying parent can make payments directly or indirectly to the receiving parent, such as a mortgage, rent or utility payment.

What are the benefits of NAPS? They give the parents the opportunity to direct how child support money is spent.

There are 2 types of NAPS:

- **Non-Agency Payments:** Where payments can be credited for other items or services, such as a transfer of property. Both parents must agree that the child support liability will be paid this way.
- **Prescribed Non-Agency Payments:** The paying parent does not need the other parent’s agreement for the payment to be credited towards child support. This type of payment is limited to payments made for the benefit of the children or the receiving parent.

PROPERTY SETTLEMENT - HIGH INCOME EARNER

Facts:

- The Husband was aged 45 and the Wife was aged 44. The couple were married for 15 years and there were 3 children of the marriage, aged 14, 12 and 7 years.
- At the beginning of the marriage the Husband worked as a tradesman and the Wife was working in the education industry.
- During the marriage, the Wife completed a Masters degree and her income progressively increased so that at the time of the hearing her income was \$130,000 per year, while the Husband’s income was \$62,400 per year.
- The total property was worth approx. \$1.3 million.
- The initial contributions and financial contributions were essentially equal.
- The Husband claimed that he cared for the children while the Wife was away on regular business trips. The Wife however, denied that she was regularly away.

Court Order

- The Husband and Wife had contributed equally to the improvement of the property and to the welfare of the family.
- When considering ‘future needs’, the Wife had a better future income but also had primary care of the children.
- The Wife receive 65% of the assets, the Husband receive 35%.

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