

# Financial Disclosure: Why this Needs to Happen



Article by Townsville Family Lawyer, [Courtney Aitken](#)

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## What is Financial Disclosure?

All parties in a financial property settlement have a duty to disclose all information relevant to their case. The rules and consequences for failing to comply with them, are set out in the article '[Disclosure: Your Obligations](#)' in the [Family Law Client Library](#) on our website.

This article explains *why* parties have a duty to disclose relevant information, and how it can benefit both parties.

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## A 'Just and Equitable' Property Settlement

To work out a property settlement that is 'just and equitable' (i.e. fair), it is necessary to know the parties':

- Income – including income from any employment, businesses, trust funds, Government benefits, pensions and/or child support payments;
  - Expenses – including living expenses such as mortgage/rent, groceries, electricity, fuel, and other costs, as well as loan repayments and/or child support payments;
  - Assets – including real estate, cars, shares, superannuation, and other assets;
  - Liabilities – such as mortgages, car loans, credit cards, or personal loans; and
  - Financial resources – for example, an anticipated inheritance (dependent on the circumstances), or future pension entitlement.
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## Why Does Financial Disclosure Need to Occur?

Financial disclosure needs to happen as:

- a) Without knowing this information, one party may agree to an outcome, which results in them receiving less than their entitlement;
- b) Sometimes parties are mistaken as to how assets are owned, which could result in a joint asset remaining in joint names. This could affect the parties down the track. For example, if there is a joint loan that remains in joint names and one party then fails to make payments, the bank will pursue both parties;
- c) Sometimes parties are mistaken as to what assets or liabilities exist, or their values until they read the statements 'in black and white;'

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- d) Court orders and consent orders can only be set aside in limited circumstances. One such circumstance is if there is a 'miscarriage of justice by suppression of evidence'. This includes a failure to disclose relevant information. So, if full financial disclosure is not provided, there is a risk of orders being set aside later. This could happen years down the track and by that time, the parties would have moved on with their lives, including in a financial sense, and may then have to restart the property settlement process again.

For these reasons and many more, it is beneficial to both parties to ensure they provide the other with full financial disclosure in order to resolve their property settlement.

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