



## Financial agreements

### Certifying financial agreements

- Don't act unless you are an experienced family lawyer.

---

- Open a file even if you did not draft the agreement.

---

- Have a face to face meeting with your client without the other party to discuss the agreement.

---

- Provide comprehensive advice to your client including:
  - a clear statement about forgoing rights in the future by signing the agreement
  - the advantages and disadvantages of entering into the agreement
  - not entering into the agreement where the agreement is manifestly unfair for your client
  - the importance of valuations.

---

- Advise your client about any amendments to the agreement made after your initial advice and how those amendments impact on your earlier advice.

---

- Make file notes of your meetings or discussions with the client and ensure you include:
  - who was present
  - the duration of the meeting
  - a summary of your client's instructions and your advice to the client.

---

- Confirm your advice to your client in writing.

---

- Obtain a written acknowledgment from your client that they understood your explanation.

---

- Ensure the wording of the agreement and certificate reflects the requirements in section 90G or section 90JJ at the time the agreement is executed.

---

- Keep a copy of the financial agreement and your file indefinitely.



- Charge an appropriate fee for the work required.
- 

## Preparing agreements

- Don't act unless you are an experienced family lawyer.
- 

- Don't act for both parties.
- 

- Confirm in writing who you are and are not acting for.
- 

- Explain carefully to your client:

- the importance of disclosure
  - the importance of valuations
  - the circumstances in which agreements will not be binding especially:
    - material change to circumstances
    - unconscionability
    - undue influence
  - duress – especially when insisting on signing close to the wedding date
- 

- Make file notes of your meetings or discussions with the client and ensure you include:
- who was present
  - the duration of the meeting
  - a summary of your client's instructions and your advice to the client.
- 

- Confirm your advice to your client in writing.
- 

- Ensure the wording of the agreement and certificate reflects the requirements in section 90G or section 90UJ.
- 

- Carefully check the agreement to ensure it complies with all the client's instructions. In particular, review the schedules and road test any formula. Where possible have someone else in your office review the agreement.
- 

- Keep a copy of the financial agreement and your file indefinitely.
-