1.1 Identification and Valuation of Assets and Liabilities

In the first joint session, the FDR Practitioner will assist both parties to complete a comprehensive list of the property and other financial assets and liabilities that you own either separately or jointly. This is done to ascertain exactly what the asset pool is.

It is necessary to collect this information because of the legal principles within the Family Law Act 1975 applicable to the division of property following separation. This principle is called full and frank disclosure. This is a means of ensuring that both parties have all the information they need.

If you proceed to court seeking an order to divide your property, the court would require full particulars of your assets and liabilities. This also applies if you apply to the court for your agreement reached via FDR to become a legally binding document, via a Consent Order application.

Setting a date for your property settlement

One of the first decisions that you and the other party will make in FDR will be to set the date for your property settlement, a date that is used for valuations for all assets and liabilities. In FDR this can be a date that you mutually choose, such as the date of separation, or the date of the FDR session. However, if the matter is brought before the court, the court may choose another appropriate date, and then make proportional adjustments to the property settlement taking into account what has occurred since your separation.

In FDR, if the date chosen is not the separation date, proportional adjustments can also be made.

What goes into the asset pool?

The asset pool includes all property of the relationship. Assets include:

- all real estate, including the family home
- cash in bank accounts, both joint and separate
- shares
- superannuation
- motor vehicles, boats and trailers
- household items including items of value such as antiques or art work
- jewellery
- assets in businesses (whether owned by one party, both parties or with others)
- tools of trade
- any inheritances received during the relationship.
Liabilities include:

- mortgages
- credit cards
- loans and private loan agreements (i.e. monies owed to family and friends)
- hire purchase agreements
- outstanding debts to the Australian Taxation Office
- personal debts, etc.

If you own or control a business (sole trader, partnership or corporation) either individually or jointly, you must include details of all business assets and liabilities. You must also include details of any guarantees and indemnities.

Determining the value of assets

In order to complete the asset pool you must agree on a value for each asset. Prior to the joint session, each party will be encouraged to complete the Financial Checklist, with valuations at current market value. Market appraisals can be obtained from real estate agents, an auctioneer or a licenced car dealer. Some parties in FDR choose together to obtain a sworn valuation for their property, or to use the Red Book valuations for vehicles (www.redbook.com.au).

Other valuations, for bank accounts, shares and superannuation can be obtained from the appropriate company, and it can be useful to have a printed copy of these with you in a joint session. This supporting documentation can be handed to the other party (as part of your full and frank disclosure) to help you both reach an agreement about values.

Furniture and personal effects

Furniture and personal effects are assets that are sometimes difficult to value, and you may only be able to give a very rough estimate based on, for example, resale value. Some people decide not to value their furniture and personal effects but negotiate the division of these items based on needs, the origin of the personal effect, e.g. “this was my mother’s”, and other non-financial considerations.

Net asset pool

Once you have agreed on the value of each item, you and the other party will be supported by the FDR Practitioner to calculate your current net asset pool.