



SEPARATION CHECKLIST

JOURNEY FAMILY LAWYERS

Disclaimer: As a reader, we are sure you are intelligent and capable and that you are taking the effort to do your own thorough research, as any sensible person would. But please remember this advice is general and meant to be taken as a guide rather than a particular answer to your particular problem. For more detailed, specialist advice on specific problems, contact our team today on **07 3832 5999** for a FREE 15 minute phone consultation.

Separation

Splitting up is never a good time but with the right advice and someone to guide you through the process, it's much easier. One of the biggest risks can be giving up too much just to be free. As lawyers, we find that it typically takes time to develop an understanding of each person's role in the separation and gain a realistic understanding of your needs to be able to find a viable solution that is best for you (and your children) in the long term.

The purpose of this book is to help you to get yourself through the separation process in a good emotional state. Morally, the person who leaves often feels the need to give the surprised party the chance to catch their breath, and reorganise themselves and their finances.

In the early 80's and 90's, this sort of behaviour was common practice. The poor (usually) husband went to work expecting everything to be as he left it in the morning, only to come home from work to an echoing empty house to find wife, children and furniture gone. As you can imagine, in these sort of situations, there's very little chance of ever negotiating a settlement with the left person, as this behaviour usually results in a loss of all trust and respect for the person who left them so cruelly. Thinking about the impact of such behaviour on children is frightening. As such, we do not advise engaging in this sort of drastic act unless there has been Domestic Violence and even then, it does not justify the taking of everything in the home.

If you are the initiator, you are bound to be slightly better prepared for separation than your partner. However, the separation time itself usually comes as a surprise to everyone involved. It

typically comes about as a result of the actions of the other person, a fight or, for some, it is the result of an epiphany.

Of course, some people who are left cannot be easily appeased, but what happens in those first few days and weeks can have a very long-reaching effect on the ability of the parties to reach agreement in property matters and children.

If you are the one to whom the bombshell has been handed, then you really need to try to think logically, even if it seems impossible at the time. Here in this book are our top tips for separation. PLEASE NOTE These steps are the ones to consider taking in the first days and are designed to get you through those days. Remember, if you take too much, you can always give some back!

In the longer term, even before final property settlement, you will be able to take formal steps to obtain regular maintenance if you can show you need it, or an interim distribution of property.

Sincerely,

Lyn Galvin
Journey Family Lawyers



Get support

Get some support. Tell your friends and family, see a Lawyer or maybe even a Counsellor. Go to social security if you need to get some financial support. Don't be embarrassed or shy about airing your issues to strangers. You cannot rely on the support of your ex-partner and you must swallow your pride and begin to form your own support network.

Tell the school, and get some support for the kids at school either through the school counsellor or a trusted Teacher.

Your kids will almost certainly need counselling and support. You had a life before your relationship with their other parent, but your kids didn't and, to them, they cannot imagine life without both parents.

You need to be strong for your children. As great as the shock is, you need to do your crying in the shower.



Take steps immediately

By this I mean the first day you can function after the separation. I don't mean the first day that you are absolutely certain that you won't get back together again; that could be too late. I mean the first chance after someone says that it is over and takes steps to leave. So what if you'd get yourself onto social security or into counselling and get back to together? You can always withdraw from these programmes or withdraw your application for Centrelink if reconciliation happens.



Protect your wages and bank accounts

If your wages are paid by your employer into a joint account, then now is the time to open a new account in a completely different bank and have your salary paid into that new account. While I am on the subject of joint accounts, if there is a surplus, consider taking some of that surplus and moving it into your own account for safety. You can always redeposit it if necessary but it seems silly to expose yourself to having no money at all if, for some reason, the bank freezes the joint account or if your ex withdraws the lot. It is not mean, but it is sensible and an acknowledgement that you are no longer jointly looking out for each other. Just assume sole responsibility for your own welfare at least until such time as you have sufficient trust in each other or, failing that, a Court agreement to force one or other of you to support the other.

Protect the irreplaceable

We know people can be tempted to hurt you by damaging things that are significant. If you can do so safely, you should try to protect the important things you own and cherish. Such things may include 21st presents, trophies, handcraft hobbies, musical instruments, collections, photographs and antiques.

Mortgage and Debt

Whilst you may have many automatic payments and the mortgage being automatically deducted from your joint account, you can reach an arrangement where you place on so much of your pay as is necessary to meet your share of these commitments. Hopefully, that can be arranged by agreement; but remember, if your ex-partner does not pay any of the mortgage, then the bank will almost certainly expect that you pay it all. If an agreement can't be reached with your ex-partner verbally, then send a letter either from you or your solicitor requesting that he or she pay, and that if they don't, and you are able to pay, then you will seek a reimbursement for your extra contribution at the final property settlement.

A cautionary note here though: The Family Court in Australia has traditionally required the person who resides in the former-matrimonial home to pay the mortgage. However, with the high mortgage rates around at the time of writing, this practice has been somewhat relaxed.

Credit Cards

Get your bank to deactivate any second cards your ex-partner may have on your account. If you have no other source of cash and you are concerned your ex will close your joint accounts, withdraw some money to use, and expect to take it into account at final property settlement.

Secondly, change your pin and/or internet banking password. Do it now. If you are very broke, and have relied on your partner to support you, perhaps you need to consider withdrawing some cash from that card account or joint account to have on hand for emergencies. Know that any such withdrawal will need to be taken into account at any final property settlement either as spousal maintenance or as a partial property distribution.

Passwords & security

In addition to your internet banking password and pin, you're sure to have many other passwords that you'll also need to change. It's advisable to change them now. All of them! Email, social media, bank accounts, insurance, council accounts, frequent flyer, home and mobile phone accounts, everything you can think of. Even the pin numbers on your computer and phone. Take our word on this one, we've seen people do some horrible things out of

misguided 'revenge'. Make a list of all the pins, password-protected things and sites you access with the most important first and the least important last, and get cracking. You may be very sorry if you don't.

Not sure that changing passwords is necessary? Let's take a look at some real-life examples of the consequences of not changing your passwords when an ex is difficult, misguided, malicious or just plain sneaky:

The following story is a true account from an client experience... names have been changed to protect the families. Diana had been married for 14 years. She had been shocked when her ex left her but, because her spending patterns were a lot less extravagant than his, she had always had her own credit card and he didn't have a second card. You would think she had nothing to worry about, but not so! He still had access to the online joint property rates account with the local council. He logged on and authorised the payment of property rates two years in advance, thus running her credit card up to the maximum amount, and leaving her liable to much greater re-payments than she could manage. To add insult to injury, Joe had stayed in the former matrimonial home so he was relieved of the obligation of paying rates for the whole time he lived there before they finally got their property sorted out.

Another example is of the man whose wife knew his email password and was reading his emails from his lawyers, including all of the strategic communications.

Another is where one party got access to the other's computer and, knowing the password, logged on to a number of paedophilia websites on that computer. Then they called the police, who raided the home of the innocent party and arrested that person. This had an enormous impact on the subsequent child custody Trial.

Another case I remember was one where the ex-partner had memorised the details of the other party who was subsequently bombarded with products he didn't want, all paid for on that person's own credit card! Things like a gold edition monopoly set, a complete beer stein collection delivered one at a time over three months. Exercise equipment and other deluxe items that were completely unaffordable and useless to this person. Luckily, the threat of Court action stopped the bombardment but had it gone to Court, how could the person have proved who had or hadn't ordered all that junk?

I hope that convinces you that no matter how much you may have trusted your ex, people do some things for revenge, out of hurt or out of fear, and you need to protect yourself.



Documents

It's no longer 'our documents'; it's now 'yours' and 'theirs'

It's most likely that until now you've stored all of your important documents together. Whoever has access should now separate them and hand over ones regarding the other party; after they've been photocopied. You'll need to disclose all of your documents before you can begin to negotiate settlement in any case, but photocopying speeds things up.



Healthcare and Insurance

You need to inform your Health Insurance fund and Life Insurance companies that you are now separated, and they may ask you to change your policies. For health funds, it's a good idea to set up your own policy just in case your ex removes you from the family policy without letting you know. This is too important to leave too long. Firstly, advise the fund that you have separated and may need a new policy depending on the fund's rules. Then, take steps to ensure your ex keeps paying if you weren't the person paying and also put in place a way of checking from week to week to ensure that the payments have been made and that your name has not been removed from the policy without your consent. Some funds are quite strange in that they accept the removal of a person by the payer, and often don't contact the person removed, probably because they only have one address for both people, the payers address.

So check and check often. Alternatively, you can set up your own health fund insurance as soon as you possibly can and, out of an abundance of caution, we recommend to do it with a completely different firm if waiting lists aren't an issue. This helps prevent mix-ups on the side of the health fund with your new account and your ex's. Don't laugh! We've have seen it done! So you see the theme here is to set up bulletproof structures for yourself in banking and insurance with a completely fresh institution that you never used as a couple.



Boundaries

As soon as you've protected yourself, you need to establish some set boundaries between you and your former partner. It's no longer appropriate for you to communicate with anger or insults, and you must not harass them with multiple text messages or phone calls, as this could lead to allegations of harassment.

We understand it's incredibly difficult, but you must make every effort to keep your communication polite and business-like, particularly in front of your children. And while it may be hard at the time, it will go in your favour later on when everything has calmed down and you can look back on your actions without regret.

CONCLUSION

Separation is tough, and you need to handle some things fast, but if you ever feel you need some help (or more advice about what to do right away), don't hesitate to get in touch. Just one conversation may be all you need. Contact our team today on **07 3832 5999** for your FREE 15 minute phone consultation.

PS: At Journey Family Lawyers, we are very conscious of family budgets. That's why we've developed our unique fixed-fee servicing where you pay for the service provided, instead of the hours spent on that service. **Ask our team about our fixed price servicing for peace of mind on your legal fees.**