

The advantages of an amicable separation from your partner

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If you're in the process of separating from your partner, there are many things you will be turning your mind to; like parenting arrangements if there are children, property settlement and spousal maintenance. Many separating couples are able to agree these arrangements between themselves. However, it is our recommendation to consider formalising any arrangements wherever possible, to clarify the position of all parties and protect your interests both now and in the future. Formalising your family law arrangements can still be done amicably.

What are the advantages of reaching an agreement rather than going to court?

Reaching an agreement with your former partner can have many advantages:

- Preserving an amicable relationship (this is particularly beneficial if you have children);
- Saving the legal costs of court proceedings;
- Being empowered by making your own decisions;
- Avoiding the uncertainty and stress of court proceedings;
- Having a result sooner rather than later and being able to move on with your life.

Important things to consider after separation

There are a number of things you need to give consideration to once you've separated; whether it's amicable or not.

The below list is designed to help you work through the various tasks in a methodical way. It is by no means exhaustive and some of the options may not suit you at this time. If the separation is amicable, you may want to consider discussing these with your former partner so you can both attend to them for yourselves.

1. Separating your finances: you may wish to open your own bank account.
2. Update your passwords on any personal online account: social media profiles, banking, Google account etc
3. Advise the school: if there are children of the relationship, it can be helpful if the school is aware of your new circumstances
4. Update your Will: separation and/or divorce may affect the Will you had in place prior to separation. Now is a good time to consider re-visiting your Will.
5. Joint utility bills: speak with your former partner about how to deal with these going forward so that there are no unintentional consequences of your separation.
6. Joint bank accounts: think about whether you should change any joint bank accounts so that consent from both parties is required to make any withdrawals. You should consider speaking with your former partner before doing this so that it does not disrupt your good faith negotiations.
7. Superannuation: review your nominated beneficiaries for any of your superannuation funds as well as any life insurance and/or injury insurance policies and consider updating them.
8. If you intend to move out of a shared property, take any important documents (or copies of them) and meaningful items with you.
9. If relevant, advise Centrelink of any change in your circumstances.
10. Get legal advice about any time limits that may apply to your circumstances.

Do we need to record our agreement and how do we make it binding?

It is important to have your agreement legally formalised. At the very least, if it is recorded in writing, it ensures that you and your former partner are "on the same page" and have the same understanding of the agreement reached.

Having the agreement made binding also avoids each of you being able to change your mind later on. It ensures that you can move on with your new lives without the worry of your former partner making a claim against you in the future.

There are different ways to make your agreement binding and the way that is preferable in your case will depend on your circumstances and the nature of your agreement.

Your agreement would usually be formalised by you and your former partner entering into some or all of the following:

- Parenting Plan;

- Consent Orders;
- Binding Financial Agreement; and/or
- Binding Child Support agreement.

How can we help you?

The majority of work we do at Emera Family Law involves assisting our clients with amicable settlements.

If you have already reached an agreement with your former partner, we can advise you about the “fairness” of your agreement and ensure you have considered all necessary aspects of your agreement before proceeding. We can also advise you about what type of settlement document would best suit your needs and we can draft the document so that the agreement is legally binding.

Even where separation is a mutual decision and the parties are amicable, there may still be some disagreement or uncertainty about the finer details of your property, financial or parenting arrangements.

If you and your former partner are unable to reach an agreement amongst yourselves, we can assist by negotiating with your former partner (or their lawyer) before preparing the documents to make it legally binding.

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.