



- Can you Change the Locks on the House?
- Changing a Parenting Order – What's Needed?
- Who Pays for the ICL?

- Short Relationships and Property Settlement
- Quick Q & A on Child Support – Part 3

CAN YOU CHANGE THE LOCKS ON THE HOUSE?

If you are an owner or co-owner of a home, it may be very sensible for you to change the locks on the home if your partner has already moved out and you do not want them moving back in. If you are a tenant you should not change the locks without the agreement of the landlord.

Changing the locks can be a way of ensuring your own privacy and protection post-separation however it is not an ideal tactic for trying to get a spouse to move out.

It is important that you obtain independent legal advice from an experienced family law solicitor prior to changing the locks, as every circumstance is different and the most appropriate course will depend on a number of factors including, both parties' financial circumstances, personal safety and availability of alternate interim accommodation etc. To keep the process simple and straightforward, we have a fixed fee – 1 hour – initial consultation process for \$275 (including GST) so contact our office today.

CHANGING A PARENTING ORDER – WHAT'S NEEDED?

The Family Court case of *Rice v Asplund* is significant as it established a clear legal principle that a parent seeking to change an earlier parenting Order must first satisfy the Court that there has been a "significant change in circumstances". Since that decision, the Court has had to consider a vast array of differing circumstances in

determining what is a "significant change".

In a recent parenting case, the Father contended that 2 issues had arisen that established a "significant change".

The Facts:

- The Father filed a Court Application seeking to reopen the parenting Orders made 12 months earlier for the parties' 2 year old son. While the Orders provided somewhat limited time for the Father with the child, they were made by consent.
- That father claimed that two issues had arisen that established a "significant change", firstly increased animosity between himself and the Mother and secondly, the child was now older.

The Court Found:

- Whilst the child was one year older, neither the child's age nor the alleged animosity between the parties amounted to a "significant or material change" in either the child or the parents circumstances.

The Court Ordered:

- The Application filed by the Father was dismissed.

WHO PAYS FOR THE ICL?

An Independent Children's Lawyer (ICL) is a solicitor appointed by the Court to represent children involved in complex parenting matters.



After the Court makes an Order for an ICL, Legal Aid then appoints the solicitor, either from their in-house solicitors or a private practitioner. The costs of the ICL are borne initially by Legal Aid, however, in some circumstances the parents may later be ordered to cover the costs of the ICL.

In a recent Family Court case, the ICL made an application to the Court for the mother and father to pay the costs of the ICL. The parents opposed the application on the basis that they did not have the capacity to pay, as their child required on-going medical treatment which would affect their financial position for years to come.

The Court found that the ICL had made significant contributions to the negotiations during the Court process and as both parties were working in full-time jobs the Court ordered that the mother and father pay 50% of the ICL's costs each. The Court did reduce the total costs by 20% to acknowledge the on-going treatment required by the child.

SHORT RELATIONSHIPS AND PROPERTY SETTLEMENT

Just because you have lived together does not necessarily mean you are in a de facto relationship. To come within the de facto property settlement provisions of the *Family Law Act* there must be a "genuine domestic relationship" and then one of the threshold requirements must be met, i.e.:

- That the relationship has been in place for at least 2 years; or
- That there is a child of the relationship; or
- That a party has made a substantial contribution and a failure to make an order would result in a serious injustice.

For more information, see our article "[De Facto Property Settlements Under the Family Law Act](#)".

A recent case considered the question of what entitlement (if

any) should a party receive when the relationship was very short, i.e:

- The couple had been together for 11 months. There were 2 children however, the youngest child was the only child of the parties.
- Following separation the children lived with the de facto wife, however by final trial both children were living with the de facto husband and spending supervised time with the de facto wife.
- At the commencement of the relationship the de facto husband held significant assets including a house, shares and superannuation. The de facto wife's assets included a car and a small amount of superannuation.
- During the relationship the de facto wife made a contribution of \$500 per fortnight to general living expenses (which were met equally by the de facto husband) and \$400 per fortnight to the mortgage repayments on the property owned by the de facto husband.
- The Court found that they were in a de facto relationship and ordered that the de facto wife receive 5% of the asset pool.

QUICK Q & A ON CHILD SUPPORT _ PART 3

Q: What happens to a parent's child support if they lodge their tax return late?

A: When parent's financial circumstances change they are obligated to inform CSA as soon as possible. In the event you pay too little or receive too much child support the CSA will help you work out a repayment arrangement however they may not be able to back-date all changes. If a parent has not lodged a recent tax return, they can still advise the CSA of changes in their income.

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