

**A GUIDE TO**

# **SUCCESSFULLY SEPARATING**

**THINKING OF  
SEPARATING OR  
YOUR RELATIONSHIP  
HAS ENDED - NOW  
WHAT?**



**BRIESE  
LAWYERS**

**[WWW.BRIESELAWYERS.COM.AU](http://WWW.BRIESELAWYERS.COM.AU)**

**TELEPHONE: 07 4638 4833**





At Briese Lawyers, we understand that a relationship breakdown brings with it significant emotional and financial stress, making us a preferred Family Lawyer in Toowoomba and South East Queensland.

We adopt a holistic approach to addressing the issues that you face and where appropriate, will work with a network of associated professionals to ensure that your emotional, financial and legal issues are well looked after.

We are able to provide expertise and a strategic approach in the following areas:

Parenting Matters

Child Support

Financial Issues / Property Settlement

Spousal Maintenance

Relationship Agreements

Dispute Resolution Processes

Divorce





Our Family Law Team have created this e-book to arm you with as much information as possible in order to assist you through what may well be one of the most difficult times of your life.

If you are going through a breakup most people would expect to hear you say that the experience is somewhat angry and hostile and filled with animosity. You may have the desire for revenge, you may speak hurtful words and you may do things you wouldn't normally do due to overwhelming emotions. But...it does not need to be this way! You can get bitter or make life better!

The best-selling Author of *Conscious Uncoupling*, Katherine Woodward Thomas, explains how you are able to consciously complete your relationship and avoid the hostile ways of breaking up that most people have accepted as 'normal'. Her words resonate with the Briese Lawyers Family Law Team.

A healthy, amicable break up is not always possible and you may be one of the unfortunate people that find yourself in the Family Court system. If that is you, take heart, even that process eventually comes to an end, but most separating couples are able to find a resolution to their issues outside of the Court system.

In life, you may your own choices about your children and finances every day and control you own behaviour, so why not choose a pathway of separation that preserves your dignity and respect and allows you to control the outcome?

Choosing an amicable pathway also means that it will save you time, money, stress and heartache and be a lot less painful for your children.

*You can get bitter or make life better!*



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Some helpful things to remember when aiming for an amicable resolution are:

- The emotional aspect of a separation is not dealt with by the legal process. By coming to terms with your emotions from the outset, you will be in a better mind space to make more practical and informed decisions. It is a good idea to get help from a professional who will help to guide you in the right direction before your emotions spiral out of control.
- It took two to create the issues you now have. It is too easy to apportion blame entirely (or substantially) to the other party. It is far more empowering for you to take ownership of your part in it.
- Be honest with your children and explain the situation to them in an age appropriate way that they will understand. Be reassuring that both parents will still be there for them and that they are in no way to blame for the separation.
- Studies show that the breakdown of the family unit is not what causes damage to children - it is being exposed to ongoing, post separation conflict. Many people will leave a dysfunctional relationship to protect children from being exposed to it, only to continue the same patterns of behaviour after separation.
- Do not use your children as pawns or messengers. Separation is difficult for children and you should not make them choose sides, no matter how much resentment you hold for the other parent.
- Behave like an adult. Not acting like one will not attract any respect from anyone, nor will it solve anything other than placing unnecessary stress on you and your children.
- The best thing to do for yourself and your children is become the best, happiest version of you possible! So get future focused and try and find the positives in every situation.
- Retain a sense of gratitude and fun! Trust that the bad times will pass.







## WHERE TO GET HELP

Separating is difficult. It is emotional, traumatic and probably one of the hardest things you will ever need to go through. Looking after your feelings and emotions is equally as important as taking care of your body.

The emotional toll that separation can take on a person is quite intense. The emotions you feel may come and go, you may experience highs and lows and you may feel them separately or you could feel a mixture of them all at the same time. The end of a relationship represents a loss and it is common to go through a grief cycle as you process what was, what could have been, what is and contemplate what is to come.

You do not have to deal with separation alone. You should not feel ashamed to ask for help and support from friends and family. Just remember though, sometimes well meaning people don't always help us to move forward in a positive manner. Joining you in a pity party or pointing out all your partner's shortcomings is not always the most helpful way to process your grief and set you up for a positive resolution. Seeking professional support may be a better option.

There are many professional services available. Some will be privately funded; some are subsidised and many are free of charge. Accessing professional assistance may provide strategies and coping mechanisms to help you deal with your relationship breakdown.







Professionals who may be able to assist you include:

## *Emotional and health care professionals*

### A life coach

A coach can work alongside you to set meaningful goals and move you from where you are, to where you want to be and empower you to create the life you want.

### A Counsellor

Counsellors will provide a safe environment to talk about your feelings and your current situation. They are trained to offer you suggestions on how to deal with what you are going through and give you coping skills to reframe your circumstances in a way that puts you back into control. They are supportive and non-judgmental.

### Psychologists

Psychologists assist clients by helping them change their behaviours and thoughts in order to develop the necessary strategies to deal with the challenges that life brings and allow you to move forward in a more positive way.

### Psychiatrists

Psychiatrists deal with more severe mental health and emotional disorders. They are trained in medical, psychological and social aspects of mental, emotional and behavioural disorders which means they are able to order diagnostic testing, prescribe medications, practice psychotherapy and assist patients and their families cope during stressful times.





If you have never seen a Counsellor, Psychologist or Psychiatrist before, you may find one via:

- Your General Practitioner / local Doctor who may assist in accessing subsidies under a Mental Health Act Plan
- Relationships Australia
- CatholicCare Social Services
- Lifeline Darling Downs
- The Domestic & Family Violence Prevention Service
- Mercy Community Services

Do not be concerned that seeking professional support will be used against you. In the unlikely event that you find yourself in the Court system, it can actually be a positive thing that you have sought professional guidance and support - whether it is helping you to process your grief; separate your relationship with your spouse from your new role as a co-parent; or managing depression or a mental illness.

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**"Getting help doesn't mean that you're weak.  
It means you're strong enough  
to admit you are tired of struggling."**

Manpreet Kaur

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## *Legal professionals*

Fear and uncertainty about the journey ahead can be overwhelming and debilitating. Knowledge is power and finding out where you stand and what your options are is empowering and can alleviate unnecessary worry and concern. The general information contained in this ebook will hopefully be a good start but it is important to seek professional advice that will allow you to apply the general legal principles to your particular circumstances.

Consulting a lawyer does not commit you in any way to being drawn in to a legal battle. On the contrary, a good lawyer will encourage you to avoid the Court system and find "better" ways to resolve your issues while still providing you with a legal and binding outcome that will protect your interests and provide you with certainty moving forward.

At Briese Lawyers we offer a fixed fee, first consultation.

If you cannot afford private legal representation you should consider Legal Aid; Community Legal Services; Womens Legal Service hotline; Mens Legal Service etc. Try to avoid taking advice from the well meaning "bush lawyers" in your mum's group; your mates at the pub or even worse, chat groups on social media.





# *Financial professionals*

Financial uncertainty is often a huge source of stress in life generally, but even more so when a relationship fractures and household income is reduced and costs increased.

Obviously getting some legal advice around where you stand on property settlement, spousal maintenance and child support will give you some clarity. Beyond that other things that you should consider are:

- Your eligibility for Centrelink payments - including rental assistance.
- If you are a victim of Domestic Violence, some of the big banks have grants available to assist you with relocation and set up costs.
- Do yourself up a revised budget that reflects your new (or anticipated) circumstances and if you aren't great at budgeting, find a financial planner or a community based financial counsellor (such as through Lifeline) to assist you.
- Get hold of your superannuation details and know what assets you have available.
- Speak with your bank or broker about getting short term relief on repayments and/or consolidating debts.
- Obtain some information about what your borrowing and repayment capacity is so you have an idea on your ability to refinance and retain assets or what your options might be post settlement.
- Do you have family that can help you out short term in meeting expenses?







## *General health and wellbeing*

Do not underestimate the importance of taking care of your general health. Pay attention to your diet; make time to exercise or at least get out in nature; take notice of your water intake and be sure to get some quality sleep (even if you need some essential oils or natural products to help you out). In order to make the big decisions ahead of you for your best future, you need to be thinking clearly and be as well as you can be.

This can often be difficult, especially if you are a parent as you tend to make it all about the children and feel guilty if you take any "me" time. This is actually very important. Just like they say on the airlines - put your own oxygen mask on first! You are no good to anyone if you end up in an exhausted, unhealthy mess in the corner so make YOU a priority.

The other thing to consider is that children are pretty adaptable, but how they cope with a fractured family is generally a direct reflection of how the parents are coping. As you would be aware, they are always watching so be sure that you are being a great role model.

- Exercise when you can or do some stretches to help relax your muscles and breathing
- If you have lost your appetite, try snacking on healthy food throughout the day
- Look after your appearance. This will help you feel good about yourself and you may find that people will respond more positively to you
- Try to cut down or avoid caffeine, alcohol and cigarettes
- If you are having difficulty sleeping, try to implement a routine prior to bed, eg. listening to soft music or sounds or having a warm drink
- Enjoy quiet time - read a book or visit a local cafe





# SOME TIPS FOR MANAGING THE NEGATIVE EFFECTS OF SEPARATION

## Healthy thoughts

- Think positive! It's too easy to get drawn into negative patterns of thinking so be conscious of your inner chatter - you are always listening!
- Know your limitations and make sure others are aware of them also
- Keep a written record of things rather than trying to remember them all
- Set aside a specific time of the week or day to think about your concerns and focus on what is happening right now - not what may happen. Make it the same time and place each day or week.
- Spend quality time with your children

## Focus on your moods

- Cry if you need to - let it out - just don't get stuck in a pity party
- Implement relaxation methods to reduce stress (ie. deep breathing, yoga, meditation or get a massage)
- If you find yourself feeling irritated or anxious then retreat to a safe, quiet place to take some time to yourself to just think and sit still

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**"A positive attitude gives you  
POWER OVER YOUR CIRCUMSTANCES  
instead of your circumstances having power over you."**

Manpreet Kaur

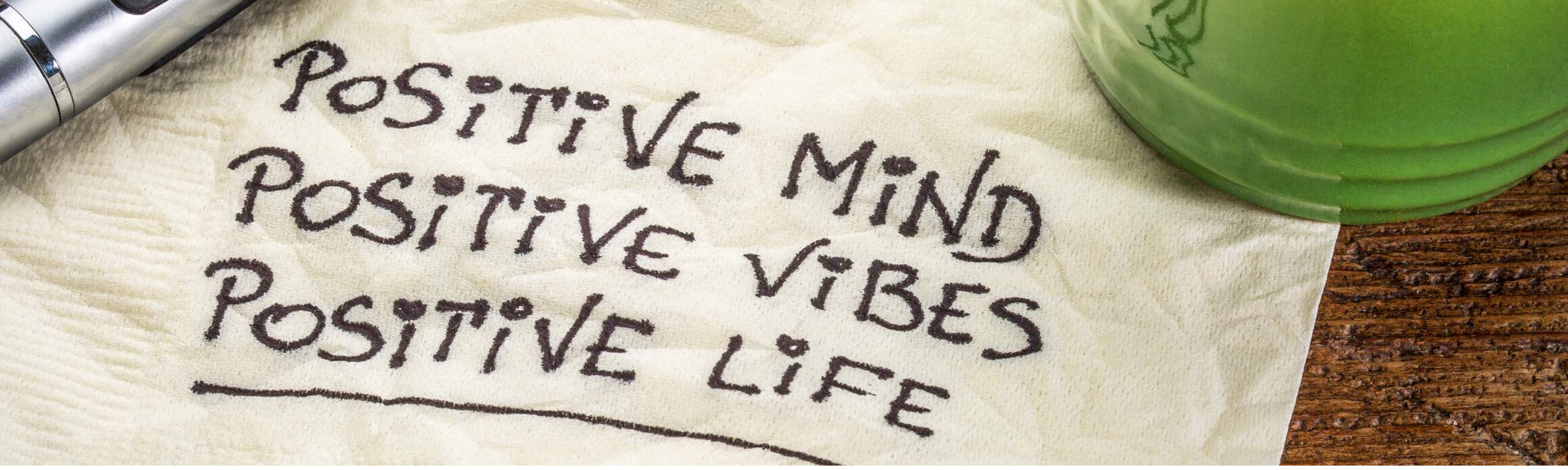
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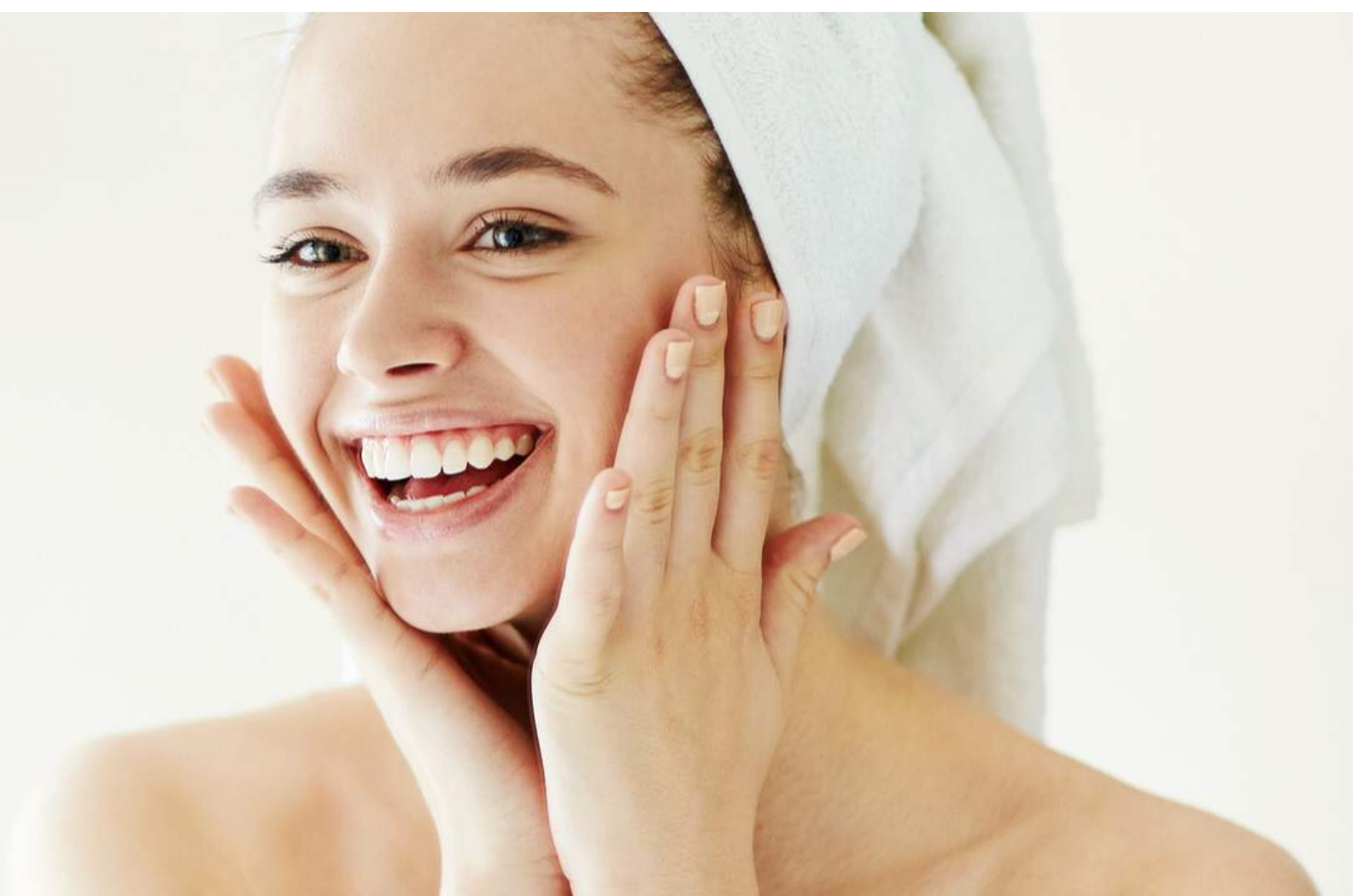




POSITIVE MIND  
POSITIVE VIBES  
POSITIVE LIFE

## *Keep positive*

- Don't be afraid of the future. Focus on what you can control or change right now.
- If you're feeling lonely or isolated consider taking up a new sport or hobby or joining a social or support group.
- Practice positive self talk, self praise and self encouragement. If you have a negative committee (or perhaps your former partner's voice) that like to meet inside your head - tell it to sit down and shut up!
- If you're feeling guilty, why? Are you trying to meet the expectations of other people? If you find that you are, evaluate whether these expectations are actually true and negotiate them if need be. Guilt and regret are energy vampires. Make peace with the past by determining to create a better future. Remember, the only true mistakes in life are the ones that we don't learn from.
- If you are feeling rejected, avoid places or things that trigger old memories and try something new or go somewhere different.







# Communicate

- Keep your communications with the other parent on a business level. Avoid personal issues. You are now in the business of raising children with a person that no longer resides in your home.
- Be civil with the other parent. Focus on how you react to the other parent and avoid negative body language such as eye rolling or crossing your arms in anger.
- Try voicing your frustrations on paper. Write them down and throw it away.
- Discuss with mutual friends what you need to maintain their friendship. Agree not to discuss or criticize the other parent when you are together.
- If you find yourself in an argument with the other parent, stop and think if it's helping the situation or making it worse. Remove yourself from the situation and suggest to meet at a later date to discuss, after you have had a chance to consider the situation.
- Upskill! You and your partner have probably developed some harmful ways of communicating - including blame, stonewalling, smokescreens and diversion. None of that is helpful so you may need to learn some new and healthy communication skills like active listening; the art of reframing; taking personal responsibility etc. Counselling, books and online courses can give you lots of ideas about how you can redefine your communication.

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**"Communicate. Even when it's uncomfortable.**

**One of the best ways to heal, is simply getting everything out."**

Unknown

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# LET'S TACKLE THE LEGAL ISSUES

You've never done this before so of course you will have many questions running through your mind, the most prominent being "Where to start?"

Parties 'separate' when at least one of the spouses forms the intention to end the relationship and then acts upon it, usually when one party moves out of the matrimonial home, but not necessarily so.

It is possible to be separated whilst both parties reside under the one roof. In some circumstances, the court will recognise a couple as having separated even though they are still living in the same household - usually as a result of financial constraints. Generally you will need to provide evidence of separation, including confirmation of:

- Sleeping in separate bedrooms;
- Lack of a sexual relationship;
- No longer socialising as a couple; and
- No longer providing domestic assistance to each other.







If you are married, the law requires you and your spouse to be separated for at least 12 months before you are able to apply for a divorce.

No documents or formal legal steps are required for separation to occur. If you are intending to later seek a divorce however, you will need to remember the date of your separation to include in your divorce application. In the event of a defacto couple, your date of separation is critical to determine the time frame in which any claim for property settlement needs to occur - namely within two years.

From the time of separation, arrangements over children, property, child support and maintenance can be resolved - generally the sooner, the better. You do not have to wait for divorce to deal with these issues.

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**"DON'T HAVE REGRETS. You can learn something  
from every experience."**

Ellen Degeneres

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## *Legal Advice*

One of the first steps that you should take, (even prior to separation), is to seek legal advice. Even if there is an agreement between you and your spouse, a solicitor will be able to advise you of the best way to implement that agreement in a way that is binding and enforceable and will often remind you of things you may have forgotten about eg. superannuation, gifts, insurance policies, benefits under Wills etc.

In every case where there is an agreement concerning either children or a division of property, you should have the agreement formalised. This is likely to overcome possible disputes in the future and protect your position.

Unless the agreement that you have reached with your spouse is formalised, the agreement will not be binding in the future and may result in your spouse making a further claim on your property, or reneging on parenting arrangements.

Formalised agreements or Consent Orders are also the only way to effect a split of superannuation entitlements and will also allow parties to access tax and duty concessions on the transfer of assets.

*Now here's the Disclaimer! Nothing in this E-book is intended to constitute legal or financial advice and represents general ideas and concepts only. You should obtain professional advice before implementing any of the ideas contained in this publication to ensure the information suits your personal circumstances.  
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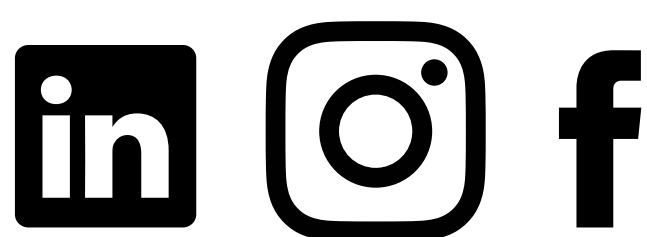




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