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Coping with separation and divorce



No matter who you are or where you live you probably know someone who's been divorced. And you may also have found yourself helping friends or family through the pain of separation.

Many people are unprepared for the loneliness and difficulties of separation or divorce but there's help and support available. This LifeGuide provides practical information about some of the issues you may need to consider and where you can go for help.

Coping with the emotional pain

Separation and divorce take people through a huge range of emotions. You may recognise many of these:

shock | relief | sadness | frustration |
resentment | fear of the future | guilt |
loneliness | depression | bitterness |
jealousy | hate | failure | grief

Many people can draw on support from their family and friends at this time. But this support isn't always available. Sometimes it's unwelcome for many reasons. Sharing intimate details about your marriage can be difficult at times. Family relationships can throw up painful memories. Also, well-meaning people can take sides and perhaps unintentionally foster some of the very natural, but negative feelings you are experiencing.

You may find that support and advice from an independent person is helpful. You and your partner may also choose to try marriage guidance counselling or mediation. You'll find a helpful list of counselling contacts at the end of this LifeGuide.

The impact on children

There's been a lot of research about the impact of separation or divorce on children. There's also been research about the effects on children living in an unhappy, stressful or violent household.

As a parent, you want to do your best for your children. You'll want to shield them as much as possible from any animosity between you and your partner. Consider advising your child's school of the situation, so they can keep an eye on your child's behaviour and look out for any sudden changes. You may also need advice on how to talk to your children about what's happening in their lives.

Children react differently to divorce and, depending on their age, will go through a range of emotions. Here are some questions they may ask.

- When will I see my Mum or Dad?
- Will I still see my grandparents?
- Do I have any say in who I live with?
- Can I call Mum or Dad whenever I want to talk?
- Will there be enough money to do the things I used to do?
- Do Mum and Dad still love me?
- Is it my fault?

You may want to consider counselling for your children. Apart from the services listed at the end of this LifeGuide, www.kidshelp.com.au specialises in helping children and can provide online counselling or confidential counselling over the phone on 1800 551 800.

There are a number of booklets you might find useful. They are available through the Family Law Courts or the Child Support Agency (CSA). These include:

- Me and my kids parenting from a distance.
- Me my kids and my ex – forming a workable relationship for the benefit of your children.
- What about me – taking care of yourself.
- The booklets, 'Because it's for the kids, children and separation – a guide for parents'. And, 'Questions and answers for children about separation' are available by calling the Department of Families, Housing, community Services and Indigenous Affairs on 1800 050 009.

Grandparents often suffer during divorce as well. Grandparents who love their grandchildren and have been a part of their lives will feel the pain of separation if this access is denied. This can also negatively impact on the children. Counselling can help you to find a way for the children to maintain contact with both sets of grandparents.

Violence

Sadly, many people are the victims of domestic violence. If you or your children are affected by violence, or are in danger, you should seek help immediately. In an emergency you can call 000 for the police and you'll find other contact numbers for support and safe refuge at the end of this LifeGuide.

Establishing your independence

Once you and your partner are living separately, you may find you miss many of the things you previously took for granted.

You may have had a family doctor, dentist, lawyer, accountant or financial planner and for any number of reasons, you mightn't want to continue dealing with these people. In some cases it will be clear that the same person can't look after separated partners. In other cases you may simply feel more at ease dealing with someone else.

Warning: limit your financial risk

Joint bank accounts, joint credit cards and other joint financial commitments can become problematic once you've separated. You could easily wind up becoming responsible for debts that your partner has created. You should take steps to limit this risk by separating your joint accounts.

In some circumstances you'll also need to ensure joint accounts or agreements are transferred from one name to another. There may be policies which have been cancelled that could leave you at risk. For example, your home insurance policy may have been held in one name. If it's been cancelled and you suffer a loss, you may not be covered.

It's wise to make a list of these joint arrangements and go back to it after a period of time to check if there are things you've forgotten. Everyone's circumstances are different, but these are some points to consider:

Wills and Power of Attorney (you should seek professional advice to help when changing your Will) | bank accounts | credit cards | store cards | store accounts | loyalty cards | mortgages | rental agreements | insurances (home, car, health) | lease agreements | documents of title memberships | utilities (phone, electricity, water, gas) | subscriptions | family business details | school fees

Beneficiaries of existing policies will have to be reviewed and changed if necessary.

Centrelink

You may also need to contact Centrelink as changes to your family circumstances can affect your current payments. Even if you didn't previously qualify, you should contact Centrelink at www.humanservices.gov.au or on 13 61 50 to check if there is any assistance available due to the change in your circumstances.

The legal process

The following information is designed to provide an overview only and should in no way be considered as legal advice.

When you begin divorce proceedings, the question of why your marriage is ending isn't an issue considered by the court. In Australia, the grounds or basis for divorce is when there's an 'irretrievable breakdown' of the marriage. In other words, when there's no reasonable chance that the two of you'll get back together. For the divorce proceedings to commence, you'll need to have been separated for more than 12 months. It is possible to live in the same home and still be considered separated. You should also note that if you have children under 18, the court will not grant a divorce unless it is satisfied that suitable arrangements have been made for them.

For more information about divorce and the process involved you can contact the various agencies listed in the final section of this LifeGuide. A good place to start may be Family Relationships Online www.familyrelationships.gov.au. The information contained on the site should not be considered legal advice, however there's a host of background material and links to the various State and Federal Government sites.

Sometimes couples will spend a fortune in court without stopping to think where the money is coming from. This is your money. Not only will you need to pay court costs but also, in many cases, both parties will pay for their respective legal representation.

When you agree

Getting divorced doesn't have to mean endless appearances in court and massive legal fees. Divorce is often handled by the two partners in a relatively amicable fashion. In fact, the Federal Government provides an online service for this very purpose. You can access this service at www.familylawcourts.gov.au or you can obtain a form by calling 1300 352 000.

Consider getting independent advice before making any final decision. This isn't to say you need a lawyer to argue when there is no argument. But be sure you understand the consequences of your decision.

Property settlement

If you can agree on how the ownership of property and other assets can be settled without court action, it will certainly save time and money. This will obviously be more complex when it involves areas such as child support and superannuation.

Many people can draw on support from their family and friends at this time.



If you'd like your agreement formalised by the court, you can apply for what is known as 'financial orders by consent'. These orders carry the same legal force as a decision made by a judge. The court will need to be satisfied that the orders are equitable and the paperwork is properly drafted.

You may choose to have a lawyer draft these orders for you but you can also do it yourself. This service can be accessed online through the Family Law Courts at www.familylawcourts.gov.au where you can download an Application for Consent Orders. This Consent Order is designed to not only deal with existing financial arrangements but also, when you agree, on any future support.

If you've been running a family business, then separation and/or divorce is likely to be even more complex. Apart from legal advice, you may need help from your accountant or financial planner.

Parenting

If you have children under the age of 18, the court must be satisfied their welfare has been considered and planned for in any settlement. This plan can simply be an informal agreement between the parents. If you want to make it legally binding you'll need to register it with a court. Again, the Family Law Courts can help you do this as part of the consent orders discussed above.

Before you consider an agreement about financial support for your children, the Family Law Courts recommends you first contact the Child Support Agency on 13 12 72 or at www.csa.gov.au. The agency can give you advice on how child support is calculated.

If you decide to register the financial agreement, or 'consent order' – the court must be satisfied that it's in the best interest of your children. It will consider this in line with criteria set out in the Family Law Act 1975 (Cth). These include:

- any wishes expressed by the child
- the nature of the child's relationship with both parents and other relevant people
- the likely effect on the child of any changes in circumstances
- the practical difficulty and financial costs of a child having contact with a parent

- each parent's capacity to care for the child
- the child's maturity, sex and background (including any need for the child to maintain a connection with the culture of Aboriginal and Torres Strait Islander people)
- the need to protect the child from physical or psychological harm caused by abuse
- ill-treatment or violence to a child or a member of their family
- the attitude of parents towards their child and their parenting responsibilities
- any family violence involving the child or a member of the child's family
- any family violence order that applies to the child or a member of the child's family
- whether it would be preferable to make the order that would be least likely to lead to further legal action in relation to the child
- any other factor the court thinks is relevant.

When you disagree

You may need legal advice and mediation to help resolve some of the differences. In many cases, mediation can resolve these differences before there's a need for the court to make a ruling. This mediation is available through the Family Law Courts.

With emotions running high, mediation about the custody of the children or the financial settlement of the marriage may not lead to a resolution. If this happens, then the court will be asked to decide. This process can be extremely expensive and time consuming.

If you're in dispute over financial support of the children, then you should make sure you are fully prepared for both mediation and, if necessary, your court appearance.

Items you will need to provide:

- your children's birth certificates
- details and receipts of various expenses (school fees, sport and other hobbies, health care, childcare).

Note: If the dispute is over custody, then you'll also need details to support your case. You should consider professional legal advice about your particular circumstances.

Finding and choosing professional advisers is an important step.

Preparing for a financial assessment

When it comes to settling your finances, it pays to thoroughly prepare. The following is not financial advice; it's merely to provide an overview of some things to consider.

First, there's less chance for dispute if each party knows the exact state of the finances.

Second, you are required to make what's known as 'full and frank disclosure' of your financial assets and liabilities. In essence, you must tell the truth about your finances.

Whether you agree to your financial settlement or not, if it's later found that you or your spouse failed to tell the truth, the 'consent order' can be changed or set aside by the court.

Some things you will need when preparing for your financial assessment include:

- copies of your most recent tax return (and three years previous if possible)
- full details of your current financial assets (bank accounts, shares, trusts, superannuation, insurance)
- full details of your current financial liabilities (mortgage, rental agreement, personal loans, leases)
- any other documents that may help determine your current financial status.

De facto relationships

If you're not married but have been living in a 'de facto' relationship, there are some key differences. For example, property matters are handled by the State Courts. However, matters concerning children are still resolved through the Family Law Courts or the Federal Magistrate's Court.

The sale of assets

If you are concerned that your former partner is planning to sell assets, such as the family home, before the financial settlement, you can apply for a court order to prevent this from happening. You should contact the Family Law Courts for more details.

Finding legal and financial planners

Finding and choosing professional advisers such as lawyers, accountants and financial planners is an important step.

Legal advice

Your family solicitor, who perhaps handled the conveyancing when you purchased your home, may not be the right person to handle your divorce. Ask what experience they've had in the areas that are important to you. These could include:

- acting in divorce matters, both before the court and in mediation
- assessing the necessary agreements or drafting them on your behalf
- offering advice and protecting your rights on issues involving property disputes
- offering advice and protecting your rights in custody disputes.

Lawyers charge by the hour and it will be difficult, if not impossible, for them to give you an accurate estimate of what your divorce may cost. In the early stages, the lawyer won't know how difficult or drawn out the process will be.

If you don't know a suitable lawyer, you can contact the Law Council of Australia or the Law Society in your State for help in finding one. While they won't recommend any particular person, they can give you a list of lawyers in your area who specialise in your needs.

The Law Council of Australia (Family Law section) can be contacted at www.familylawsection.org.au or on (02) 6246 3788.

You can contact the Law Society in your State or Territory on the following phone numbers:

ACT	– (02) 6247 5700	SA	– (08) 8229 0222
NSW	– (02) 9926 0333	TAS	– (03) 6234 4133
NT	– (08) 8981 5104	VIC	– (03) 9607 9311
QLD	– (07) 3842 5842	WA	– (08) 9322 7877

Financial advice

It's not the time to leave things to chance while you have so many things to consider, for example unravelling your joint finances, tax planning, looking after your own financial future and that of your children.

Accountants can help unravel your joint financial structure and provide tax and business advice. Your first impulse could be to use your current family or business accountant. In some circumstances this may be perfectly suitable, in others it could lead to a conflict of interest. You may also feel more comfortable with a fresh start.

While some specialists, such as tax agents and auditors, are regulated by government, generally speaking the industry in Australia is self-regulating so services, skills and fee structures can vary greatly.

So how do you find a professional accountant? You can start your search with one of the three main industry bodies:

- **Institute of Chartered Accountants of Australia** at www.charteredaccountants.com.au or call 1300 137 322
- **Certified Practising Accountant Australia** at www.cpaaustralia.com.au or call 1300 737 373
- **Institute of Public Accountants** at www.publicaccountants.org.au or call 1800 625 625

You might like to consider the following questions before you decide on your accountant.

- Is the accountant registered with one of the professional State bodies listed above?
- How will you be charged? Most accountants charge by the hour and fees can vary.
- What experience does the accountant have in handling your specific needs?
- Who'll actually do the work? You may meet with a senior partner but your work could be handled by a junior.
- Will you be provided with a letter of engagement that outlines the services you can expect, along with the likely fees and procedure for altering those fees if necessary?

When you have decided on your accountant, insist on getting important advice in writing so there's no chance of a misunderstanding that could cost you money. You shouldn't confuse your accountant with a financial planner. Unless appropriately trained and licensed, an accountant cannot offer investment advice.

The ideal financial planner will take a holistic view of your current circumstances, lifestyle and future goals. The right planner will work with you to develop a plan that is tailored to your specific needs.

These may include;

- altering your financial plan to take into consideration the changes to your circumstances and family situation
- managing your investments and transfer of ownership
- ensuring your wills and estate planning is up to date
- advice on binding nominations inside super
- review of insurance policies.

If you'd like to find out more about the rules and regulations governing financial planners visit the Australian Securities and Investment Commission (ASIC) website at www.moneysmart.gov.au or call 1300 300 630.

[For more information on financial planners, including what they do, how they can help you and how to make an informed decision when choosing a planner, ask for a copy of our LifeGuide *Understanding financial planning*.](#)

Difficulty managing your debts?

Unexpected things can happen in life and you might not be financially prepared to cope. For example, losing your job, getting sick, or a relationship breaking down may cause some people to experience temporary financial hardship. If this happens to you and you're finding it hard to keep up with your utility bills (electricity, gas, phone, water), credit cards, loan repayments or other expenses, there are some steps you could consider to help provide you some relief while you try to get your finances back on track.

1. Check whether you have any income or debt protection insurance policies that will help pay the bills and cover your repayments if you can't work. Remember that some superannuation funds incorporate an income protection / trauma policy, or you may be ahead in loan repayments that could enable you to simply take a break from making regular payments.
2. Talk to your credit and service providers and tell them how your circumstances have changed and the impact on your ability to meet payments. They may have specialised hardship departments who could talk to you about temporary assistance measures such as altering repayments, establishing instalment payments or varying your loan terms.
3. Keep a working budget so you know all of your income, expenses, assets and debts. When you contact your credit and service providers you may be asked for this information so they can offer you some assistance to help you deal with the financial difficulties you're facing. It could be helpful to think about how and when you will be in a position to return to your regular

The right financial advice can help you avoid making a costly mistake during this time of stress.

repayments down the track. Check out ANZ's budget tracker on anz.com to help establish good saving and spending habits.

4. If you think your changed circumstances mean it's unlikely you'll return to a financial position where you can afford to meet your bills and repay your loans or credit cards, you don't need to deal with that alone. You could talk to a free, independent and confidential community-based financial counsellor or legal centres who will be able to talk you through your options. Financial counsellors can be reached Australia-wide on 1800 007 007.

Remember that once your creditors understand your difficulties and the reasons behind them, they may be able to tailor a solution which could help you overcome temporary difficulties.

For more information, visit anz.com/hardship.

Getting help

This section sets out the contacts that may be of assistance to you in both coping with and navigating separation and divorce.

The process

- **Family Relationships Online**
www.familyrelationships.gov.au
- **Federal Magistrates Court of Australia**
www.fmc.gov.au or 1300 352 000.
- **Family Law Courts of Australia**
www.familylawcourts.com.au or 1300 352 000 (note this is the same number as the Federal Magistrates Court as the two courts share certain responsibilities).
- **Law Council of Australia**, family law section at www.familylawsection.org.au or (02) 6246 3788.
- **National Association of Community Legal Centres** at www.naccl.org.au or (02) 9264 9595.
- **Family advice line** 1800 050 321 – this service provides assistance with family law information and access to various support agencies. It does not provide legal advice.

Emotional support

- **Family Relationships Online** at www.familyrelationships.gov.au provides online information about a range of issues concerning divorce and links for other services.
- **Relationships Australia** www.relationships.org.au or 1300 364 277.

- **Department of Families, Housing, Community Services and Indigenous Affairs** www.fahcsia.gov.au or 1300 653 227.
- **Lifeworks** www.lifeworks.com.au is a not-for-profit counselling service. (03) 9654 7360.
- **Mensline** www.menslineaus.org.au or 1300 789 978.
- **The Anglican Church** www.anglicare.asn.au has support services in every State and Territory.
- **The Catholic Church** www.catholiccare.org which also has offices in every State and Territory.
- **Lifeline** www.lifeline.org.au or 13 11 14.

Domestic violence

- **Victoria**
Women's Domestic Violence Crisis Service of Victoria (24hr) 9322 3555 or (country toll free) 1800 015 188.
- **NSW**
Domestic Violence Line (24hr) support and referral 1800 656 463.
- **ACT**
Domestic Violence Crisis Service (24hr) (02) 6280 0900.
- **Northern Territory**
Domestic Violence Crisis Counselling Service (24hr) 1800 019 116.
- **Queensland**
Domestic Violence Telephone Service DV Connect (24hr) 1800 811 811.
- **South Australia**
Family Violence Crisis Service (24hr) 1300 782 200 for after hours crisis care 13 16 11.
- **Tasmania**
Domestic Family Violence Crisis Service (Mon-Fri 9am-Midnight, weekends 4pm-Midnight) 1800 608 122.
- **Western Australia**
Women's Domestic Violence Helpline (24hr) 1800 007 339.
Men's Domestic Violence Helpline (24hr) 1800 000 599.

In short, having the right financial plan can mean the difference between a relaxed and comfortable lifestyle and years of stress.

For more assistance

Contact your local branch



Phone or visit anz.com

General Enquiries

P. 13 13 14
INTL. +613 9683 9999
24 hrs / 7 days

ANZ Investment Lending

P. 1800 639 330
8am – 6pm (AEST) Weekdays

ANZ Financial Planning

P. 1800 305 058
8am - 8pm (AEST) Weekdays

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