



# Who pays the mortgage and other expenses after separation but before property settlement?

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Separation can create emotional upheaval and financial uncertainty, especially when shared property, debts and living costs are still in the mix. One common question that arises is: who is responsible for paying the mortgage and other expenses before a [property settlement agreement](#) is reached?

In Australia, there's no one-size-fits-all answer. Whether you've just separated or are navigating the months leading up to finalising a property settlement, it's important to understand your rights and obligations.

This article explains what usually happens with mortgage repayments, utility bills, insurance and other shared costs before a formal property settlement is reached, and what your legal options are if things become difficult.

## Financial responsibilities don't automatically end at separation

Separation marks the breakdown of a relationship, but it does not automatically release either party from shared financial responsibilities, especially for things like home loans, utilities and council rates that are in both names.

Until a formal property settlement (by agreement or court order) is reached, both parties remain legally responsible for joint debts and expenses.

## Mortgage obligations after separation

If both parties' names are on the mortgage, they are both jointly and severally liable for the loan. This means:

- the bank will expect the mortgage to be paid on time regardless of who is living in the property; and
- either party can be pursued for outstanding amounts if repayments are missed, regardless of who missed the repayment.

This can become a major point of conflict, especially if:

- one party has moved out but is still paying;
- one party is refusing to contribute; or
- there is disagreement about who should remain in the property.

## Options for paying the mortgage before a property settlement agreement

Here are a few common approaches people take in the short term:

### Continue as you were

Sometimes, separating couples continue to share mortgage repayments as they did during the relationship. This arrangement may stay in place until the property is sold or one party buys the other out.

### One person pays, with reimbursement later

One party may pay the mortgage on their own with the expectation that this will be factored into any final property settlement agreement (as a [financial contribution](#) or reimbursed amount).

### One person pays, with no reimbursement

If one party continues to reside in the property, particularly if it is that party's intention to retain the property, they may pay the mortgage on their own with no expectation of a reimbursement. This is often the case where the other party is required to relocate to rental accommodation and incur rental costs.

## What if the property is to be sold?

If both parties agree to sell the property and the parties are unable to afford to pay the home loan repayments in addition to any rental costs (where one or both parties have relocated from the property), the parties may consider:

- Applying to their mortgage provider for a mortgage moratorium. This is a pause on their home loan repayments. Any mortgage arrears can then be deducted from the sale proceeds once the property has been sold; or

- Applying to their mortgage provider to switch to interest only repayments pending the sale of the property. Again, any mortgage arrears can then be deducted from the sale proceeds once the property has been sold.

It is essential that parties speak with their bank and/or seek financial advice before doing so to ensure that this does not have a negative financial impact on them.

## What about other expenses?

### Utilities

- If services are in joint names, both parties are both jointly and severally liable.
- If only one party remains in the home, they often take on these costs. However, this must be agreed by the paying party.
- If services are in joint names or in the name of the party who has relocated from the property, it **may** be appropriate for that party to remove themselves from the account or cancel the service providing that sufficient notice is given to the other party. We recommend seeking legal advice before you do so.

### Home and contents insurance

- If insurances are in joint names, both parties are both jointly and severally liable.
- If only one party remains in the home, they often take on this cost. However, this must be agreed by the paying party.
- Both parties will generally have an interest in protecting the home and its contents, so if one party asserts that this should continue to be shared and/or if one party is refusing to pay, it is in both parties' interest to ensure that the insurance continues to be paid.
- Be cautious if changing names or cancelling policies without legal advice.

### Rates

- If rates are in joint names, both parties are both jointly and severally liable.
- The approaches taken to the payment of rates are the same as the approaches taken to the payment of the mortgage (see above).

### Repairs, maintenance and improvements

- Repairs, maintenance and improvements can affect the value of the property.
- If minor repairs and maintenance are needed as a result of wear and tear and/or damage caused by the party residing in the property, it is reasonable for that party to pay that expense.
- If one party is funding improvements to the property to prepare the property for sale, this may be recognised in the settlement as a post-separation financial contribution or the parties may agree for the cost of the improvements to be reimbursed.

## What if one party refuses to pay?

If your ex-partner refuses to contribute to the mortgage or other joint expenses:

- You are still liable for joint debt.
- You should seek legal advice about applying for court orders to enforce or recover payments, to obtain spousal maintenance or an interim property settlement to assist with expenses.
- If there is genuine hardship, you may ask the mortgage provider or other relevant organisation/lender for temporary relief, such as a pause or reduction in repayments. This is not a long-term solution and financial advice should be obtained before doing so.

## What if an agreement is reached?

It is best practise and strongly recommended that you formalise any agreement reached in relation to the interim payment of expenses when formalising your final property settlement agreement.

Your final property settlement agreement can be formalised by way of [Consent Orders or a Financial Agreement](#). If your matter is before the Federal Circuit and Family Court of Australia, you can formalise agreements on an interim basis.

Pending your agreement being formalised you should:

- record who is paying what;
- keep receipts and bank statements showing your contributions; and
- get legal advice before signing any agreement or applying for court orders.

## In summary

- You are still responsible for joint debts and expenses after separation until your property settlement is finalised.
- Mortgage repayments and other expenses should continue to be made to avoid penalties, defaults or property repossession.
- Who pays what can be negotiated, but if no agreement is reached, legal advice or court intervention may be necessary.
- The Court may consider who paid what after separation when determining a just and equitable property division.

## Get advice from a family lawyer

Understanding your legal responsibilities and documenting any informal arrangements can reduce conflict and help protect your financial position in the long run. Always seek legal advice before making decisions that affect your rights or obligations.

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