

# Separation

## What you need to know

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### The first step

Separating from your partner does not mean you will stay separated. The first step is to ask the question "Is this it?" If you believe that reconciliation is still an option, there are many services who provide relationship or communication counselling.

**We can help you find the right service that meets your needs.**

### Making sure you are safe

If you are concerned for yours or your children's safety you need to seek assistance in protecting yourself or the children from abuse including obtaining a protection order.

**We can help you work through your options.**

### Telling the children

If possible, you need to decide on a strategy of how and when to tell the children you are separating.

How and when you tell the children will depend on their age and maturity. The golden rules are:

- the children need to know that they are not to blame for the separation.
- don't blame each other or others for the separation.
- let the children know that both parents love them.

### Transferring money or property

You should not give money or significant property to your partner unless you have spoken to a lawyer.

### Become independent

It is best to be independent, if possible. For some people this is impossible due to a number of reasons.

If you are unable to work, then you will need to contact the Department of Human Services to obtain some immediate assistance.

If your partner has significant income or property, then you may be able to seek for them to provide you financial support. This is usually for a short period of time.

If you have significant income or property, then you may be required to pay or transfer property to assist your partner.

**We can discuss your options with you.**

### Plan for the short term

No one knows what will happen in the future. It may be that only immediate short term arrangements can be put in place to give you both breathing space. This is ok.

Short term arrangements can include:

- who stays in the family home.
- how the debts are paid.

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- any financial support from one person to another to meet that person's reasonable needs.
  - sale of assets to reduce debt.
  - care arrangements for the children.

We can assist you in developing short term plans which suit both of you and, in time, formalise final arrangements.

### **Time limits**

There are no time limits for finalising care arrangements for children.

However, there are different time limits for finalising property division depending on whether you are married or living in a de facto relationship.

For instance, if you are married then you will have one (1) year from the date your divorce takes effect to finalise property division between you.

If you are in a de facto relationship, then you have two (2) years from the date of separation to finalise property division.

You should obtain legal advice regarding this process as soon as possible.

### **Ways to resolve**

There are a number of different ways to reach agreement including:

- direct discussions.
- family assisted discussions.
- discussions with a mediator (without lawyers involved).

- lawyer assisted negotiations using correspondence.
- roundtable meetings (with lawyers).
- mediations (with lawyers).
- court proceedings (last resort).

We can assist you in deciding which option is right for you.

### **Documents**

You need to keep a record of any evidence which is relevant to your case.

If you leave the family home or business then make sure you take a copy of all financial documents for the last three (3) years or any other important documents (e.g. trust deeds, financial statements, etc).

Remember, you will be required to disclose anything that is relevant to your matter. If there is a claim for maintenance or property division, then the law requires you to disclose specific documents.

### **Best ways to formalise final agreements**

There are a number of options available to formalise agreements reached.

Your goals and any future risks will determine which option is right for you. Your options may include parenting plans, consent orders, financial agreements, etc.