

Separation

Counselling

When a marriage or de facto relationship ends it can be a very emotional time. Separation can be stressful and may involve many changes for you and your family. There are a lot of important decisions to be made and it can sometimes feel overwhelming. To enable you to deal with these emotions and to move forward positively, it may be helpful to see a counsellor. You may wish to see a private counsellor, or you may consider contacting Relationships Australia for [post separation counselling](#).

If you have experienced family violence, you may consider calling a counselling service that specialises in family violence such as:

- Family Violence Counselling and Support Service: 1300 135 513
- Engender Equality: (03) 6278 9090

Family Violence

If any form of family violence has occurred or is likely to occur, you may consider getting a Family Violence Order against your spouse or partner (see our fact sheet “Family Violence and Family Violence Orders”). If you are in immediate risk you should call police emergency on 000.

Do I have to leave the home?

If a relationship has ended, it does not mean that you have to leave the home.

Owned Property

If you live in a property that is jointly owned, then you are both legal owners of the property and neither person is required to leave. Where there are issues of family violence, then a Family Violence Order may be made requiring one person to leave.

If you live in a property that is owned by your spouse or partner, then they are the legal owner and may require that you leave.

In either case, while you may be able to arrange to return to the property at a later date to collect your belongings, you should take with you any important documents or items. These may include identification, bank cards, medication and clothing. If you need to return to the property to collect your belongings and there is a risk of violence, you should consider contacting police and requesting an escort.

Rented Property

If you live in a rental property where both names are on the lease, the landlord may agree to change the lease to include only the person who wishes to remain living there.

If the lease is in joint names, or your spouse or partner’s name only, and there are issues of family violence, then a Family Violence Order may be made to terminate the lease and establish a new one in your name only.

Property Settlement

Property settlement refers to the splitting of property arising out of the marriage or de facto relationship. Property includes all assets and liabilities, such as your house and mortgage, cars, bank accounts, personal loans or credit cards, and personal belongings.

Married Couples

Parties to a marriage can make an application for property orders any time from separation until 12 months after obtaining a divorce.

De Facto Couples

Parties to a de facto relationship can make an application for property orders any time from separation until two years after the date of separation.

For more information see our fact sheets 'Matrimonial Property Settlements' and 'De Facto Property Settlements.'

Divorce

Divorce is the process of legally ending a marriage. Divorce applications can only be made to a court after you have been separated for a minimum of 12 months and 1 day. If you remain living together after separation, you will need to satisfy the Court that you have been separated for the required period. This may involve providing additional information and can be a bit more complicated. If this is your situation, you may consider obtaining some legal advice.

Children

If you have children you will need to consider their living and care arrangements following separation.

In many cases the parents will come to an informal arrangement about the care of children. However, where the parents disagree about the parenting arrangements it may be necessary to enter into a Parenting Plan or apply for Parenting Orders.

For more information see our 'Children and Family Law' fact sheet.

Child support

Child Support refers to the financial assistance provided by one parent to the other towards the costs of the children following separation. Either parent can apply for an assessment of Child Support by calling the Child Support Agency on 131 272.

Wills

You may consider drafting or updating your will upon separation. In the case of a marriage, a will

naming your spouse as a beneficiary will only become invalid upon divorce. See our fact sheet 'Wills, Power of Attorney and Enduring Guardianship.'

Mediation

Mediation is a dispute resolution process where both parties can try to solve the dispute and reach an agreement in the presence of a third party, known as the mediator. This may be helpful for property settlements, parenting arrangements or child support matters.

Find out more

Women's Legal Service Tasmania: 1800 682 468

"Separation" is intended to give general information. Whilst we have made every effort to ensure the contents of this document are accurate at the time of publication the law and services do change. Legal and service exactness is not possible in a publication of this nature. This publication should not be used as a substitute for legal advice.

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