



# When Separating

## How to use a family lawyer

Many people think that seeing a lawyer means that they will have to go to court. This is not the case. Even if you want to work out your parenting and property issues directly with the other person or through a process such as family dispute resolution, it is still a good idea to get legal advice.

### What can a family lawyer do for me?

A range of legal organisations, and private lawyers, can do one or more of the following for you:

- Provide one-off advice
- Speak to people or agencies on your behalf
- Advise on particular legal issues arising from negotiations
- Take on your case and manage it for you
- Assist with writing a letter to the other person
- Help you to complete legal documents
- Represent you in court or at some other dispute resolution process
- Advise on an agreement you are thinking of making with the other person
- Assist you with writing an agreement that you have made with the other person

Different organisations can provide different levels of service. Ask the lawyer what they can do for you. If you have a private lawyer, discuss with them how involved you would like them to be.

### Do I have to use a lawyer?

No. However, it is a good idea to get legal advice early on when making arrangements about children or property. It is also recommended to have legal advice before making an agreement with the other person and before signing any written agreement. Remember, seeing a lawyer does not mean that you have to continue using a lawyer throughout the whole process.

### Do I have to do what the lawyer says?

A lawyer will give you advice and usually provide you with a range of options. It is your choice what course of action you take. A lawyer can only do what you ask them to do. However, a lawyer will not do what you tell them if you are asking them to do something unethical such as mislead the court or illegal. If you are not willing to follow a lawyer's advice, they may wish to stop acting for you.

### Is what I say confidential?

Whatever you say to your lawyer is confidential and they will not pass information on to anyone without your permission. There are some exceptional circumstances where someone else (such as the police) may be given information you have disclosed to your lawyer – for example, if someone's life is at risk.

### How much will it cost?

There are many organisations that provide affordable legal services, including Legal Aid, Community Legal Centres, the Aboriginal Legal Service, Citizens Advice Bureau and other specialist service providers. Depending on your income, you may be able to get advice through these services for free, or for a small fee. This will be explained to you when you contact the service.

Private family lawyers generally charge by the hour. Most people recognise that lawyers charge them when they have a meeting, but many do not realise that the lawyer can also charge for calls, emails and whenever they do any work on your matter including reading material you send them to do with your situation or information sent to them by your former partner or their lawyer. Some family lawyers may charge a set rate for a certain task, such as preparing an application for consent orders. You always need to find out up front what the charges are.

Lawyers usually require payment before the work is performed, however, there are some lawyers who may be willing to defer payment until you come to a property settlement.

Private lawyers' fees can add up very quickly. Before choosing a lawyer, call around and ask a few about how and when they will bill you. Your lawyer should provide you with a detailed costs agreement outlining their charges. You should ask about this.

### How can I find a family lawyer?

Go to the "Making Plans & Agreements" section of the WhenSeparating website and click on the links to legal services provided. These are just a few of the services available.

To find a private lawyer, you could ask people you know for a recommendation, look online, look in the telephone directory or call The Law Society of Western Australia on (08) 9322 7877 for the names of some lawyers to call.

Need more? Go to: [www.whenseparating.legalaid.wa.gov.au](http://www.whenseparating.legalaid.wa.gov.au)