

# 9 tips to consider when separating

Our clients often don't know where to start when considering the decision to separate, or after the decision to separate has been made.

We've put together a list of things to do in preparation for separation or divorce.

# 1. Have a plan in place

Whether you've already separated or are considering separating, having a plan for what life looks like will provide you with a sense of security and certainty.

This plan might include:

- a. Safety planning for how you leave the relationship;
- b. Whether you stay in the home or move out, and what that looks like;
- c. What care arrangement for the children might work around your other commitments (like your work and the children's extra-curricular activities);
- d. Doing a budget of your income and expenses as a single unit;
- e. What professionals and non-professionals you want in your post-separation support network;
- f. Considering whether your post-separation arrangements will enable you to work at your current capacity, and if not, how you discuss this with your employer; and
- g. Mapping out key dates and timeframes for you to work within.



## 2. Identify what's important to you

Identifying what is important to you at the outset will make sure you stay focused on the big picture. In doing this, think about (and even write down a list of) your objectives, your interests, your goals, your concerns and your fears. The decisions you'll need to make during the separation process will affect you and your children for years to come, so don't get bogged down in fighting over semantics or trying to be right.

Nobody wins in separations, but if you focus on what's most important, like the kids and your future, instead of the painful past, you'll have a much better chance of not only separating amicably, but achieving a settlement you can feel comfortable with and that benefits you and your family.



### 3. Gather financial information and put it in a safe place

If you and your spouse/former partner are separating you need to understand your financial position and current financial situation.

If there are documents that you have authorised access to you should make a photocopy of them and put them in a safe place until you can provide them to your lawyer. Don't hack into emails or online bank accounts or open mail not addressed to you.

While you and your spouse/former partner have an obligation to provide relevant financial information to each other, there

are also some neat tricks to being able to find out information if your spouse/former partner won't share it with you - like requesting their superannuation information as at a particular date. Speak with your lawyer to understand what financial documents you should collate and what your former partner/spouse should provide too.

You may also want to get a head start on having some of your more significant assets valued, but you should do this cautiously as such valuations may become known to your spouse/former partner later.



## 4. Don't bad-mouth your spouse to your kids or on social media

It is way too common for separating parents to say negative things about each other in the presence of the children in an effort to get them on their side. Psychologists will tell you that this may win the children over temporarily, but it is likely to cause them problems in their relationships later in life or for the own personal development. Children often see themselves as being made up of 'half-mum' and 'half-dad'. Saying bad things about their other parent can have a child think that they are 'half-bad'.

Undermining your spouse/former partner to the children can also have the effect of you being seen not to facilitate the children having a meaningful relationship with their other parent. This is a primary consideration when determining what is in a child's best interests.

With online platforms and social media used commonly these days to share your thoughts and experiences, it can be tempting to post negative comments about your spouse/former partner when things turn sour. As tempting as it is, we'd encourage you not to put it in writing unless you'd be happy for a Judge to read it.



## 5. Co-parenting is key

As parents, you each have some inherent level of parental responsibility (unless this has been displaced by agreement or court order). This means that you should be communicating with each other about your children's care, welfare and development. Ideally, you are also consulting with one another before making significant decisions involving them, such as:

- a. What school they attend;
- b. What religion, if any, they practice;
- c. Moving them out of the city where they live;
- d. Whether they need to see a counsellor, and who that is; and
- e. Any medical procedures or treatments.

Try to reach agreement about the way that communicating works for you. For some co-parents, this is in writing, and for others communicating freely by phone is fine when respectful boundaries are observed.

You will stand in a strong position, both for your children and in any parenting dispute, if you have been the parent who has demonstrated an ability to put the children's needs ahead of your own grievances about your spouse/former partner.



## 6. Reach out for support

It's important to remember that no matter how isolated you may feel, you are not alone.

Recognise that there are sources of separation counselling that you can use to help you sort through the menagerie of feelings you're experiencing and learn how to deal with them in a healthy and constructive way. Whilst friends and family can provide invaluable emotional support, it may also be beneficial to seek support from an independent professional, such as a psychologist or counsellor.

When you can understand where you are on the grief cycle, and can be aware of your emotions, you can better prepare yourself for your negotiations and to make decisions with a calm, level head. Other helpful support may include medical advice from your GP or financial advice and planning advice from suitable professionals. We will work with you to ensure you are well connected to the right experts and professionals for you so that you can work towards accepting this big, life-changing event.



## 7. Don't just sign or agree to anything

Be careful about rushing into a decision, particularly when your separation is recent or when you're experiencing emotions of grief.

It is incredibly important that you do not agree (even informally) to an arrangement being put in place for your children that you do not believe is in their best interests. It may compromise the weight given to your concerns about the arrangement later if you let that arrangement be implemented for your children in the first place.

You shouldn't ever sign a document without the ability to carefully consider it and get legal advice about it. This is particularly so when we're talking about some of the most important things in your life; your assets and superannuation, and what arrangements are in place for your children.





## 8. Don't leave it too late

Almost all separations benefit from you documenting an arrangement for parenting and/or financial settlement. Even if you are in agreement about the division of your property, there are still benefits of formalising the agreement for example to protect you against a further claim or change in circumstances, or to give you a stamp duty exemption on the transfer of cars or real estate.

It is important to know that there are time limits on commencing proceedings in relation to property settlement and spousal maintenance applications if you are unable to reach an agreement about your financial matters. There are other time limits that apply to child related matters and appeals.



## 9. Get some family law advice... early

Even though this is our final tip, if you get advice early it can help you avoid the tricks and traps we've alluded to in providing the other tips.

If possible, you should see a specialist family lawyer even before you separate. An experienced family lawyer can give you guidance surrounding the separation process, including your legal rights and entitlements as well as the options for resolving your separation amicably, so that you don't make any hasty decisions that you may later come to regret.

Everyone's circumstances are different which means that the advice you need is bespoke. Family law isn't based on a formula, and there is no presumption that you will have the children 50/50 or that your assets will be divided 50/50. Some key factors that change separation outcomes can include:

- a. The number and age of your children;
- b. Any risk factors that exist when it comes to either of you spending time with the children;
- c. Whether conflict between you is low and communication between you is good – or not;
- d. Each of your salaries, and earning capacities;
- e. Any inheritances, gifts or other windfalls that either of you have received;
- f. The value of the assets that each of you have;
- g. The length of your relationship;
- h. If you have already divorced, how long since divorce it has been

While it is essential for you to talk to friends and family for emotional support, it can be problematic to rely on friends or family to give you advice about the legal side of the process.

You will be best placed by developing a relationship with your family lawyer early to ensure that you have access to excellent legal advice and support from a trusted and independent person when you need it. We work with our clients to develop a clear case plan so that you can start your separation process with the end in mind.

We want our clients to feel empowered and supported following a separation. We tailor our services to be in line with what you need, which often includes a discussion about strategy, mediation options and best practice negotiation techniques. The best outcome you can achieve is one that 'you own' and have been part of, through a process that doesn't further exacerbate your co-parenting relationship and/or friendship with one another.

If you are in the process of separating and have further questions, we can assist you and provide you with transparency about the cost of our advice and assistance, so that you have certainty and confidence in your options and entitlements in a time where there is naturally a lot of uncertainty about the future.

[Book a consultation today](#)





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