

Checklist for Clients in Caring Relationships

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Is the client in a domestic caring relationship?

- i.e. relationships where one or both of the parties provide personal or financial commitment and support of a domestic nature for the material benefit of the other. This is irrespective of the parties' genders and whether they live under the same roof, but expressly excludes where one party provides care for a fee or reward, or on behalf of another person or organization.
- Examples may include adult companions, adult siblings, or a parent and an adult child where the relationship could be properly described as 'domestic' rather than merely friendship or familial.

Registering a caring relationship:

- Under current law, parties are not required to obtain legal advice before applying to register their caring relationship. However, the Relationships Act 2008 will be amended by 1 December 2009 to include such requirement. Therefore it is best to obtain such legal advice before registration to ensure you have complied with legislation in all of its probable forms.
- Go to WWW.BDM.VIC.GOV.AU to find out how to register a relationship

Would the client's property interests be protected by entering a financial agreement with their caring partner?

- If so, the relationship must first be registered before entering the agreement.
- In making the relationship agreement, you should obtain legal advice. This legal advice is not only very prudent, but also a formal legal requirement for the relationship agreement to have full effect.
- This relationship agreement in itself is not 'binding' any more than an ordinary contract. However, in all but exceptional circumstances, the court will not be able to make any orders inconsistent with the relationship agreement.

Are the circumstances such that the caring partner may be able to claim maintenance or property adjustment orders from the client or vice versa?

- Maintenance orders may be made where one of the parties' earning capacity has been reduced because of the relationship so that they are unable to support themselves, and where the other party has the capacity to pay maintenance.
- Property adjustment orders may be made where one of the parties has made financial and non-financial contributions to the parties' property and financial resources or to the other parties' welfare.
- Application for these orders can only be made in 'caring relationships' if the relationship has been registered.
- Therefore if orders are likely to be made in favour of the client upon the relationship breakdown, the relationship should be registered.
- If orders are likely to be made against the client upon relationship breakdown, it is in the client's best interests not to register the relationship.

Is there another reason why it may be beneficial to register the relationship?

- Registration will be taken as conclusive proof of a domestic relationship under all Victorian laws. Therefore it may be of benefit in other matters besides family law, for example when discussing a caring partner's health with a doctor in an emergency situation, or when seeking compensation entitlements as a dependent partner.

