

FAMILY Flyer



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NEW SEMINAR SERIES - STARTS NEXT WEEK! BOOK NOW!

Our latest seminar series covers the essentials of Family Law, including children's arrangements, property settlement and the latest family violence and domestic violence amendments.

For ONLY \$30, you will receive a **2 hour** information session, valued at over \$800! Accredited Family Law Specialist, Michael Lynch presents the seminar in an easy to understand way. You will also have an opportunity to ask questions. Attendees also receive a special offer!

"Family Law Explained"

- [Sunnybank](#): 6:00pm –8:00pm – Wednesday, 24 October, Sunnybank Community and Sports Club, 470 McCullough St, Sunnybank.
- [Redland Bay](#): 6:00pm – 8:00pm – Tuesday, 30 October, Redland Bay Golf Club, North Street, Redland Bay.

For more information or to register, call (07) 3221 4300 or email law@mlynch.com.au. **BOOK NOW!** Seating is limited!

Coming in November -

In November, we will be hosting another new seminar – "**Secret to Surviving Property Settlement**". For more details on our November seminar series, look out for the next edition of the flyer!

"CLOSE-UP" EDITION

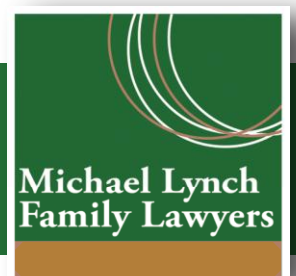
The recent media frenzy around the Family Law case involving the 4 Italian children has fuelled discussion about the Family Courts handling of relocations. In fact, the Family Court deals with relocation matters on a regular basis, and all are determined on the facts of the individual case. Read our close-up article "[Relocation of a 2 ½ Year Old to UK](#)" for an example of a recent relocation matter involving a 2 year old child.

LOANS FROM PARENTS – WHAT IS THE APPROACH?

We are often approached by parents whose children are going through separation and are concerned about how the money they gave their children (e.g. for a deposit on a house etc.) will be dealt with by the Court. Hindsight is a powerful thing and usually by the time such advice is sort it is too late to vary or tidy up the arrangements which have been in place for years. It is therefore important to think about these things before problems in relationships start to appear.

The common dispute after separation is whether money was "lent" to a spouse by another family member, or was, in fact, a "gift".

If it was a gift, then the gift is included in the property pool for division between the parties. The gift will be presumed to be a contribution by the party who received the gift from





their parents, which may result in that party being entitled to a greater share of the property pool. However, it will not be a "dollar-for-dollar" credit back to them upon separation. If the gift was given some time ago, it may be of less significant in the division of the asset pool now because of the passage of time.

In hindsight, many parents would have preferred to "lend" the money to their children rather than give it by gift.

If it is treated as a loan, the loan would be a liability of the relationship and owed back to the parents by the parties. This liability would be included as a debt in the calculation of the total asset pool available for division between the parties.

Before lending money to a child, parents should carefully consider how the loan should be documented to protect themselves and their children. It is generally advisable to enter into a loan agreement, with the child, that sets out the terms and conditions of the loan. It is also advisable to keep clear records of the original amount lent and any amounts repaid. It may seem annoying and even possibly awkward, but without a doubt such documentation will be well worth it if problems arise and will prevent a child's spouse from disputing the existence of the debt in the event of separation.

PARENTING ARRANGEMENTS AND ASPERGER'S

The needs of children with autism or Asperger's are undoubtedly complex. Add to that a separation and the challenge of working out the parenting arrangements for a child with an intellectual disability become even more troublesome. Each case is different and determined on its own facts.

The Court recently determined a parenting matter where it was ultimately decided that "block time" with each parent was preferable to "split blocks" necessitating multiple changeovers.

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The Facts:

- The 2 children were aged 16 and 12. The 12 year old was diagnosed with Asperger's disorder and a mild intellectual disability.
- Prior to the trial the parents had interim orders for the father to spend 5 nights each fortnight with the children in "split blocks" of 2 nights in week 1 and 3 nights in week 2.
- The mother sought orders that the children live with her and spend 2 nights per fortnight with the father, being each alternate weekend, claiming the existing interim arrangements were too disruptive.
- The father sought orders that the children "spend time" with him for 5 nights per fortnight, either in accordance with the interim orders or in a "block", if that was preferred.
- The family report writer recommended a single block arrangement of five nights in light of the positive relationship that the children had with both parents and the positive manner in which both parents had parented their children both pre and post separation.

The Court Found:

- Both parents exhibited a full understanding of the youngest child's needs and managed the child and his behaviours in a similar and cohesive way.
- Both parents had ensured that the youngest child had the appropriate supports and interventions, such that he had been able to remain in mainstream education and he had received positive feedback from his school as to the progress he was making.

Court Ordered:

- The children 'live with' the mother and 'spend time with' the father for 5 nights per fortnight in a "single block" from Wednesday to Monday.

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