



## **A guide for fathers**

A practical guide for men going through separation or divorce.



# Top 10 things to remember when you're going through separation/divorce

1. Put your children first. Do not write-off your ability to continue to be involved in their lives.
2. Get expert, affordable legal advice and follow it. Know the rules and play by the rules.
3. Remember the Golden Rule of Family Law for Fathers – **Parenting Orders First**.
4. Do what you can to improve your position. Don't obsess over or react to aspects you cannot control.
5. Understand what domestic violence is and don't commit it in any form.
6. Get legal advice **immediately** if you are served with or threatened with a Domestic Violence Order.
7. Take care of yourself, emotionally, mentally and physically.
8. Accept the relationship is over and make the choice to move on.
9. Seek help – separation is a common experience that is highly traumatic.
10. **It gets better**. It may not seem like it, but it will.



This booklet is produced by Men's Legal Service and is provided as general information only and is not a substitute for legal advice.

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# Introduction

This booklet is intended as a practical guide for men going through separation and divorce.

Our aim is to provide frank advice so that you have a realistic understanding of the challenges ahead, know how to avoid common pitfalls, and understand the steps you can take to improve your chances for a positive outcome.

We understand this is a difficult time and that the goal for the majority of men is to simply 'get through it'. Our goal is to help you do so with the least amount of stress for your children, your former partner and you, while optimising your chances to achieve the primary goal of most separated fathers: remaining a meaningful part of your children's lives.

## Play by the rules

You may have heard that the family law system is unfair and treats men badly. We prefer to think of family law as a sport in terms of the importance of having a plan and understanding and following the rules.

If you weren't familiar with rugby league, you'd wonder why players keep passing the ball backwards or in soccer why players do not pick the ball up with their hands.

But the rules of the game require it be thrown backwards, or in the case of soccer, kicked and if you break those rules, you'll be penalised.

Family law is exactly the same. There are rules, and if you follow them – as frustrating or counter-intuitive as they may be in the moment – you will be more likely to end up with a positive outcome in the long run.

Generally, the system is fair, but you have to understand the system, and you **MUST** follow its rules and have a plan based on those rules. Law firms like MLS should help you do both so that you can achieve the best possible outcome.



# Relationship breakdown

## How do I separate?

Separation is when you stop living together as a couple, even if you're living in the same house. You don't need your partner's permission or agreement to separate, and you don't have to apply to a court or government agency, or fill in any forms.

### ▼ WHAT YOU DO NEED TO DO:

You will need to (if applicable):

- tell Centrelink and the Department of Human Services (Child Support and Medicare), that you are separated
- make proper arrangements for any children involved (see next section) and tell your family and friends
- sort out your financial affairs: how debts and loans will be paid, what to do about joint bank accounts, what your superannuation and insurance entitlements are, and change your will.

### ▼ DO I LOSE MY RIGHTS IF I LEAVE?

No. If you leave the family home, you will not lose your rights to the house or your things.

### ▼ WHAT SHOULD I TAKE IF I LEAVE?

You should take your legal and financial papers with you (or at least copies), including:

- birth and other certificates
- wills
- passports and visas
- bank and cheque books
- superannuation, tax and other financial papers
- personal things you are worried about leaving behind
- things you may need for yourself and your children if they are going with you.



## ▼ CAN I TAKE THE CHILDREN WITH ME?

You may, but you will need to consider if it is in the children's best interest to be removed from their home at this point in time. If, once you are settled, you want to have the children with you, you will need either the written permission of the other parent, or an order from the Court.

Always remember that, no matter who the children live with, the law states that children have a right to a meaningful relationship with both parents as long as they are safe and it is in the children's best interest. If possible, get legal advice, even if you have the other parent's agreement.

## ▼ DO I HAVE TO GET DIVORCED?

No. However, if you or your former partner wants to remarry, you must be divorced.

## ▼ DO I NEED A LAWYER TO GET A DIVORCE?

Most people apply for a divorce without using a lawyer. However, you may need legal help to sort out arrangements for children or property.

# Have you thought about...

## Behaviour on social media

Yes, it's tempting to share your frustration, grief and anger with the world via social media. Don't. It's counter-productive and nobody wins – least of all you. We recommend disconnecting from social media during a separation, but if you must use it then **never** comment about your ex-partner or your family law situation.

## Your financial choices

Make good choices when it comes to spending money during family legal proceedings. Your bank statements will often be disclosed to the Court and the other party, so be mindful of how these documents may be used to represent who you are and how you live your life.



# Family Law

## Family law – children

The ‘Golden Rule’:

The Men’s Legal Service ‘Golden Rule’ of Family Law for Fathers is this –

Seek parenting orders where there are children.

The Family Law Act encourages parties to reach agreement without asking the Court to resolve the issues. There are a number of advantages to doing so, including cost and efficiency in parties. The Act also allows for parties seeking enforceable agreements to do so by consent orders.

Consent orders are where both parties agree and then seek the Court’s approval of the agreement, which then becomes enforceable. These requests for consent orders are made once agreement is reached by the lawyers filing documents with the Court. Usually, the parties do not need to formally ‘go to Court’. Both property and parenting matters can be dealt with by consent orders.

Where there are children of the relationship, we recommend that you seek both parenting and financial orders. You may keep them as separate orders but it is in your best interest to have both parenting and property finalised together.

Often fathers are pushed to deal with financial settlement in the first instance, with an agreement to sort parenting matters out ‘down the track’ or put in place a parenting plan. In our experience, this often creates further issues and tensions long-term that become more difficult to resolve with time.

It doesn’t matter whether you and your partner were married: the Family Law Act applies to all relationships.



## ▼ PARENTING PLAN

Simply put, a parenting plan is not enforceable and there are no consequences for your ex-partner breaching a parenting plan. The police will take no action (unless the safety of the child is at risk) and the Courts and government agencies will not punish a breach where there is no parenting order.

If you do not follow the 'Golden Rule' you can presume that you will need to 'cop it' when your ex-partner breaks a parenting plan or go to Court to obtain orders at some point. This could be expensive and your children may continue to be denied time with you in the meantime.

We are sometimes told 'I get along with my ex-wife' or 'she wouldn't do that.' We even hear this from clients who only a week before had no idea that their relationship was in trouble. Our experience is that it is extremely rare for separating parents to agree 100% all the time on everything forever.

You will be glad you obtained parenting orders the first time that:

1. there is a difference of opinion
2. you expect to see the children and are denied
3. you have to cancel a holiday or your children miss a family event
4. you or your ex-partner re-partners – potentially wanting to change the child's last name
5. a school or government agency requires orders to recognise you exercising a parental right.

We understand you want to be relevant and present in your children's lives, have input into major life decisions, and be able to help guide them into adulthood. By always putting your children first and following the 'Golden Rule' you will maximise the chances of achieving that outcome.

**If you are forced to go to Court to reach a decision regarding parenting matters, you must be aware that the opinions, wants, and desires of either parent will not be taken into consideration by the Court. When making decisions regarding parenting arrangements the Courts can only consider what is in the best interests of the children.**





## ▼ WHEN YOU SEPARATE

- You and your ex-partner need to come to an agreement about your child/children regarding:
  - who they will live with
  - who they will spend time with
  - whether they will live equally with each parent.

## ▼ FAMILY DISPUTE RESOLUTION MEDIATION

- If you cannot agree and you want the Court to intervene then family dispute resolution mediation is compulsory. It is generally a good idea to have a mediator facilitate a discussion of parenting issues early.
- If you reach agreement, you can agree to a parenting plan (though we generally recommend consent orders – see The ‘Golden Rule’ on page 6) or have the agreement made into consent orders, which are orders of the Court made at the request of both parties to record their agreement.
- If you are unable to agree (or if your ex partner does not attend), your family dispute resolution practitioner will provide a certificate, which you will need if you proceed to Court.
- We recommend attempting mediation as a priority on separation. Most couples find the mediation process very beneficial in opening up the lines of communication and reaching a resolution. Also, early mediation reduces potential delays should you need to go to Court to obtain orders.

## ▼ WHAT DOES FAMILY DISPUTE RESOLUTION MEDIATION COST?

- Some services are free, others charge different rates depending on your financial situation.
- For more information on family dispute resolution mediation, contact our office for providers or contact:
  - Legal Aid Queensland – 1300 65 11 88
  - Relationships Australia – 1300 364 277.



## ▼ PARENTING PLANS VERSUS PARENTING ORDERS

- A **parenting plan** is not legally enforceable. It is a written agreement, signed and dated by both parents, that includes:
  - where the children live
  - who the children spend time and communicate with
  - school, childcare and medical issues
  - religious or cultural practices
  - financial support for the children
  - how parental responsibility is to be shared
  - how disagreements about parenting arrangements will be sorted out
  - how those with parental responsibilities will communicate with each other.

A **parenting order** (whether made with the agreement of both parties as a consent order or by application of one party) is an order made by the Court. It covers all of the above matters and is **legally enforceable**.

## ▼ WHAT YOU NEED TO KNOW ABOUT PARENTING PLANS

If you have children under 18, a parenting plan is usually not an ideal option, because it is not legally enforceable. For example, your partner may seek to change your child's name or make other major decisions without your permission or you may have issues dealing with schools or government departments if the children do not live with you.

Recent cases have indicated that the other parent may even allow the child to progress to stage two gender reassignment without reference to you.

These issues go beyond the problems that arise with parenting plans when children are withheld or parenting plans are breached.

# DON'T FEEL PRESSURED WHEN YOU RECEIVE LEGAL CORRESPONDENCE

Often, men feel pressured to sign parenting plans or draft orders that they are not comfortable with, in the hope it will settle matters quickly. Sometimes men can believe that by 'co-operating' they will be treated fairly in future – or even that their relationship may be rekindled.

Generally, documents prepared by your ex-partner's solicitor or other person may not have been prepared with your best interests at heart. Signing an order you are not comfortable with – or you don't fully understand – will not make life easier for your children, you, or your former partner in the long run.

It is also important to know that parenting orders can be difficult to change once made. This is another reason why it is important to obtain your own legal advice before signing legal documents provided to you.

## ▼ DO THE CHILDREN HAVE TO SPEND EQUAL AMOUNTS OF TIME WITH EACH PARENT?

- The law says parents have equal shared parental responsibility for their children unless the court orders otherwise.
- This does not mean children have to spend equal amounts of time with each parent, although the court must consider this.
- In determining parenting arrangements, think about what's in your child's best interests and what is reasonably practical.
- Every child has different needs, and both parents need to take into consideration the quality of care and ability to provide a settled environment, and work towards a plan where both parents feel satisfied the children's needs are being met.

## ▼ WHO HAS TO FINANCIALLY SUPPORT THE CHILDREN?

Every parent has a financial duty to support their children. The amount to be paid depends on:

- the income of each parent
- the amount of time each parent spends with the children
- the number and ages of children involved
- if either parent has a second family or families.



## ▼ WHAT IF COURT ORDERS FOR PARENTING TIME ARE NOT BEING FOLLOWED?

Keep calm and act purposefully. Record the circumstances around the breach and seek legal advice. The Court takes a dim view of breaches of parenting orders, particularly if they are repeated.

## ▼ CAN I TAKE MY CHILDREN INTERSTATE OR OUT OF THE COUNTRY?

You may need written permission from the other parent. In the first instance, get legal advice.

## ▼ WHAT IF CHILDREN ARE NOT RETURNED AFTER SEEING THEIR OTHER PARENT?

If you have concerns regarding the children's welfare while they are with the other parent, you may contact police and ask them to perform a welfare check on the children. Please note that the police will not remove the children from the other parent's care unless they have concerns regarding the children's welfare.

To have the children returned to your care you may be able to apply for a recovery order with the Courts. Get legal advice immediately if you believe this is necessary.

If the other parent is in breach of current Court Orders by not returning the children, you may also be able to file a Contravention Application.

Please be aware that a Contravention Application is not designed to remedy the breach, but instead is meant to punish a party who breaches Court Orders, with punishments potentially ranging from small fines to imprisonment. Get legal advice before pursuing this.



If you think the other parent may take your children out of the country without your permission, you can take steps to stop this happening:

1. If there are current parenting orders restricting the children's ability to leave the country, you will need to fill in a Family Law Watchlist Request Form. Instructions on how to fill in this form can be found on the Australian Federal Police Website at [www.afp.gov.au/what-we-do/crime-types/family-law-kit](http://www.afp.gov.au/what-we-do/crime-types/family-law-kit)
2. If there are no current parenting orders, or the current parenting orders do not contain orders restricting the children's ability to leave the country, you can file an application to the Court to have such an order made. Get legal advice immediately if you believe this is necessary.

## ▼ DEALING WITH GOVERNMENT DEPARTMENTS

No matter how frustrated you feel, stay polite when dealing with government departments.

Remember:

- Be courteous and respectful at all times.
- Ask questions if you don't understand something.
- Avoid blame and recrimination either towards your former partner or the system.
- If you really find you are not being heard, it is acceptable to ask to speak to that officer's manager or use the customer complaints process.
- Do not lose your temper.

**BE CAUTIOUS IN CONTACTING YOUR EX-PARTNER'S LAWYER DIRECTLY. THIS IS ALMOST ALWAYS A BAD IDEA.**

**IF YOU HAVE A LAWYER, YOUR EX-PARTNER'S LAWYER CANNOT MEET WITH YOU OR TAKE YOUR CALLS DIRECTLY DUE TO PROFESSIONAL RULES.**



# Children and separation

Children react to separation in different ways, often influenced by:

- the family relationships before separation
- your children's ages and personalities
- how both parents manage the situation.

You can help by:

- reassuring them that both their parents love them
- explaining what's happening in ways they can understand
- reassuring them with language like 'You don't have to worry about that - mum and dad are working together to sort that out'
- explaining they can't get you and your partner 'back together'.

For more information on the effects of separation on children and how to respond, go to [www.relationships.com.au](http://www.relationships.com.au).

## ▼ COURT HEARINGS

Most parenting order cases are open to the public, unless the court says otherwise. The court will hear from each person involved and then make a decision. Be calm and considered and do not lose your temper.

## ▼ DON'T TAKE MATTERS INTO YOUR OWN HANDS

It is not in the best interest of your child if you take matters into your own hands and remove them from their primary carer, or keep them from the other parent. If your ex-partner is preventing you from spending time with your children, don't retaliate: always seek legal advice.

# Have you thought about...

## CAREER AND INCOME CHOICES

You can't be seen to change careers as a way to reduce your income support payments. If you are genuinely making a career change, make sure you are doing it for the right reasons, and you can provide evidence.



## BE GUN SAFE

If you own a gun, we strongly recommend and may require as a condition of acting for you that you hand in your gun to police or a dealer for the duration of family law proceedings.

Not only is this to your benefit should it be raised by your ex-partner, we consider it extremely dangerous for any person to possess a firearm during the stress and emotional turbulence of separation.

## ENTERING A NEW RELATIONSHIP

When you enter into a new relationship, be upfront about your family situation and legal obligations, particularly children. Your partner may find it unfair when your payments increase, or that you are still paying maintenance when your partner remarries. Let your partner know about your child support and any maintenance obligations.

**Remember: child support debt never goes away.**



# Domestic violence

## Domestic violence

Like most men and women, Men's Legal Service abhors any form of domestic and family violence. It is particularly important to be aware of your behaviour during periods of family breakdown.

### ▼ WHAT IS DOMESTIC VIOLENCE?

Domestic violence behaviour includes when the person you are in a relationship with is:

- physically or sexually abusive
- emotionally or psychologically abusive
- economically threatening (using financial control)
- threatening
- coercive
- physically or financially controlling
- in any way controls or dominates their partner in a way that causes them to fear for their safety, or the wellbeing of someone else.

As well as physical and sexual violence, domestic violence is

- repeatedly calling, texting, emailing or making contact on social media
- damaging (or threatening damage) of property
- stalking or following a partner or remaining outside their home or place of work
- monitoring a partner (unauthorised surveillance) including reading text messages, email, social media sites
- threatening to commit suicide
- threatening the death or harm of other people
- preventing a partner from making or keeping connections with family, friends or culture.





### ▼ EXAMPLE

Bill and Mary separate. Like most couples, there have been some tensions and disagreements leading up to this decision, including each raising their voices at the other. Mary may cite Bill's behaviour as intimidating, and seek a Domestic Violence Order.

### ▼ DOMESTIC VIOLENCE ORDERS

A domestic violence order (called Protection Order in Queensland) is a preventative measure, intended to stop violence from occurring in all its forms (see previous section).

Under a domestic violence order:

- The **aggrieved** is the person who has experienced or alleges domestic violence behaviour. Sometimes the Police make an application on behalf of the aggrieved.
- The **respondent** is the person named by the aggrieved as the person whose behaviour causes them to fear for their safety.

### ▼ WHAT DOES A DOMESTIC VIOLENCE ORDER DO?

A domestic violence order puts limits on the behaviour of the respondent towards the aggrieved. Depending on the conditions of the order it may prevent the respondent from doing the following:

- going to their partner's workplace or home
- going near their partner, their relatives or friends (e.g. they may have to stay 100m away)
- living in the home they previously shared
- trying to locate their partner
- having any contact by telephone except for mediation or counselling
- going to places where their children frequently visit, such as their school or kindy
- owning a weapon or having a weapons licence for a period of five years.

It is important to consider the terms of each order carefully.



## ▼ WHAT DO I DO IF I'M A VICTIM OF DOMESTIC VIOLENCE?

If you are a victim of domestic violence then identify it, make sure you are safe and obtain legal advice and counselling.

Do not ignore it.

Consider making a complaint to the police if you are a victim of domestic violence. Please note that the police may not take action where they do not consider you to be at risk of physical harm.

The police will interview your partner too and may act instead on accusations of domestic violence that your partner makes in response. This may be the case even if you are the only party visibly injured.

Some men have reported that helplines and other public resources are less helpful to male victims of domestic violence. This should not discourage you from taking steps to address the domestic violence and seeking assistance on these issues.

Victims of domestic violence often report feelings of inadequacy or self-blame for the actions of others. This can make positive progress difficult. Discussing domestic violence candidly with a trusted party such as a lawyer, counsellor or close friend can be a good starting point to establishing a plan to deal with domestic violence.



## ▼ WHAT DO I DO IF I'M SERVED WITH A DOMESTIC VIOLENCE ORDER?

The police will deliver a copy of the actual domestic violence order application to you. Read it carefully because it will explain when and where you have to go to court. At the point of being served, you have several options:

1. Consent to the domestic violence order being made, which can only be done if you agree with the order in person, through a lawyer or in writing.
2. You have the option to agree to an order being made without admitting to the facts. This is called 'consenting without admission'.
3. Ask for the proceedings to be adjourned so you can get legal advice.
4. Oppose the order. If this happens, the aggrieved will be given a hearing date by the court.
5. Offer an undertaking to the Court that you will not make contact with your partner, in lieu of a domestic violence order.

You **do not** have to sign a domestic violence order when it is served on you. Your first step should be to seek legal advice. Not all domestic violence orders are equal, and your legal advisor needs to be aware and involved.

### Abide by the conditions of the domestic violence order.

If you are the subject of a domestic violence order, abide by its conditions. It is a criminal offence to breach an order.

If the order specifies that there is 'no contact' then that means any contact with your former partner other than via your solicitor. That includes:

- contacting your partner by phone, email, text message, social media or other method.
- asking other people (other than your solicitor) to pass on messages or things.

Even if your partner makes contact, **do not breach the terms of the domestic violence order.**



▼ **EXAMPLE:**

John and Mandy separated.

Mandy had a domestic violence order served on John, which John signed when the police delivered it.

After four weeks (when the domestic violence order was still in place), Mandy messaged John and offered him the opportunity to see his children.

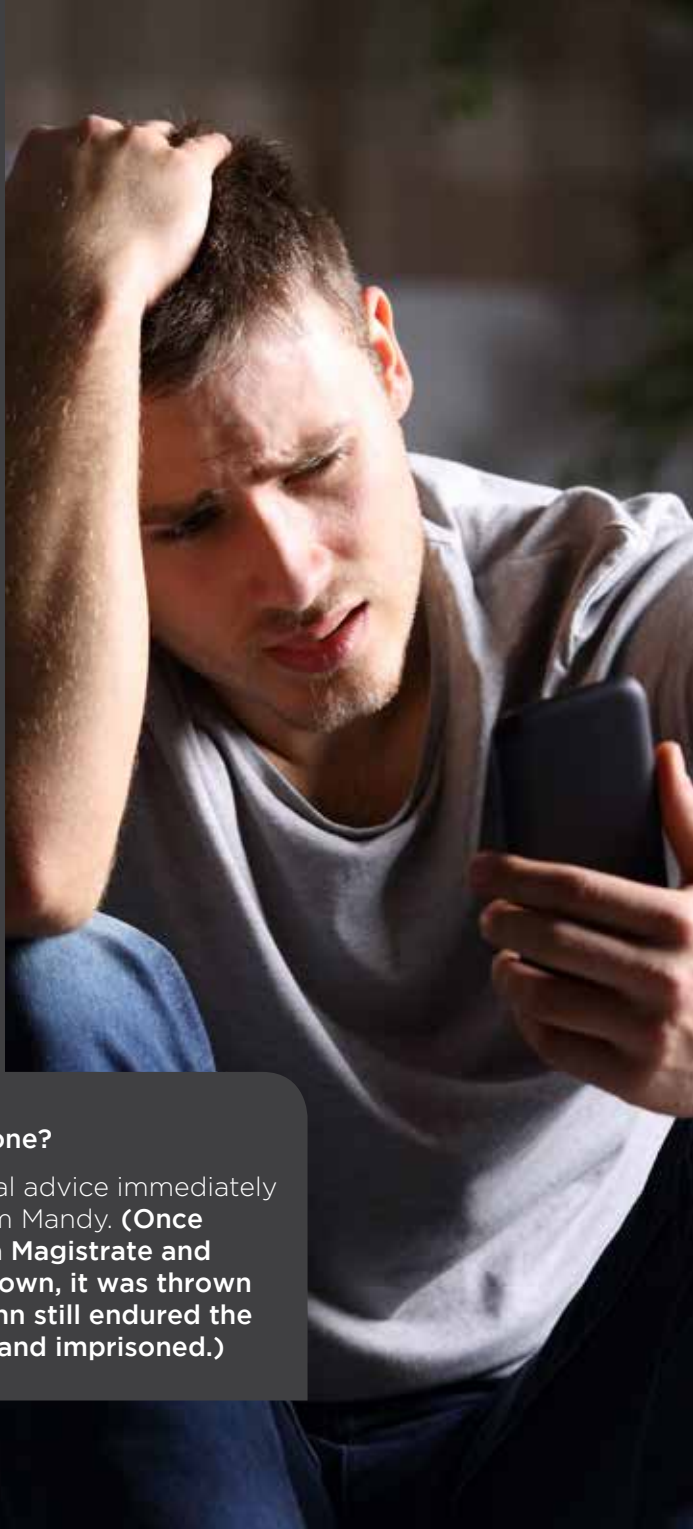
John responded that he would like that and asked when?

**This breached the domestic violence order.**

Mandy reported the breach and John was arrested for the breach, and spent the weekend in the watch house.

**What should John have done?**

He should have sought legal advice immediately after the initial contact from Mandy. **(Once this matter was heard by a Magistrate and the sequence of events known, it was thrown out of Court. However, John still endured the distress of being arrested and imprisoned.)**



## ▼ HOW LONG DOES A DOMESTIC VIOLENCE ORDER LAST?

- Once a protection order is made, it can remain in place for up to five years.
- The domestic violence order will list conditions on the order (e.g. good behaviour, or stronger restrictions regarding contacting the aggrieved about the children).
- Either the aggrieved or the respondent can make an application to the court to vary the protection order once it is in place. Your legal representative can handle this for you.

## ▼ WILL A DOMESTIC VIOLENCE ORDER AFFECT MY EXISTING FAMILY LAW ORDERS?

- You may need a domestic violence order varied if you and your partner reconcile and get back together. Getting back together does not end the domestic violence order - police do prosecute a technical breach, regardless of whether there is violence or not.
- The magistrate must consider any family law orders you have before deciding to make or vary a domestic violence order.
- You must tell the magistrate if you have proceedings in the family law courts about your children.
- A magistrate may consider changing your family law order if the conditions in the order:
  - are in conflict with the conditions in your domestic violence order
  - could make you, your children, or anyone else named in the domestic violence order unsafe.

If you have a domestic violence order and you later apply to a family law court for a parenting order, or an order about your children, you must tell the Court about the domestic violence order. Again, always seek legal advice regarding parenting orders and domestic violence order matters.



## ▼ HOW WILL A DOMESTIC VIOLENCE ORDER AFFECT OTHER PARTS OF MY LIFE?

- It may affect licences such as weapons and security licences.
- The police will deliver a copy of the actual domestic violence order application to you – read it carefully because it will explain where you have to go to Court.

## ▼ BE GUN SAFE

If you own a gun, it may be brought into legal proceedings as evidence of potential for violence. You can get ahead of any potential issues by voluntarily handing your gun to police for the duration of family law legal proceedings.

## If you have been violent to your partner

If you're responsible for committing acts of domestic violence, you need to step up and deal with it. Accept the consequences and seek help.



# Child safety

## Child safety proceedings

The law gives the Child Safety Department the power to remove children from home.

This can be done by the Office of Child and Family Official Solicitor via an urgent application in the court, seeking a temporary assessment order or a court assessment order.

- These orders allow Child Safety to investigate and have custody of the child without the parent's consent.
- The purpose is to determine if the child needs protection.
- If that is found to be the case, the Director of Child Protection Litigation will make an application for a child protection order.
- A child protection order can be for up to two years, or a longer-term guardianship order if the child is in need of long-term care.
- The chief executive will have guardianship of the child until the age of 18 under a long term guardianship order.

A 'child in need of protection' is a child who:

- has suffered significant harm
- is suffering significant harm
- is at unacceptable risk of suffering significant harm in the future, and
- does not have a parent able and willing to protect them from that harm.



## ▼ WHAT HAPPENS IF MY CHILD IS THE SUBJECT OF AN APPLICATION FOR A CHILD PROTECTION ORDER?

- Family group meetings are held with the parents/caregivers and other participants including:
  - Child Safety Officer
  - team leader
  - a separate representative the Court may appoint to act in your child's best interest
  - a recognised entity if the child is of Aboriginal or Torres Strait Islander descent.

If the Director of Child Protection Litigation continues with their application for a protection order, and you as the parent still oppose the order, a court-ordered conference will be held so all parties can discuss the issue and see if an agreement can be reached in the child's best interest.

If you continue to oppose the order, the final step is a trial.

Your legal representative can guide you through each of these steps (as necessary).





# Property

## Family law - property

You don't have to wait until your relationship has ended to prepare a property settlement. This can happen before or during your relationship, or after you have separated.

### ▼ TIMEFRAME

Generally:

- For de facto relationships of two years or more, property settlements must be sorted within two years of the date of separation.
- Married partners must begin their settlement within 12 months of the divorce being finalised. However, until you have property orders or have entered a Binding Financial Agreement (BFA) that complies with Family Law Act, you are at risk of a potential property law claim. We have seen clients separated over 10 years pay millions to former spouses due to failure to resolve property earlier.

### ▼ YOUR OPTIONS FOR PROPERTY SETTLEMENT:

- Mutual agreement. To be enforceable and final the parties may make:
  - Consent orders: apply together to have the terms of their agreement given force by the Court.
  - Binding Financial Agreement (BFA), which is an agreement between the parties that meets the requirement of the Act.
- By application to the court (if agreement can't be reached).

### ▼ WHAT PROPERTY AM I ENTITLED TO?

- There are many things taken into consideration in deciding who gets what property, especially if there are children to support.
- It may not matter whose name is on the document (e.g. a home title), who bought an item and who owes debt.
- Even if you earn little or no money, you can still have rights to property.



## ▼ WHAT SHOULD THE PROPERTY SETTLEMENT LIST?

The list should include:

- real estate, including the family home
- money held as cash or in bank accounts
- investments
- insurance policies
- inheritances
- shares
- superannuation
- jewellery
- any other assets
- any other debt including mortgages, loans, credit cards and personal debts.

Property includes assets and liabilities owned individually, with another person or by a family trust or family company.

## ▼ WHEN SHOULD I APPLY FOR PROPERTY SETTLEMENT?

You can apply for property settlement anytime after separation, and it's important to sort it out as soon as possible.

### **If you have children, remember the golden rule:**

Always deal with parenting matters at the same time you deal with financial settlement. You may keep them as separate orders, but finalise them at the same time.

## ▼ WHAT HAPPENS IF WE GET BACK TOGETHER?

You can become a couple again for up to three months in one period without affecting the 12-month separation period.



## ▼ DO I HAVE TO GO TO COURT?

No, but always seek legal advice before agreeing to a property settlement. Family dispute resolution services can help you reach a property settlement without going to court, but you should still seek legal advice before signing anything.

## ▼ HOW DOES THE COURT DECIDE WHO GETS WHAT?

There's a four-step process under the Family Law Act.

### Step 1

- Identify and value all property of the relationship (including debts). This property can include things you got before or even after the relationship.

### Step 2

- Take into account what each person has contributed to the relationships including:
  - earnings and savings
  - gifts
  - inheritances or property owned before the relationships
  - improvement to property
  - contributions as a home-making parent.

### Step 3

- Consider the other factors set out in the law, including:
  - how much money each person could earn in the future
  - age and health of each person
  - care and financial support of children
  - responsibility for looking after other people
  - the length of the relationships.
- The law looks at all of these things in deciding what is a fair division.
- The law does not look at who left the relationship.

### Step 4

- Once the court has considered the above steps, it must decide exactly how the property is to be divided, and whether this is fair and equitable in all the circumstances.



## ▼ DO I LOSE MY RIGHTS TO THE PROPERTY IF I LEAVE THE HOUSE?

No. But get legal advice, if possible, before you leave. Also, think about what you might want to take with you.

## ▼ HOW CAN I PROTECT MY PROPERTY?

- Get legal advice as soon as possible.
- Keep track of all assets and debts until financial arrangements are complete.
- Take photographs and other records.
- It may be possible to have a caveat put on a property title: this is a warning to other people that you have an interest in the property.
- You can also get court orders (injunctions) to stop property being sold or money being spent.



# How are you?

## How are you coping?

There's no getting around it: separation is tough

Separation and divorce are among the toughest experiences you will face.

Men report a range of intense reactions during this time, including feeling:

- frustrated, powerless and angry
- relieved the differences are out in the open
- dizzy, with thoughts spinning in circles
- desperate, ready to drop off the planet
- determined to stand ground and battle to the bitter end
- aware some hard choices have to be made
- lonely and sad
- bewildered and hurt.

While many of these responses are painful and distressing, they are normal.

The good news is that there is a long history of men facing these challenges and surviving. **But it takes time.**



## Separation is a form of grief

For many men, separation can be even more difficult to deal with than losing a loved one through death.

Separation is complex, and, in addition to the loss of your life partner, can involve the loss of:

- your usual family structure
- your family home and routines
- your friends and social life
- meaning and identity
- involvement and contact with your children.

These losses are even harder if you:

- didn't initiate the separation
- are still hanging on for a reconciliation when there is no realistic hope
- have reduced or limited time with your children.

### ▼ **KNOW WHAT YOU'RE FEELING**

If you're dealing with issues of anger, grief, anxiety, frustration or depression, call Mensline Australia in the first instance, 1300 789 978. (See our Resources Guide at the end of this book for other options.)

#### **Remember:**

- Don't lash out in anger or drink too much.
- Don't let anyone tell you how you should grieve.
- Talk to a mate – male or female. Make sure they are good at listening.



## Tips that have helped other men

- Be clear that separation is not like repairing a car or computer, it won't be fixed quickly or directly.
- Be honest with yourself and take responsibility for your life.
- Be clear about where you have choices and where you don't.
- Be aware of what is happening within and around you.
- Listen to what you are telling yourself: be alert to signs of self-pity, hopelessness or revenge – and seek help if you are feeling this way.
- Avoid the language of blame.
- Think about the consequences of your decisions.
- Take a long term view.
- Commit to looking after yourself – do the things you enjoy.

## Be a reasonable man in an unreasonable situation.

### ▼ STAY HEALTHY – IN BODY AND MIND

- Eat well: select and eat sensible food. That means:
  - fresh fruits and vegetables
  - lean meats and fish
  - unsalted nuts and seeds
  - plenty of water
  - low fat dairy.
- Avoid or minimise:
  - foods high in processed sugar (pastries, cakes, chocolates, lollies)
  - foods high in saturated fats (hot chips, pies, fatty meats, doughnuts)
  - deep fried foods
  - caffeine and alcohol.
- Exercise in ways you enjoy – even better if with a friend.
- Watch for signs of stress, anxiety or depression, and see your doctor earlier than later.
- Be careful with alcohol, drugs and smoking.



# Dealing with your lawyer

## Finding the right representation

You don't have to become mates with your lawyer, but you need to trust them. If you don't – if they don't feel like the right fit for you – find someone else.

## It's okay to talk about costs

You need to know what your financial obligations will be when you engage a lawyer. Some offer a fixed fee, but most will operate on an hourly rate. It's perfectly acceptable to have a frank discussion about what your costs are likely to be.

## Your first meeting will involve a lot of questions

Your lawyer will be looking to understand your situation in your first meeting. That means a lot of personal questions. It can be helpful to do your own research before you meet with your lawyer, but always consider the source of the information you find elsewhere. Remember: your lawyer has experience and expertise. That's why you've hired them.

## Your lawyer's job is to tell you the truth and give you good advice

The best outcome in a family law matter is a negotiated one. That often means neither party gets everything they want. You need to be realistic and accept that your situation will require compromise. Throughout it all, though, your lawyer should be focused on you.





## Where to go for help

### Men's Legal Service

Men's Legal Service is a not-for-profit law firm, providing pragmatic, cost-effective legal services to men at turning points in their lives and those of their families.

We help men access legal services that will help them and their families navigate their changed circumstances.

We do this by:

- providing low-cost and means-tested no-cost legal services to clients in a dignified and professional manner
- enabling and encouraging positive and responsible outcomes in the lives of our clients and their families
- being a 'guide at the crossroads' to connect men with community and government organisations and resources to help with broader life issues
- providing an informed, apolitical voice on issues that affect clients
- promoting recognition and acceptance within the community of the principle of the equality of men and women.



Our primary focus is helping fathers to continue to be available and involved in the lives of their children after family law events.

Men's Legal Service was established in 2016 by Stokes Moore, a commercial law firm located in Logan City, to meet the need for cost-effective legal solutions for men experiencing family law events.



# Where to go for help

## Other legal services

### Legal Aid Queensland

Provides free legal advice and produces free publications about family law.

- 1300 65 11 88
- [publications@legalaid.qld.gov.au](mailto:publications@legalaid.qld.gov.au)
- [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)

### Aboriginal and Torres Strait Islander Legal Service

- 07 3025 3888
- [www.atsils.org.au](http://www.atsils.org.au)

### Federal Circuit Court of Australia

- 1300 352 000
- [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)

### Family Court of Australia

- 1300 352 000
- [www.familycourt.gov.au](http://www.familycourt.gov.au)

### Magistrates courts

- Check White Pages under 'Queensland Courts' for your local court
- [www.justice.qld.gov.au](http://www.justice.qld.gov.au)

## Support services

### Centacare

- 1300 236 822
- [www.centacarebrisbane.net.au](http://www.centacarebrisbane.net.au)

### Centrelink

- 13 16 50 (Family Assistance Office)
- 131 202 (Multilingual Line)

### Department of Communities, Child Safety and Disability Services – Queensland Government

- 13 74 68
- [www.communities.qld.gov.au/childsafety](http://www.communities.qld.gov.au/childsafety)

### Department of Human Services (Child Support) – Australian Government

- 131 272
- [www.humanservices.gov.au/customer/information/child-support](http://www.humanservices.gov.au/customer/information/child-support)

### DV Connect – Mensline

- 1800 600 636 (seven days)
- [www.dvconnect.org.au](http://www.dvconnect.org.au)



## Family Relationship Services

Provides online information, drop-in centres and a free telephone advice line. Services include family dispute resolution. An Australian Government initiative.

- 1800 050 321
- [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au)

## Grow

For support with mental illness

- 07 3394 4344
- [www.grow.org.au](http://www.grow.org.au)

## Logan City Council

- [www.logan.qld.gov.au/menshealth](http://www.logan.qld.gov.au/menshealth)

## Men'sLine Australia

- 1300 78 99 78
- [www.mensline.org.au](http://www.mensline.org.au)

## Parentline

- 1300 30 1300
- [www.parentline.com.au](http://www.parentline.com.au)

## Relationships Australia

Offers counseling and family dispute resolution.

- 1300 364 277
- [www.relationships.org.au](http://www.relationships.org.au)

## Uniting Care

- 07 3253 4000
- [www.unitingcareqld.com.au](http://www.unitingcareqld.com.au)

## Victim's Counselling and Support

- 1300 139 703
- [www.vcss.org.au](http://www.vcss.org.au)

## YFS

- 07 3826 1500
- [www.yfs.org.au](http://www.yfs.org.au)

## Parenting classes

### Triple P – Positing Parenting Program (online)

- [www.triplep-parenting.net.au](http://www.triplep-parenting.net.au)

### Circle of Security – Kyabra

- 07 3373 9400
- [www.kyabra.org](http://www.kyabra.org)

### Parenting Orders Program – Relationships Australia

- 1300 364 277
- [www.raq.org.au](http://www.raq.org.au)

## Anger management

### YFS - domestic and family violence programs

- 07 3826 1500
- [www.yfs.org.au](http://www.yfs.org.au)

**Emergency**

Phone: 000





## Download the Men's Legal Service app

Men's Legal Service has developed an app to help you keep records that may be needed to prove you are providing the care you have agreed to, including:

- records of meals served to children (including photographs)
- times and frequency of school drop off and pick-ups
- times and frequency of when you drop your children to the other custodial parent
- your own alcohol consumption.

It also:

- calendarises your time with your children
- provides reminders of key legal dates and deadlines
- prompts you to provide information when required
- provides daily words of encouragement and inspiration.

The app is available for Apple and Android, and online at [www.menslegalservice.org.au](http://www.menslegalservice.org.au)

**Sources for information found in this book include:**

- Legal Aid
- Relationships Australia
- MensLine Australia







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