

## Property

if division of property is to be recorded in an agreement, there are strict legal requirements that must be followed if the agreement is to be binding. Each party must receive independent legal advice before signing the agreement. Whether property matters are resolved by agreement or court order, we can give you advice on property matters including:

- > Identifying relationship property which must be divided between you and your partner.
- > Identifying the separate property of either you or your partner.
- > Whether the property must be shared equally or not.
- > The method of division and payment.
- > Settling any property for the benefit of your children.
- > Making temporary arrangements before the final agreement, e.g. regarding who occupies the family home.
- > Making adjustments for such things as repayments of your mortgage and improvements to the family home.
- > Protecting your belongings from being disposed of or damaged by your partner.
- > Advice on what happens if you and your partner get back together after dividing your property.

Relationship property agreements can also be entered into before your marriage or during a happy marriage for purposes such as tax and estate planning advantages. We can advise you about this too.

## Protection orders

You and your children may need protection from your partner whether you are separated or still living in the same home. We will act on your behalf in these urgent situations. When warranted, the Family Court can make a range of orders to protect you and your children's welfare.

## Remember

Your lawyer will:

- > Attend to your affairs promptly
- > Treat your affairs as completely confidential
- > Give you independent advice
- > Use skill, experience and knowledge to protect your interests

## Direct lines

Tony Shaw 687 7397  
Charlotte Clifford 687 7384  
Kellie Walker 687 7387



[www.timpanywalton.co.nz](http://www.timpanywalton.co.nz)

P: +64 3 687 7126  
F: +64 3 688 8037  
A: 11 Strathallan St  
PO Box 240  
Timaru 7940

a member of  
LawXLink

# > Relationship Breakup



[www.timpanywalton.co.nz](http://www.timpanywalton.co.nz)

a member of  
LawXLink

## You should see us first

We will give you supportive and common sense advice about:

- > Reconciliation or conciliation between you and your partner
- > Separation and dissolution of marriage
- > Maintenance obligations
- > Social Welfare benefits and other financial support
- > Your children – custody, access and guardianship rights
- > Protection for you and your children
- > Legal Aid
- > Arranging accommodation
- > Relationship property

## Counselling

Where there has been a marriage break-up, the law puts great emphasis on counselling. We can refer you, or arrange for the Family Court to refer you, to counsellors who are trained to help you and your partner reach understanding about your future, whether together or apart.

## Agreement or court proceedings

We can give you advice, guidance and representation towards:

## Settling problems with your partner by agreement

Resolving problems by agreement is normally preferable to court proceedings. We can prepare a written agreement for you.

## Settling problems by court order

Court proceedings may be necessary when timely agreement cannot be reached or when your domestic problems are urgent, e.g. if you or your children need immediate protection. We will prepare the necessary applications to the court and safeguard your interests in court.

## Separation

A separation can occur in several ways. One of you might simply leave the other and live apart. You may both agree in writing or orally to separate. Alternatively, one partner may apply to the court and if the Court finds that your relationship is so unhappy that it is unreasonable to require you to go on living together, the Court may make a separation order. Your lawyer will advise you about the practical and legal implications a separation has on your status, rights and obligations regarding both your partner and your children.

## Dissolution of marriage

There is only one ground for dissolution of marriage: "Irreconcilable breakdown of marriage". A marriage can be dissolved only by court order and only if the Court is satisfied that you and your partner are living apart now and have been living apart for at least two years.

We will tell you whether you or your partner has legal grounds for obtaining a dissolution of marriage, prepare and file the necessary documents in the Family Court, arrange for the application to be served on your partner and attend the Family Court with you when your application is heard.

## Children – financial support

Under the Child Support Act 1991, the Inland Revenue Department will calculate how much the parent who does not have custody of the children is required to pay in child support. You may object to the assessment calculated by the Department. We will advise you of the grounds for an objection and whether an application should be made to the Court to revise the assessment or to vary the rate of support you pay.

## Children – custody & access

Since the Care of Children Act 2004 came into force the terms 'custody' and 'access' have been replaced with 'day to day care' and 'contact'. One parent may have the day to day care or both parents may "share" care under a shared care parenting order. If one parent has day to day care, the other parent will usually have contact with the children. If court proceedings are needed to settle day to day care and contact, we will discuss with you the considerations that the Family Court will take into account. We can help you during this period by trying to make interim arrangements for day to day care or contact before the final hearing and by fully explaining to you the role of any counsel that may be appointed to represent your children and of the various social agencies and specialists that may become involved in the proceedings.

## Guardianship

Whether you have custody of the children or not, you will normally have certain guardianship rights. "Guardianship" means that you each have a say in important decisions in your children's upbringing such as their names, schooling, religion and where they live. We will tell you all about your guardianship rights.