



Separation Checklist

Family law is a complex area, and it can be legally and emotionally challenging, even for the most level-headed and organised person. A skilled family lawyer becomes your ally, guiding you through the legal maze, protecting your rights, and facilitating a fair settlement. They're not just legal experts; they're a source of support, answering your questions and offering crucial advice on what you should and should not do.

If you're in the early stages of separation and haven't consulted a lawyer yet, our checklist below provides you with tips to get started.

PRACTICAL TIPS

Write a diary

Keeping a diary or chronology of events will benefit you and your lawyer as you may need to recount key events throughout your matter. Bring your diary with you to your initial consultation with a lawyer.

Things to take note of:

- Date you met, commenced living together & married.
- Date of separation (make sure this date is communicated to your former partner and that they are aware that this is the date you consider your date of separation).
- Milestones in your relationship, such as: employment history (including periods of unemployment), purchase or sale of properties, birth of children, etc.
- Dates and amounts of any windfalls received such as gifts, inheritances or compensation payments.
- Summary of assets and liabilities you and your partner had at the start of the relationship, at co-habitation and now.

Communications

- Put discussions about property or parenting matters in writing. Avoid sending any communication you wouldn't want a judge or your former partner's lawyer to read.
- If you have important conversations over the phone or in person, confirm these conversations via text or email.
- Carefully consider what you post on social media. Social media posts are often used as evidence in court proceedings. Make sure your privacy settings are in place, you unfriend or remove your former partner as a connection or follower, and most importantly, think carefully about anything you post or comment on.
- Consider if you have linked family devices such as Apple watches, iPhone and laptops and what needs to be done to remove devices from you or your partner's Apple ID so communications cannot be accessed by your former partner.

Who will move out of the family home?

If possible, try and speak with your former partner about the living situation moving forward. The goal is to determine whether you can agree on an interim arrangement whilst navigating the separation.

- Who will leave the family home?
- Can you afford to move out? If not, is it safe for you and your former partner to remain under the one roof?
- If you are the person leaving the family home, take all personal items with you that you wish to keep such as your photo albums or family heirlooms.
- Are there children of the relationship? Consider the impact that the separation will have on them and the importance of minimizing disruption by maintaining their familiar environment, including continuing to live in their home, attending school, and seeing family and friends.
- Hold onto the children's passport and birth certificates. This will alleviate any risk of your former partner taking your children out of the country, without your consent.

It may be necessary for you to leave the family home if there are signs or situations of domestic violence and your former partner refuses to leave the home. If you ever feel unsafe or in immediate danger, call triple zero (000).

These services can provide information on how to safely leave a domestic violence situation:

1800RESPECT: A national 24-hour counselling line for anyone who has experienced, or is at risk of, family and domestic violence or sexual assault. Call 1800 737 732.

MensLine Australia: A 24/7 service to support males dealing with family and relationship difficulties. Call 1300 78 99 78.

The Sanctuary 'Women's, Children & Pets Refuge': A facility that provides refuge, safety, comfort, nutrition and case management counselling for women and children to help repair the trauma of domestic violence. Email admin@sanctuaryrefuge.com.au

Hearts of Purple: An organisation that can assist with rescuing individuals from abusive environments and help restore happiness and a feeling of worthiness to their lives. Call 0414 058 854.



PROPERTY

Estate planning

- Following separation, make sure to update your Will and Enduring Power of Attorney, otherwise your former partner may inherit your estate if you suddenly pass away or make decisions on your behalf if you became incapacitated.
- Consider how the title is held to any real property of the relationship. If the title is held as joint tenants, consider severing the joint tenancy to create a tenancy in common.
- Change any binding death benefit nominations with your superannuation fund.
- Discuss with your accountant or financial advisor the structure of any business entities (such as Trusts and Companies) to understand if there is any exposure for you as a director and your interest in the entity.

Digital & financial assets

- Change all passwords to your social media, banking and email accounts to secure your digital assets.
- If you hold any joint bank account/s with your former partner and are concerned about their access, notify the bank that you and your former partner are going through a separation and ask that the bank accounts have a dual signature, where no money can be withdrawn without the signature and consent of both parties.
- Consider whether you need to open a separate bank account in your sole name and arrange for all post-separation income including your salary to be paid to this account.
- Ensure you have the resources to support yourself in the interim period before a settlement is finalised.

Collect financial & legal documents

To understand the full financial circumstances of both parties, the first step in a family law matter is to write to your former partner and request that they provide documentation to explain their financial position. You will have to provide the same documentation. Organise this early, as it can take time. Both parties have a duty of disclosure, necessitating the full and honest sharing of all relevant financial documents and information with each other and the court, if court proceedings are commenced.

The usual requested disclosure documents include:

- Three most recent ATO tax returns and notices of assessment;
- Three recent pay slips;
- Statements for all bank accounts in your name or joint names with another party for the last 12 months;
- A copy of your current superannuation statement;
- If you are a member of a self-managed superannuation fund, a copy of the trust deed and financial statements for the last three financial years and tax returns;
- Mortgage statements for all property owned by you for the last 12 months;
- Credit card statements for the last 12 months;
- A copy of any loan agreements regarding loans between family/friends;
- At least one real estate appraisal for all properties in your name or in which you have interest;
- Redbook or other valuation for all motor vehicles in your name; and
- Evidence of the disposal of any property in the 12 months prior to separation or since separation.

If you have an interest in a trust:

- Copy of the trust deed;
- Financial statements for the 3 most recent financial years, including balance sheets, profit and loss accounts, depreciation schedules and tax returns; and
- Business activity statements (BAS) for the past 12 months.

If you a director or shareholder in a company:

- A copy of the company's constitution;
- Financial statements for the three most recent financial years, including balance sheets, profit and loss accounts, depreciation schedules and tax returns; and
- Business activity statements for the past 12 months.

If you are involved in a partnership:

- The partnership agreement;
- Financial statements for the three most recent financial years, including balance sheets, profit and loss accounts, depreciation schedules and taxation returns; and
- Business activity statements for the past 12 months.



PARENTING

Discussing separation with your children

When breaking the news of your separation to your children, it is crucial to present a united front. Ideally, both parents should be present, or at the very least, in agreement on how to deliver this information. While children should be informed about the separation, it's not necessary for them to understand the specific reasons behind it.

Here are some tips for talking to your children about separation:

- **Keep it simple.**
- **Be civil.** Avoid criticising or belittling the other parent in front of the children. Choose respectful language to maintain a positive atmosphere.
- **Be reassuring.** Let them know that the separation has nothing to do with them and emphasize that they are loved by both parents.
- **Be future focused.** Highlight the positive aspects of the changes, reassuring them that both parents will continue to be active parts of their lives.
- **Be honest.** Avoid making promises you might not be able to keep. Honesty fosters trust and helps children navigate the realities of the situation.

If you notice that your children are struggling with the changes at home, consider seeking counselling for them. Professional support can help them adjust to the new family dynamics, providing a safe space for them to express their feelings and thoughts about the changes.

The Australian Government funds the **'Supporting Children after Separation Program'** to help children who need support when their parents have separated. To find out more, phone 1800 050 321.

Kids Helpline also offer a free confidential, online and phone counselling service for kids, teens and young people who want to talk about anything, at anytime. Call Kids Helpline at 1800 551 800.

Contact child support

If your former partner is not contributing to the support of the children after separation, reaching out to Services Australia (Child Support Agency) can be a helpful step.

The Child Support Agency will conduct an assessment and provide guidance on your child support arrangements, including advising who needs to pay child support and how much needs to be paid. If you decide to pursue this, the Child Support Agency can help collect and transfer payments.

Contact the school

Keeping the school informed about your family's changes is important. Share with the school that you and your partner have separated, providing them with updated contact details for both parents.

Factors to consider

- Who are the children going to live with?
- How much time will the children spend with the other parent?
- How will you handle special occasions such as birthdays, Christmas, and other religious holidays?
- How will time be split in school holidays?
- How will the children communicate with each parent?
- How will the parents communicate with each other in relation to the children's welfare, care and development? E.g. text message, email or parenting apps (such as 'Our Family Wizard').

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Navigating separation is a complex process that demands careful thought and consideration. By anticipating and addressing the practical aspects outlined in this checklist, you pave the way for a more seamless transition.

Our experienced family lawyers are well-versed in all facets of family law. Whether you need assistance with children and parenting matters, drafting binding financial agreements, negotiating property settlements or finalising your divorce, we're here to support you every step of the way.

If you need assistance, please don't hesitate to contact our Family Law Department Manager directly:

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Our team is available at any of our conveniently located offices at Robina Town Centre, Coolangatta, Southport, Kingscliff, Brisbane, Sydney, and Melbourne.