

# Love & Law

## Why a prenup can strengthen your marriage

- Family lawyer **Daniel Myers** from
- Schetzer Papaleo Family Lawyers explains
- how a Binding Financial Agreement can
- deepen understanding between partners
- and offers practical guidance for talking
- money before the big day.

**Q: Many couples feel that discussing a prenup takes the romance out of getting engaged. How can they reframe this conversation as an act of love and communication rather than planning for failure?**

I agree there's still some stigma around a prenup, known as a Binding Financial Agreement (BFA). Although it's not necessary for every relationship, the feedback I hear is that, in the right circumstances, entering into a prenup can actually strengthen a relationship and make it less likely that the document will ever be needed.

Lines of communication are opened up and issues are raised that the couple may have to face later in the marriage. For example, around financial priorities, or whether one party should look after the children rather than be in paid employment. Areas of potential conflict are often highlighted and either resolved at an early stage, or the couple recognise that they are ill-suited.

**Q: What is the biggest myth about prenups that you hear from engaged couples, and what reality might put them at ease?**

There is still a common misconception that they do not hold up in Australia. In reality, they are increasingly common with blended families or with young couples assisted by 'the bank of Mum and Dad' to buy a first home.

**Q: As a family lawyer who is familiar with the challenges of marriage and long-term relationships, what patterns do you notice in couples who wish they had discussed financial arrangements earlier?**

Although each case is different, certain themes recur. Disputes over dividing assets between



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blended families are a common scenario and, sadly, a common cause of separation. Differences in financial values, such as one partner being a saver and the other a spender, can lead to resentment if not openly discussed. Couples may also have conflicting views on building wealth or prioritising the raising of children.

After separation, clients are sometimes surprised that the legal definition of a fair property split does not match their own. For example, inherited assets are not automatically quarantined and having a higher income does not necessarily mean a greater contribution. A BFA allows couples to set their own terms, within reason, and avoid such surprises.

**Q: When is the ideal time to bring up the topic of a prenup during the engagement period, and how can couples discuss it without creating unnecessary stress during wedding planning?**

Although it is still loosely referred to as a prenup, a BFA can be entered into at any stage of a relationship, that is, before or after the commencement of a de facto relationship, and before and after a marriage.

If a couple are contemplating living together, whether they plan to marry or not, entering into a BFA at the time of cohabitation is common.

Even the most straightforward BFA is a complex and time-consuming document. It should not be left until the wedding planning as it will be an unnecessary distraction, and it can place too much pressure on the couple to negotiate with a clear head.

**Q: Beyond protecting major assets, what is one practical thing a prenup can address that might genuinely surprise couples?**

Recent changes to the Family Law Act give courts formal power to treat pets as property for the first time, together with a set of guidelines for how the ownership of dogs, cats, or any pet should be decided. Pet ownership can also be included in any prenup.



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