

Separated under one roof: your guide

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Date: **Tuesday September 29, 2020**

Separating from your partner while still living in the same house (known as separation under the one roof) is common and can happen for several reasons. Some reasons include:

1. Financial;
2. Convenience;
3. Staying together for the children; and
4. One or both parties are unwilling to leave.

Many couples may have no option other than to remain separated under one roof. This has also been magnified during the coronavirus pandemic. For example, one or both parties may be out of work, childcare arrangements may necessitate the parties staying in the one home or there may not be any other accommodation options. Moving would prove especially difficult, particularly during the periods of stricter lockdown measures.

This article provides guidance around managing through a separation under the one roof.

Safety first

The most important thing to remember is that you don't need to live in a home with your ex-partner if it's not safe to do so. If you are being subjected to family violence, seek safety first and if you are in immediate danger, call 000.

Further information and resources in relation to your options can be found in our article "Family violence and support services".

Before you separate

Before you decide to separate from your partner you should consider the following:

1. Do it safely. If your safety is an issue, get as much advice and support as you can before you separate. A family lawyer can give you advice and provide the appropriate referrals if required.
2. If possible, make sure you have adequate support around you from friends and family.
3. If privacy is an issue, change passwords for your personal accounts; for example, your online banking, any email accounts and social media accounts.
4. Gather all of your personal paperwork and valuables and keep them safe. These include things like your birth certificate and your passport.
5. Get family law advice and do your research about where you stand. The advice may influence your decision about timing and you may avoid doing things that could unnecessarily inflame the situation.
6. Record the date you separated from your spouse/partner – even if you know you will still be living in the same house.

Why you should record when you separated

If you were married, the period you have been separated is used to determine when you can get a divorce. If you were in a de facto relationship, the period you have been separated is used to determine the date by which you must apply for property settlement.

The separation date may also be relevant for things such as an application to Centrelink for the payment of benefits.

How to determine the date of separation

Sometimes there will be a disagreement about the actual date of separation, especially where the parties are still living together. A few days or maybe even months might not make too much of a difference to the legal outcomes.

However, if it's necessary to determine the date of separation, some of the relevant considerations may be:

1. When did the parties stop sleeping in the same room?
2. Is there an ongoing sexual relationship?
3. Do the parties continue to socialise together outside of the house?
4. Are finances still intermingled?
5. Are the parties still caring for one another – cooking, cleaning, laundry?

Tips for managing separation under the one roof

Separating from your partner can be a hard time and navigating feelings like loss, sadness, anger and uncertainty can lead to a stressful or tense home environment. The following suggestions may help to keep things calmer around the house:

1. Get help if you're struggling with your feelings. There are counselling services available for men and women who are struggling with the breakdown of the relationship.
2. Try to look after yourself. It's easier said than done but do your best to eat well, get enough rest, exercise and avoid drinking too much alcohol.
3. If you can, set some ground rules around communication; what needs to be discussed and resolved now and what can wait. This also includes communication in writing. Assume everything you write to your ex-partner and on your social media accounts will be read by someone else.
4. Try to keep things civil, especially if there are children involved. Resist the temptation to get involved in arguments and walk away if it looks like a conversation will end in an argument.
5. Make sure you have adequate support from family and friends.
6. If your home is big enough, try to agree on having some space separate to common areas where you can each have alone time.
7. Avoid making rash decisions. If you find that you simply can't cope with living in the same house any longer, plan your exit.
8. Before leaving the family home, get legal and financial advice first so you can be sure that you are making the right decision and have considered all relevant factors.

Get help

We can help you find out where you stand and ensure you're fully informed about your rights and entitlements after separation.

We will help you with:

- arrangements for the future the care of any children;
- negotiating a property settlement when the time comes;
- negotiating any entitlement to spousal maintenance;
- assistance with your application for divorce; and
- working with you to review and update your Will or any other estate planning documents.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.