

The Five Step Process summary sheet



When it comes to property settlement the primary process used was commonly known as the 'Four Step Process', however, due to recent changes it is now known as the 'Five Step Process'.

Here is my definition of The Five Step Process and what's considered:

1. Whether it's appropriate (aka 'just and equitable') to change who has what.
2. The current asset pool.
3. What you each contributed.
4. Your current and future needs.
5. Who gets what: a 'just and equitable' split.

Personally, I like to refer to it in five words: past, present and future monies (or in keeping with my 6S approach (six words); **your past, present and future monies!**).

1. Step One: Whether it's appropriate to change who currently has what

Determining whether there's a need to change or adjust the current ownership of assets held by each party, is the purpose of this step, as well as whether there has indeed been a separation in the first place.

2. Step Two: The current asset pool

The aim here is to agree on the asset pool; both assets and liabilities are considered. Property is the term used for all assets not just bricks and mortar.

3. Step Three: What you each contributed

This step is concerned with who brought what into the relationship when you first got together; did you both have nothing, was it a 50/50 match, did one have or contribute more than the other; this can refer to assets like finances, vehicles, property. You'll need to consider assets and equity, liabilities and debt.

An important point to note is that contributions are not based purely on financial aspects, but also incorporates time, parenting and household duties. The three specifics here are:

- financial
- non-financial
- household and parenting.

4. Step Four: Your current and future needs

These relate to Step Four in the Five Step Process namely; future needs, resources and potential adjustments. After looking at past contributions, attention is now given to future needs of both parties, resources and subsequently any potential adjustments. Some of these are:

- age and health
- income, property, financial resources and capacity to work
- care of child(ren)
- supporting themselves (you)
- supporting another
- pension and/or superannuation entitlements
- standard of living that is reasonable in the circumstances
- earning capacity (by attending a course of education or training or establishing a business or otherwise to obtain an adequate income)
- duration of the marriage and how that has affected earning capacity
- the need to protect a party who wishes to continue the role as a parent
- financial circumstances of cohabiting with another person
- child support payable
- any other circumstances the court considers relevant
- terms of any Binding Financial Agreement (BFA).

5. Step Five: Who gets what: a just and equitable split

Step five is about reviewing the whole picture to make sure the division is just and equitable, making sure there is a balance in the distribution of assets. Let's call it a 'birds eye view' to see the whole picture of who's to have what now, and what's been considered in provisions for the future, then based on that to make sure an appropriate settlement is received.