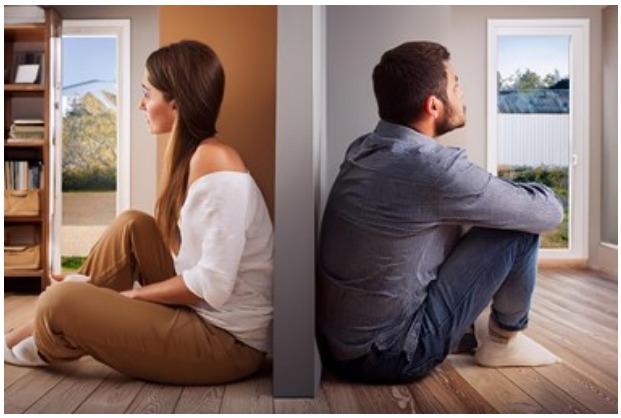


Your guide to separation while living under one roof

Date: Monday April 28, 2025

Separating from your partner while still living together can be one of the most challenging experiences in a relationship. Some couples decide that, due to financial reasons or to minimise disruption for the children, they will continue living in the same house whilst separated. Although each situation will differ, below are some guidelines for how to navigate a separation under one roof.

Family violence considerations

Your safety and the safety of your children are paramount in deciding whether separating but continuing to live under one roof is appropriate. If there are family violence concerns for yourself and/or the children, it may not be appropriate to continue to live together under the one roof. We recommend that you seek legal advice as soon as possible to find out your entitlements and obligations.

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It may be appropriate to apply for a Family Violence Intervention Order (FVIO), which can prevent the respondent (your former partner)/perpetrator from being near you, contacting you or committing family violence against you. In Victoria, most applications can be made online.

There are many examples of what behaviour constitutes family violence under the *Family Violence Protection Act 2008.* It can include (but is not limited to):

- physical violence;
- financially controlling behaviour; and/or
- emotional abuse.

It is important to note that children do not need to be the recipients of the above behaviour in order to be victims of family violence. The *Family Violence Protection Act 2008* notes that children being affected by family violence can include:

- children knowing that family violence is occurring between other members of the household;
- children being able to see damaged property or injured people; and/or
- children intervening in an attempt to protect one of the parents.

If you are in immediate danger of family violence, you should seek police assistance by calling 000.

Divorce applications while still living under the same roof

If you and your ex-partner are married, you may decide to apply for a divorce. In order to obtain a Divorce Order, you must be able to prove that there has been an irretrievable breakdown of the relationship and that you have been separated from your partner for at least twelve months and one day.

Notably, however, this does not mean that you must be physically separated. You are still able to apply for a Divorce Order while living under the same roof as your ex-partner as long as the court is satisfied that you have been separated for the required period.

The court can consider things like sleeping arrangements, whether there are shared meals, how household chores are divided and how the parties represent themselves in public (i.e. as separated or as a couple) when determining whether the relationship has irretrievably broken down.

You may need to file additional documents with your divorce application as evidence that you and your ex-partner have separated but are continuing to live under one roof.

If you choose to live under the same roof after separation, it is important that you record the date of separation if you intend to divorce. This is because of the time limit for applying for divorce. You cannot make your application until you have been separated for one year and one day.

Parenting arrangements

If you have children, you should also discuss how decisions about the children will be made and who is responsible for things like:

- school drop-off/pick-up;
- extra-curricular activities;
- medical appointments;
- holidays with the other parent;
- and play dates.

You can consider options like a parenting plan or parenting orders. If you're looking to implement this type of option, you should seek advice from an experienced family lawyer.

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Financial arrangements

It is crucial that you come to an agreement about financial matters after separation, whether living under the same roof or not.

Household and other bills will continue after you separate. You should communicate with each other about how you will deal with financial matters like:

- mortgage obligations;
- credit cards;
- bank account access; and
- loan repayments.

Disputes if you want the other party to move out

If one party is intending to move out or one party wishes the other party to move out, it is a good idea to communicate about the time frame in which this is to occur and what arrangements need to be put in place.

Sometimes, disputes can occur over who should remain in the family home. If you find yourself in this situation, you should seek legal advice from a family lawyer early.

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Support options after separating but continuing to live under the same roof

Separating while continuing to live under one roof can be challenging. It is important to build a support system for yourself and for your children.

This could include creating a mental health care plan with your General Practitioner, utilising relevant helplines, leaning on family and friends, and maintaining your hobbies and interests.

Children may find it difficult to understand that you and your ex-partner have separated but are continuing to live under the same roof. If it is safe to do so, both parents should be present when telling the children about the separation and the next steps.

Get help from a family lawyer

Separating while living together is not easy, but with thoughtful communication, mutual respect, clear boundaries, and legal advice early on, it is possible to navigate amicably.

Smith Family Law can assist you during this period in understanding your rights and obligations regarding property, parenting and divorce.

Contacting Smith Family Law

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This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.