

What are the Economic Impacts of Family Violence?

Across Australia, domestic violence is increasingly being acknowledged as a major societal issue. As a result, the Federal Government is calling for the instances of family violence to be given greater consideration in **property settlements** between separating couples, with the aim of better acknowledging the ongoing impact of abuse.

The current law surrounding family violence and property settlement.

Currently the financial consequences of family violence are not specifically legislated for in the Family Law Act 1975 (Cth). The Act does not identify how the financial impact of family violence can be considered in property settlements. However, they may be taken into account under the legislative provisions that allow for the examination of the parties' contributions under section 79(4) of the Family Law Act, as well as the additional factors for consideration under section 75(2) of the Act.

The current legislation provides the Court an opportunity to consider the effects of family violence in ensuring that a property settlement is just an equitable between parties.

The relevant principle which was originally considered by the court was adopted in the case of Kennon & Kennon (1997). The case provides that family violence is relevant to a property settlement where:

1. There was a course of conduct by one party towards the other during the relationship which, had an adverse/discernible impact upon that parties' contributions, making their contributions significantly more arduous as a result of a partner's violent conduct,
2. that party may be entitled to a greater share of the property pool.
   However, the case law surrounding family violence has proved inconsistent in understanding how the presence of family violence impacts a property settlement.

In my experience, it is currently rare for the financial consequences of family violence to be taken into account in **property settlements**.

A Call for Reform – What are the Economic Impacts of Family Violence?

The Federal Government is now seeking instances of family violence to be given greater consideration in property settlements, allowing for the recognition of the ongoing financial impact of abuse. This ability of the courts should be given expressly within the Family Law Act.

The proposed changes are intended to:

- Allow for the victims of family violence to feel that they are protected by the legislative framework when initiating a property settlement
- To add the duty of disclosure to the Act, as it is currently not in the Act and only in the Rules. Specifically, about what information needs to be shared by parties to property disputes, and the consequences for not complying
- Impose a clear duty on all parties to a dispute under the Family Law Act

What does this mean?

In summary, the proposed changes will provide greater consistency in what the legal approach should be. The changes will acknowledge what the financial impacts of family violence are, and how a property settlement between a couple should be adjusted to reflect this hardship, providing economic equality.
Finally, it sends a message to the survivors of family and domestic violence that the legal community wants to see fairer outcomes. A property settlement can bring huge material relief to someone in financial hardship; it can be a crucial part of preventing entrenched poverty following family violence.

How can Andersons Solicitors help?

At Andersons Solicitors we understand that that Family violence does not necessarily end when a relationship ends.

Andersons has an experienced **Family Law Team** which can assist with any family law-related matters, ranging from **divorce** and **property settlements** to **parenting matters**, custody agreements and the like.

Should you require any assistance, please reach out to today's writer **Ryan Thomas** or contact our offices on 8238 6666 to make an appointment and discuss your legal needs.