

Five things to do when you separate

If you have separated from your ex, you may be unsure of what to do next while navigating a very stressful time. Joel Niles, Associate in Family Law, shares five things to do when you separate.

Collect your important documents

It is important that you collect and copy your important documents such as the marriage certificate, your birth certificate, your passport, your superannuation and bank account statements, your payslips and your Centrelink documents.

You will need a copy of the marriage certificate in order to apply for a divorce.

Your financial documents are important when it comes to formalising a property settlement and dividing your assets.

When you obtain a property settlement, you have a duty to disclose all information and documents that are relevant to your financial position. This is called the ‘duty of disclosure’.

By collecting your financial documents after you separate, you will be able to commence the process of exchanging disclosure. Those documents will also help your lawyer give you advice.

Plan for the care of your children

You should seek advice from a family lawyer before putting any care arrangements for your children in place. A family lawyer will be able to advise and assist you in working out what care arrangements are in the best interest of the children.

Unless there are Court orders to the contrary, each of the parents of a child has parental responsibility for the child. Your separation does not change that parental responsibility.

This means that, if it is safe to do so, you are encouraged to consult with the other parent about major long-term issues in relation to your children and always bear their best interests in mind.

Get advice about your entitlements

You might presume that a 50/50 division of your assets is fair. However, a 50/50 division may actually be less than your entitlement. A family lawyer can give you advice about your legal entitlement so that you can approach a property settlement with confidence.

It is even more important that you get advice about your entitlements if your ex is trying to force you into an agreement.

Formalise any agreement by an Application for Consent Orders or Binding Financial Agreement

There are significant risks of not formally documenting any agreement that you may reach with your partner about property or spousal maintenance.

If you were to informally divide up property or agree on spousal maintenance, and not do anything further, then your agreement is not legally binding or effective and does not create finality.

To give finality to your separation and to bind your ex to an agreement, there are particular legal steps which must be taken. A family lawyer can assist in preparing an Application for Consent Orders or Binding Financial Agreement to formalise any agreement.

Prepare a new Will

It is important to consider preparing a new Will to take into account your separation, because separation by itself does not revoke any current Will. Therefore any clause in your Will naming your ex as a beneficiary or executor will remain in force until a new Will is made.

Similarly, separation does not revoke any existing Power of Attorney or Advance Health Directive. It is therefore vital that you also consider updating these documents to ensure that your financial and personal health matters are managed by the person of your choice should you lose capacity to manage these yourself.

How can Andersons Solicitors help?

At Andersons, we have a highly experienced family law team who can help you through your separation or divorce including to help you understand your rights and entitlements and how best to formalise any agreement. We work a little differently than many law firms in that we offer a **90-minute Family Road Map** meeting tailored to your personal situation.

All your concerns and questions will be addressed in this appointment, and your lawyer will explain the process and outline a plan for next steps. All for a set fee.

There is no obligation to engage our team after this meeting but at the very least you will have a solid plan to progress through your separation.

For more information or to book your 90-minute Family Road Map appointment, please call 8238 6666 or email enquiry@andersons.com.au.