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# Relationship Property Division: Insights From Those Who've 'Been There, Done That'

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## Research Highlight

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This Research Highlight is based on findings from research about relationship property division in New Zealand,<sup>1</sup> led by researchers from the Faculty of Law, University of Otago, and generously funded by the Michael and Suzanne Borrin Foundation. This research was undertaken in two phases:

- Phase One involved a nationwide telephone survey ascertaining public attitudes and values about post-separation relationship property division. During 2018, 1,361 telephone interviews were undertaken with a representative sample of 1,011 people, with additional interviews with 150 Māori, 100 Pasifika and 100 Asian respondents.
- Phase Two examined how separated couples divided their property and resolved any disputes. During 2020, an anonymous nationwide online survey was completed by 378 people and 110 of these respondents also participated in a telephone interview about their experiences and perspectives. The majority of the 378 survey respondents were women (82%), were born in New Zealand (79%), and had a tertiary qualification (71%). Most identified as New Zealand European (89%) and/or Māori (7%).

For full details of the study methods, participants and findings, please refer to our research reports and summaries, referenced at the end of this Research Highlight.



## Introduction

When a couple separates, they need to make decisions about how to divide their property during what can often be a challenging and emotional time. Professionals (such as lawyers, valuers and real estate agents) are able to assist with this, but many people also turn to those who have, themselves, been through the process of relationship property division for information, advice and support.

*I think it would really help to talk to someone who's recently gone through it.*

This Research Highlight provides insights directly from separated people who have experienced first-hand what it is like to divide their property with their former partner. Our research found that some of these people navigated the property division process in a relatively straightforward and amicable manner. However, for many, the process was challenging and upsetting.

<sup>1</sup> The research informed a review of the Property (Relationships) Act 1976; see Te Aka Matua o te Ture | Law Commission *Review of the Property (Relationships) Act 1976 – Te Arotake i te Property (Relationships) Act 1976* (NZLC Report | Pūrongo 143, 2019).

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Around 80% of the participants experienced emotional distress, anxiety and stress while dividing their property. Nearly three-quarters found it difficult dealing with their former partner and/or their behaviour or attitude. Nearly half found the financial cost and the time it took to finalise their property division challenging, and just over a third found dealing with lawyers difficult. The impact of the property division process on people's lives could be wide-reaching, affecting their mental and physical health, financial wellbeing, employment and ability to earn an income, and their relationships with others. However, many did report recovering from the experience over time and had moved on with their lives positively (see Research Highlight 4 about the challenges and impact of relationship property division).

Since relationship property division can be a challenging process, this Research Highlight provides invaluable information for people going through it from those with personal experience – because they have 'been there, done that'. Their insights and tips address what they found helpful when navigating the process; what, in hindsight they would have done differently; and what advice they would give others when dividing their property.

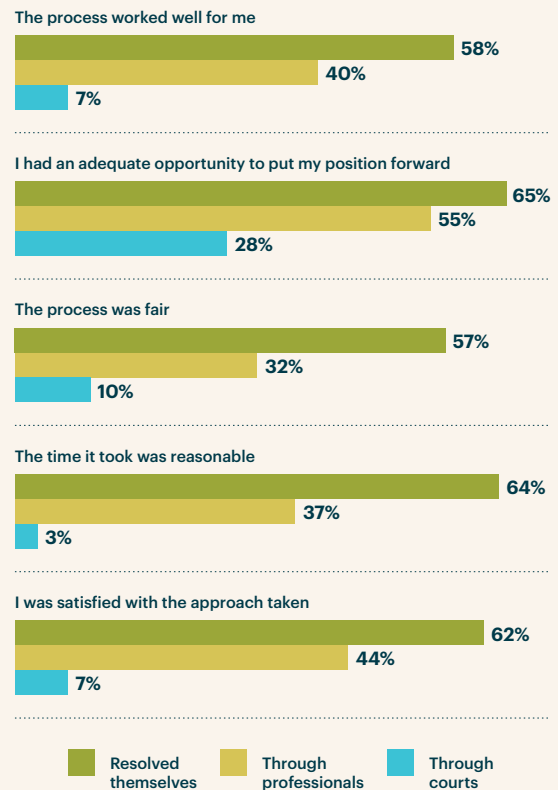
### How People Resolved Their Property Division With Their Former Partner

Separated couples can resolve their property division in several ways. Most sort it out between themselves or use professionals to assist with their negotiations. If agreement cannot be reached, they may apply to the Family Court to have their property division determined by a judge.

In our research, most participants ultimately resolved their property division with their former partner themselves (47%), or through the use of professionals (such as lawyers, mediators, or arbitrators) in the negotiation process (45%). A small number (just under 8%) used the Family Court, or the High Court on appeal to determine their property division.

Those who reached agreement with their former partner mostly by themselves, perhaps with some legal advice, were generally more positive about the dispute resolution process, than those who had resolved the matter through professionals or the courts. Those who used the courts were the least positive (see Figure 1).

**Figure 1: Agreement with each statement**



Participants took a variety of steps to divide their property, including the use of professionals such as lawyers, mediators, valuers, and accountants. They also took informal steps such as having discussions with others, and seeking out resources, information and support from community organisations, the Internet and social media.

The steps that participants found the *most* helpful included:

- The use of lawyers – for legal advice or negotiations.
- Communicating with their former partner.
- Talking with family/whānau members.
- Getting advice/services from an accountant.
- Talking with friends or acquaintances.

Other professionals, such as valuers, real estate agents, financial professionals (e.g., mortgage brokers, bankers), and social service agencies and professionals, were also reported as being helpful.



## Use of Lawyers

While participants took a range of steps to divide their property, the most common step was to obtain legal advice – nearly three quarters sought advice from a lawyer. Lawyers were also the first professional that the majority sought help, advice or information from. Being represented by a lawyer when negotiating with a former partner was also a common step taken by participants. Overall, the two steps that participants found the most helpful in dividing their property were obtaining legal advice and negotiating with their former partner through lawyers.

Lawyers were the most frequently mentioned professional that participants found particularly helpful. They explained the law and people's property entitlements, provided legal advice, negotiated agreements, and represented and advocated for their clients. Lawyers could be a calming, objective and pragmatic influence, countering any high emotion.

*Probably the most helpful thing, honestly, was the lawyer. ... It's quite hard when you're breaking up with someone and you're really emotionally invested in it and to have someone like him, who really was not, and did this every day for a living, you know? He was absolutely unflappable and translated all the terrifying legalese that [former partner's] lawyer would send through.*

*I had a fantastic lawyer who was able to cut through the legal crap and advise on what was necessary and what my rights were. She was also able to advise in advance of what some of the challenges may be, allowing me to plan in advance.*

*Lawyers are always good at keeping everything emotion-free and just keeping you to the bare bones of what's going to happen without getting everything emotional. So having that in place was good, rather than trying to do it by ourselves and it getting all personal. I think engaging lawyers keeps it impersonal, which is a better approach.*

Some participants thought that the process of dividing their property would have been easier had they had obtained legal advice or representation, while many advised others to get a lawyer.

*You must get a good lawyer. I'd love to think that you didn't need one, but you do. Just getting that right advice and getting someone that can support you.*

*Getting professional advice I think is really important. Also, having people negotiate for you. Because if you are both running on really high emotions and there are old fights that keep coming up or old resentments.*

*I think go to a lawyer. It doesn't matter how friendly you think everything is going to be, always get legal advice. And it doesn't matter how scary you think those costs are going to be, it's going to minimise the collateral damage I think.*

However, lawyers were not always considered helpful, and this could be the case for the participant's own lawyer(s), as well as their former partner's lawyer(s). For some, finding a lawyer, particularly in smaller towns or rural areas, was problematic. Others reported difficulties with their lawyer's lack of availability, accessibility, diligence or competence, and some had changed their lawyer. The cost of legal fees was also frequently mentioned, but some, who were satisfied with their lawyer, regarded this as a worthwhile expense. Having a lawyer who did not specialise in family law and/or have experience with relationship property division was problematic for some participants. Others were also frustrated that their lawyer lacked sufficient understanding of complex matters, such as overseas assets and superannuation pensions; trusts; finance, tax or commercial law; and family violence.

Finding the right lawyer for the person's particular circumstances was therefore considered important. Participants suggested taking time to find the right lawyer by shopping around and getting recommendations to achieve a good fit. Despite the relatively frequent engagement with lawyers, it should nevertheless be noted that around 16% of participants did not use lawyers. Furthermore, over a quarter (28%) did not receive any legal advice and nearly half (46%) resolved their property division without negotiating with their former partner through lawyers.

*It can be done successfully without legal intervention.*

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### Receiving Support, Advice and Information

In addition to assistance from lawyers, the role that other people played in providing information, advice and support was also important. Discussions with family members/whānau, friends or acquaintances were rated as some of the most helpful steps taken to divide property. Family support, including financial assistance or being able to move back in with parents after leaving the family home, was greatly appreciated. Friends acted as sounding boards and provided emotional support and helpful advice, particularly when they had legal knowledge or had experienced relationship property division themselves. Talking with people who had been through the property division process themselves was considered particularly helpful in providing emotional support, reality checks and practical advice. A key piece of advice from participants was for people to seek out help from others.

*It was just really good having extra people who knew their way around the system, knew some of the pitfalls and could give a bit of a reality check. Because obviously emotions run high and I was very angry. ... So, it was good to have friends who would say to me, 'Look, I can understand why you'd want to ask for this, but actually it's not realistic'.*

*It would really help to talk to someone who has recently gone through it. ... If you just chat to someone and they say, 'Look, it will be normal for you to feel tearful and helpless and kind of sometimes angry as well', it would be helpful.*

*Find your people. Know people who've been through it and get some good advice.*

*Get alongside someone who knows what they're doing. Not necessarily a lawyer, but somebody who can give them really sage advice and be independent and clinical about what needs to happen. Don't do it yourself.*

*Talking to whānau. Like, if you've had parents who have been through this, or sisters or brothers, who can maybe offer some of their experiences. ... I think that probably helps.*

Many participants acknowledged that the process of dividing property can be emotionally difficult. Some regretted not having had a support person throughout the process, while others advised people to seek out such help and to take support people or advocates with them to meetings with lawyers or to negotiations.

They could take notes to assist with the recall of key information later and offer friendship and support during times of distress and loneliness.

*I should have had somebody walking beside me and I didn't.*

*I was really lonely at that time. I feel like if I'd reached out to a friend and just said, 'I need you to be my person and to come with me to all these appointments and be available to chat to', then that would've been really great. But I didn't. I told everyone I was fine when I was actually not really coping. So, I think if I'd made sure I had more support for myself – I needed a bit more friendship around me.*

While difficult, people were urged to try and put their emotions aside, or to seek professional support, such as counselling, to assist in dealing with their emotional distress.

*It's a hard one because it comes down to emotions. People are going to feel what they are going to feel ... and they get caught up in that anger. ... It is an emotional thing. If you can't get over the emotion, then that's going to keep driving you until you can let go.*

*You can't let emotions get in the way when it comes to relationship division.*

*Dealing with the emotional stuff. ... if you're not going to counselling, you're just doing yourself a disservice.*

Doing research and being informed about the property division process and people's legal entitlements was also recommended by some participants as an initial step. They found that talking with lawyers, accessing the Ministry of Justice website, and internet searching was helpful in gathering information and gaining a better understanding of what lay ahead.

*The Internet is a godsend. I did a lot of research and talked to various people who were willing to talk to me and just educated myself.*

*My ex ... doesn't know much about the law compared to me. This did help me to push back against some of his early demands which were unreasonable. If I had been less able to research this area myself then I might not have done as well as I did. Knowing my rights and that he could not force me to make a separation agreement straight away, or force me out of the family home, was very helpful.*

*It was a learning process. I was able to get a more or less fair outcome by being well informed and by learning about nightmarish stories from friends.*

## Valuation of Property

Just over half of the participants had property valued by a valuer (55%), or its value estimated by a real estate agent (53%). These professionals were regarded as helpful in providing independent, up-to-date valuations for the parties, and any lawyers, to work with. Having property independently valued could help avoid any disagreements.

*No-one has got any comeback at all. I mean the valuations were done at arm's length by independent people so we couldn't argue.*

*For the valuers, it was good. Him and I could have debated to and fro for months about the cost of things, and to actually have someone come in that we both agreed to and say, this is what it's worth meant there wasn't room for debate and that was just like, okay, well, this is the figure that we're going with.*

Participants reported a variety of approaches being used to determine property values including:

- Putting the property on the open market and using the actual selling price;
- Obtaining a registered valuation from a valuer;
- Obtaining real estate agents' market value estimates/appraisals;
- Using capital values (CV), government values (GV) or registered values (RV);
- Using comparable sales data in the surrounding area/suburb;
- Adhering to contracting out or prenuptial agreement clauses;
- Simply agreeing on a value that each party thought was fair and reasonable.

Valuing property was said to be more problematic when one party was buying the other out and the amount to be paid out or borrowed needed to be determined. If the house was being sold on the open market, the value could be determined by the sale price and the equity was therefore more easily split between them.

The date at which valuations were undertaken could have important implications for the parties. The Property (Relationships) Act 1976 (PRA) stipulates that the value of property is to be determined as at the date of the court hearing if the matter is before the court,<sup>2</sup> or the court may, in its discretion, use another date.<sup>3</sup> However, in our research, most participants resolved their property division out-of-court and the date they used for valuation purposes varied. This was most commonly either the date of their separation or a date during the time their property division was occurring. Generally, the capital value of properties increased between these two time points so one party could have been disadvantaged and the other advantaged by the choice of valuation date. Furthermore, protracted property division processes sometimes led to an earlier valuation no longer being accurate at the time the property division was finalised.

Other valuation concerns reported by participants included:

- The perceived impartiality/neutrality of the 'valuer', particularly when they were engaged by one party who had a personal connection with the valuer.
- Disagreement with the valuation figure which sometimes required multiple valuations being obtained and added further expense to the property division process.

As well as more valuable assets, such as the family home, businesses, investment properties and money, separated couples also have to decide how to value and divide up their other property, including their household items and chattels (such as furniture and appliances), vehicles, and animals (pets and livestock). Parties sometimes disagreed on what property was worth and whether to use the purchase price, the insured value, or to have the items professionally valued. Determining the value of items, particularly those purchased second-hand, was difficult for some participants. Some researched the asking prices for comparable items on Trade Me or at second-hand dealers to more reliably estimate their value.

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<sup>2</sup> PRA 1976, s 2G(1).

<sup>3</sup> PRA 1976, s 2G(2).



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### Dividing Household Items and Chattels

Negotiations about household items and chattels were mostly resolved fairly simply. Often people agreed that each party would keep what they had owned prior to the relationship and only divided items they had purchased while together. Some took a pragmatic approach to the division of household goods when they were not too concerned about the value, and divided property based on practical, needs-based considerations, such as who used or needed particular items for their new home, or which parent the children mainly lived with. While some participants acknowledged they may have ‘lost out’ financially with this approach, they also appreciated that it avoided arguments and stress over minor items and/or helped out their former partner and their children. Personal items, such as hobby or recreational equipment, usually went with the person who used them, rather than being valued or deemed to be relationship property.

*We were able to agree on most things quite quickly. So, for example, I took the car. He doesn't drive – why would he have the car? He kept his quite expensive photography equipment because I don't take photos and he does.*

*The principle that I advocated for the chattels was that we try and make sure we both have the basics to set up a household. ... I chose to sacrifice a couch or a bed, so I could get the kids' furniture. But that was my choice. Things like whiteware, we had one item each. So, just trying to make it balanced. We decided to do this simply based on trying to give both parties the basics for setting up a house and catering for the children. ... I know I ended up with less value overall of items, but I think it was a pragmatic and relatively fair approach. There will always be some quibbles, but we both ended up with enough basic items and with both having to buy a few things.*

*We've had two vehicles and when [former partner] was at home caring for the children, she always retained the superior vehicle, the later model vehicle. [She's] taking the kids round here, there and everywhere all the time. She should have the safer vehicle, so she did.*

*I didn't seek to divide the sewing machine in half, because I wouldn't have used it. Similarly, she wouldn't have used the drill.*

Participants thought that personal items of sentimental, rather than financial, value, such as mementos, family photographs, baby clothes, handprints and record books, were important not to overlook in the division of household chattels. Some very much regretted not specifically thinking about how best to divide these, particularly when they had left the family home hurriedly or with little property, or had agreed there was ‘no comeback’ for items left behind.

*I never got a chance to go through and look or say, 'Actually, I feel really connected to this object', you know, sentimental things. ... There are still things now, like a lot of my daughter's baby things, I don't have them anymore. I don't have her record books, I don't have the first little handprint things we made because they all stayed with him. ... It never crossed my mind that they were a thing that were part of this legal document. In my head, they were separate.*

*To me, furniture is neither here nor there; it's the personal belongings. ... The photos were probably the most important for me. ... It's your memories. Everything else, you can buy, replace, do without.*

### Use of Spreadsheets

Itemising assets and debts, including household items, in lists or spreadsheets was a strategy many participants found helpful in identifying what property they had to divide and then determining how to split it. Each party could easily see what items they owned, identify their value, nominate items they particularly wanted, and make decisions about who kept what or whether to sell or donate some property. A ‘living’ document on Google Docs for example, or an Excel file that could be emailed backwards and forwards, enabled parties to enter information and make edits or comments without having to engage directly with each other and/or have multiple conversations which could lead to conflict. This could be especially helpful when the relationship between the parties was poor.

We literally kept a list on Google Docs of all of the stuff and we had three columns; we had mine, we had his, and then we had 'to be discussed'. So, if each of us had any concerns, something popped up, 'Oh, what about the car, or what about blah, blah, blah?', we would add it to the list. We knew that when we got around to it, it was on the list for discussion and then we would move it [to another column] once we had decided where we wanted it moved to.

I would email it and he would make his amendments and email it back. We're quite fiery together so, actually, that ability to do it at a distance, but in real time was really helpful.

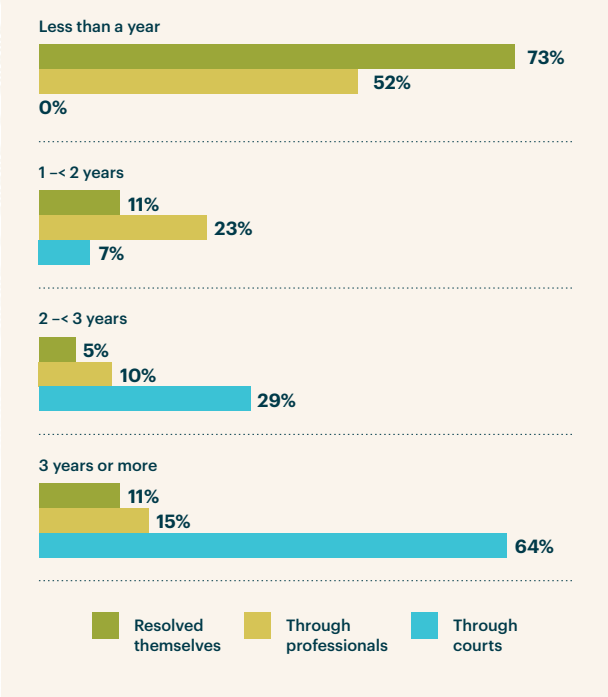
What worked well was definitely doing things in the Google Docs in writing separately then having fewer conversations, which could easily lead to argument and pettiness. I think writing comments in the Google Docs was quite useful. You can see all my twelve comments at once and then I can see all of yours all at once and we don't come back and bitch over really small issues.

Timing of the Property Division Process

The majority (84%) of the participants began the process of dividing their property with their former partners within a year of the separation, with nearly half (49%) starting the process at the time of their separation. Over half (58%) finalised their property division in less than three years. Resolution times of less than one year were generally regarded as reasonable by the participants.

Those who finalised their property division the quickest tended to be those who reached agreement themselves, whereas having the matter addressed through the courts took the longest time (see Figure 2).

Figure 2: Time taken to finalise the property division



Those who resolved the property division with their former partner largely by themselves were more likely to think the time it took was reasonable (64%), compared with those who had negotiated through professionals (37%) or used the courts (3%).

Participants held differing views about whether it was better to begin their property division quickly after their separation or to wait. They identified there were pros and cons to each approach.

*If it's too soon I think, sometimes, things are too raw and there's too much hurt to rush into dividing things. But when things drag on for a long time, I also don't think that that's fair. It makes things more complicated.*

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Some thought it was best to divide their property as quickly as possible to facilitate a clean break and move on with their lives. Prolonging the division could impact negatively on participants' relationship with their former partner and, for those where family violence was an issue, could present further opportunities for ongoing abuse.

*Things just change and you grow apart. I think it's just easier to deal with it straightaway.*

*In terms of the division, just get it done as quick as possible because the longer it goes on the more bitterness and fight comes into it.*

*Getting it resolved quickly is the best option. ... You just get your life back. There was probably no financial benefit in dragging it out.*

However, others thought that rushing into the property division when emotions were still raw, and people were perhaps not thinking clearly, was unwise. Taking the time to process the end of the relationship was advocated.

*Just get yourself somewhere that you're able to think more clearly and do it then, when you're not too caught up in that shellshock of what's happening.*

*Give it time, don't even try and enter into any conversations about the finances for the first six months. ... Just pause and allow yourself to adjust to the change that has happened to your family.*

*Human nature is such that we tend to go in all guns blazing to start with. When we need to actually stop, take a deep breath, accept the situation for what it is, and then work our way through it.*

Looking back, some participants felt rushed or pressured and regretted agreeing to things in haste, especially while they were still emotionally fragile. They hadn't had time to understand and consider their entitlements and obtain legal advice.

*Just like you can't get a divorce within a certain time in New Zealand, maybe there should be something that you can't rush into it. Because, when I look now, I wouldn't have signed it if I was in the mental space I'm in now. I just look back and think what the hell was I thinking?*

*It was done in such a hurry and the pressure was on all the time, 'You've got to agree to this, you've got to agree to this'. You're put on the spot all the time and it's like, well, how do you know ... whether I've got a good deal or not?*

Dealing with financial issues in the interim period between the separation and finalisation of the property division was another concern that participants raised as this could easily be overlooked. These included each party's access to money in joint accounts; responsibility for paying the mortgage, rates, rent, or outstanding bills; maintenance and renovation of houses to be sold; and child-related costs etc. Several participants said they had not understood, considered and/or factored this into their property division. Others had taken measures to ensure their former partner was not spending joint money during this interim period or that, if they did, this was accounted for in the settlement.

*You have your 'he's moved out date' and then you have your 'now everything is signed, sealed and delivered date'. In-between everyone's got the costs of living to cover, and that is a very uncomfortable period because you're emotionally moving on, but you're still financially tied and still financially very reliant on the other person's goodwill.*

### Adherence to Equal Sharing

An underpinning principle of the PRA is that relationship property should be divided equally. The majority (69%) of our research participants did divide their property in a way that was fully, or partially, consistent with the equal sharing law.

However, there were several reasons why relationship property was not always shared equally. Sometimes the equal sharing law did not apply (e.g., the parties had not lived together or their relationship was of short duration), or the parties themselves agreed to the unequal sharing. Others, while not necessarily happy with an unequal division, nevertheless accepted it as they were keen to get the matter settled.



Sometimes, both parties were happy with an unequal split, because of a previously agreed contracting out/prenuptial agreement or as a way of recognising any disparity in income, childcare responsibilities or unequal contributions to the relationship. This could be a mutually agreed decision or involve one party deciding not to pursue a 50/50 split even when they were entitled to it, in order to financially help their former partner and/or their children.

*I decided he could keep his KiwiSaver so he could afford a deposit for another house to provide stability for our daughter when she was in his care.*

*I believed my ex-partner was less able to manage financially than I was following our separation and was prepared to make allowances for this in the settlement.*

Other participants had accepted an unequal (or what they sometimes regarded as an unfair) property division as a way of finalising the dispute. This was sometimes because of their inability to afford legal costs to pursue their property entitlements, to stop conflict, or to achieve a clean break from their former partner. Some participants made sacrifices in order to settle, while others had felt pressured to do so. In hindsight, some regretted their decision, while others were just pleased to have the matter finalised and to be in a position to move on with their lives.

*It was more like I just want this done as fast as possible. I didn't want to be delaying things just for the sake of delaying things. So, I don't think I was entirely happy with everything. But it was what I needed to do to move things on.*

*There wasn't justice, but I've gone on with my life and accepted it. ... I just had to get to the point where I was like, no, there's nothing to be gained here. It's going to cost more to fight it than what there is in equity. The kids need me too much to be taken up in the fight.*

*Ex-partner wanted more, and had more money to fight for more. I had to give in.*

*I wanted a quick resolution, so I agreed to take a lesser share.*

Conversely, some participants had little or no choice about how their property was divided, or experienced coercion, dishonesty or deception by their former partner, which resulted in an unequal division (see also Research Highlights 3 and 4).

*He took more than half of the value of the family home because he bullied me into a corner.*

*My ex-partner was able to arrange aspects of his finances and assets so that the division was in his favour and not completely equal.*

Participants advised others to figure out what they wanted from the property division and what their bottom line was, and to think about long-term outcomes, not just short-term gains. Some suggested having a game plan or picking your battles, while others recommended standing up for yourself and not succumbing to pressure and settling for less than what you thought was fair.

*Know what's important to you and what you really want to achieve out of this. It's all about those trade-offs between your financial health and your mental and emotional health and, obviously, that flows onto your family. So, you've got to know what your bottom line is and what you really want going on. What do you want?*

*Sit down, write everything down as far as the property side of stuff goes, and think about what you want and have it all written down. ... Make a list of the things that you think that you must have, and then what you would like. Because I'm also a true believer that when life is spiralling and you're in chaos having lists helps keep you focused.*

*Think really carefully about the long run. Like most things, be clear about what outcome you desire and be flexible about your process. Does it actually matter? What are you trying to achieve at the end of it all?*

*Think long-term. People think very short-term, either hurting the person or getting as much as they can or not wanting anything because they want to get out. But, maybe, think of it a little bit long-term.*

*It's keeping a balance. I think it's choose your battles sort of thing, but don't do yourself out of it either.*

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### Relationship With Former Partner

The relationship that people had with their former partner was a key factor in their experience of relationship property division (see also Research Highlight 3). Those who had had an amicable separation reported a relatively straightforward property division.

While it is not always possible to have direct communication with a former partner about the property division, particularly when the relationship is very poor or there has been family violence, those participants who could do so found it helpful. Overall, nearly a third of the participants found talking with their former partner the most helpful thing they did.

Many participants said it was particularly helpful that they had had a cooperative relationship with their former partner with good communication, and a mutual willingness to be fair, reasonable and respectful and keep children's interests in mind. Having a common goal, a desire to make the process of dividing their property as timely and as smooth as possible, and a commitment to be civil, allowed people to divide their property relatively easily.

*We had a common goal – happiness again, and I reckon we now have that. My comment would be that the outcome post-division is only as good as the communication. I'm damned glad we had that level of dialogue.*

*My partner and I ... agreed how we would walk through the process as best and as cooperatively as possible. We put our children at the heart of it. ... Luckily, we didn't argue about the forks.*

Of course, an amicable property division is not always achievable. In our research, nearly two-thirds (65%) of the participants rated their relationship with their former partner as poor or very poor during the property division process. Rates of family violence were also high, with over 60% reporting family violence in their relationship with their former partner, either during their relationship or following their separation. Nearly three-quarters (72%) found dealing with their former partner and/or their behaviour or attitude a challenge. So, not surprisingly, when asked what would have made the process of dividing their property easier, many responses related to a change in their former partner's behaviour or attitude – such as them being more reasonable, fair, cooperative, honest, trustworthy, timely and less emotional, difficult or abusive.

Clearly, when *both* parties act reasonably towards each other, property division can be a more straightforward and less fraught process. Participants advised others to be fair, honest, reasonable and civil with former partners and to try and see things from their perspective. They suggested focusing on the future, keeping children's wellbeing at the forefront, and trying to keep negative emotions and conflict out of negotiations.

*Try and talk to your ex and work out as much as you can as amicably as you can.*

*Try really hard not to be vengeful and just to look out for the kids. I think putting kids first, always, is going to be the most important thing for a lot of people. That's what totally got me through. Put the children first all the time. It is just stuff. It doesn't really matter.*

*Don't be childish. That would be my big thing. Work out what your not negotiables are. Then ask someone that you trust to be level-headed to check you on the things that you are being ridiculous about. Is there any point fighting over the coffee table? Really? Don't try and take stuff that's not yours. Don't try and take anything that you didn't come into the relationship with. ... Just don't be a dick.*

### Advice to Those Entering New Relationships

The participants advised those entering into new relationships to protect their assets, be financially literate and informed about the PRA, consider a contracting out/prenuptial agreement, and understand their new partner's financial style.

People were encouraged to protect themselves and their assets, particularly when they had considerable assets or there was a disparity in the couple's assets. Most of the advice for those entering new relationships related to obtaining a contracting out/prenuptial agreement, putting assets into a trust, or, at least, documenting what they were bringing into the relationship. While acknowledging such considerations could be difficult, it was thought important for people to be proactive and plan ahead.

*It feels funny in a relationship to be wanting to protect yourself, when in fact you're supposed to be investing together for this wonderful future. So, there's a real tension in that, right, which is why a lot of us don't do it.*



*Think carefully about what you're going in with and what you might come out with at the other end, and maybe safeguard that if you are the person with more of that something.*

*I've got a lot of advice for people moving forward. Prenup, prenup, prenup.*

*No one ever wants a relationship they're in to break apart. It's a very unfortunate thing but, at the same time, we go and buy insurance for a bunch of things that may never happen, but we just want to be protected. So, it's being aware of what your exposure is and making the right decision at that time for you. When I go forward into relationships now, I come into them with some more significant assets, but also an awareness. So, you come into it with all of the hopes and dreams and all of the optimism but, at the same time, I guess it's just that case of being a bit older and wiser and being prepared to have that hard conversation with someone and say, 'I would like to have a future with you, but I need to protect myself at the same time. I hope you can respect that'.*

Very few participants (10%) had any form of prenuptial agreement with their former partner – either a formal contracting out agreement which was legally enforceable or an informal written or verbal agreement that had not been certified by a lawyer (see Research Highlight 5). However, nearly six times as many participants (56%) had entered into a prenuptial/contracting out agreement with a subsequent partner, or said they would for future relationships, because of their experience of post-separation property division. Many of those who had already re-partnered had made a prenuptial agreement with their new partner. Others said they would only contemplate entering a new relationship with such an agreement in place.

*After my separation they are now non-negotiable.*

In order to protect their assets, participants recommended being better informed about the law on relationship property division and the financial implications of entering into a relationship under the PRA (see Research Highlight 1).

Participants also advised others to get to know their new partner's financial style and goals, as well as whether they had any debt, before entering into a relationship. Being able to communicate with a partner about financial matters was also seen as important.

*You get to know somebody emotionally, but do you get to know them financially?*

*Be very, very clear in what the expectations and the boundaries and things are regarding the financial situation.*

Other advice was directed to the need for women, in particular, to be financially literate and know about the couple's financial situation.

*If I had friends that were having any kind of niggly ideas about their relationship, I would just make sure that they have their ducks in a row in the sense that they know where the accounts are at, they know what the savings are at. They know what their property's worth.*

*There's a lot you can do to make yourself more aware of your financial situation as a couple.*

## Summary

The participants in our research described a range of experiences relating to the post-separation division of their property. For many, it was a difficult process (see Research Highlight 4). Some of the challenging experiences were due to circumstances outside of their control involving difficult former partners, family violence, and financial and health issues. We have highlighted other difficulties and pitfalls that participants described in order to raise awareness of potentially problematic issues. Participants' views on these and what they might or would have done differently, or that could have made the process easier for them, have been included in this Research Highlight.

However, mostly, this Research Highlight has focused on what people found worked well for them, what they found helpful, and the advice or insights they had for others going through the process of dividing property with a former partner (or for those entering into new relationships). The perspectives of those who have 'been there, done that' with their own relationship property division can thus provide valuable insights for others embarking on this process to help ensure it is as straightforward as possible.

## Research Highlight 2

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### Relationship Property Division in NZ Research Highlight Series

There are six Research Highlights in this series.  
Each provides helpful information and advice about:

1. Knowledge and Understanding of Relationship Property Division
2. Relationship Property Division: Insights From Those Who've 'Been There, Done That'
3. How the Relationship Between Former Partners Affects Their Property Division
4. The Challenges and Impact of Relationship Property Division
5. Prenuptial/Contracting Out Agreements
6. Dividing Relationship Property: A Guide about Issues to Consider

### Research Reports and Summaries

#### Phase One

Ian Binnie, Nicola Taylor, Megan Gollop, Mark Henaghan, Shirley Simmonds and Jeremy Robertson, *Relationship Property Division in New Zealand: Public Attitudes and Values. A General Population Survey* (Technical Research Report, Michael and Suzanne Borrin Foundation, Wellington, New Zealand, 2018).

Ian Binnie, Nicola Taylor, Megan Gollop, Mark Henaghan, Shirley Simmonds and Jeremy Robertson, *Relationship Property Division in New Zealand: Public Attitudes and Values. A General Population Survey* (Research Summary, Michael and Suzanne Borrin Foundation, Wellington, New Zealand, 2018).

<https://www.borrinfoundation.nz/report-relationship-property-division-in-new-zealand-public-attitudes-and-values>

#### Phase Two

Megan Gollop, Nicola Taylor, Ian Binnie, Mark Henaghan and Jeremy Robertson, *Relationship Property Division in New Zealand: The Experiences of Separated People* (Descriptive Research Report, Children's Issues Centre, Faculty of Law, University of Otago, Dunedin, New Zealand, 2021).

Megan Gollop and Nicola Taylor, *Relationship Property Division in New Zealand: The Experiences of Separated People* (Research Summary, Children's Issues Centre, Faculty of Law, University of Otago, Dunedin, New Zealand, 2022).

<https://www.otago.ac.nz/cic/research/index.html#relationship-property>

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