

SEPARATION

If you are unhappy in your relationship you can separate when you choose. If leaving is not urgent, speak to a lawyer beforehand. The separation date is important for later legal proceedings, so note this down. Tell your partner you have separated when you consider the relationship has ended if/when it is safe to do so. Also, tell Centrelink if you receive or are applying for benefits. Obtain legal advice, especially if you are considering making a court application.

Do you have to leave home?

No, but if you do leave, you don't lose any rights to the home or other property.

If your partner has been violent towards you, these options may help you to stay in the house. When you apply for a Protection Order (PO) you can ask for:

- An "**ouster order**"- orders your partner to leave the home. It is not done lightly and can include allowing your partner to return for personal belongings in the presence of the police.
- A "**no contact order**"- orders your partner to stay away from the house, you and your children. This can include staying a certain distance from places you may work or where children may attend school or day care. No contact can also include phone, email and other types of communication.
- The removal of your partner's name from the lease. If you already have a PO, you can apply to the Queensland Civil and Administrative Tribunal (QCAT) to remove your partner's name, using your PO as evidence of domestic violence. Alternatively, if you file your QCAT form at the Magistrate's Court when you apply for a PO, you can ask the Magistrate to consider both. If you decide to leave the house you can also apply for your name to be removed from the lease.

Another option is an **Exclusive Use and Occupation Order** from the Family Law Courts. You and your partner must own the house or be buying it. You must live in it with children. These orders are difficult to obtain and may be costly.

Does my partner have to leave?

No, unless one of the above orders is made against them. You can be separated but live in the same house - called '**separated**

under the one roof'. The law requires you live 'separate lives' to be entitled to Centrelink benefits and to divorce. Get legal advice and talk to Centrelink.

Take your identification, documents and some money if you leave

If it is safe to do so, take available cash and at least three forms of original identification. You'll need them for banking, Centrelink and other activities. Take documents like passport/s (yours and kids), birth and marriage certs, finance/bank documents and tax file number. Consider taking your car, house keys, address book, valuables, and children's special things (anything of sentimental value that can't be easily replaced.)

What other property can you take?

You can take what you need for you and your children's day-to-day needs (if you are taking them with you), e.g. fridge, washing machine, television, computer, crockery.

You can take the car if it is in joint names or in your name only. If not, get legal advice beforehand.

You can take funds from a joint bank account to support yourself and children. Keep receipts of your spending. This may become important in final property settlement.

Take money for **reasonable living expenses only**. Leave money in the joint account to cover bills or mortgage if it's allocated for this. The court may frown on taking more than what's reasonable and order you to return some of it.

Can I go back to the house to collect belongings after I leave?

Yes, you can if your name is on the lease or title. Get legal advice before going back to collect belongings if the house is in your partner's name only, or if the locks have been changed. Do not break into the house.

If there is a possibility of violence or harassment, you can ask police to accompany you. Police will not carry belongings or help decide who owns what (it may help to take receipts of what you own if you have any). You can apply for an order in the PO that allows you to return to the house to recover property stated.

Accommodation options and referrals

- DV Connect (24 hrs/ 7 days) 1800 811 811 if you have experienced domestic violence and need to go to a refuge.
- Homeless Person's Information Qld (HPIQ) on 1800 47 47 53 if you are at risk of homelessness.
- Residential Tenancy Authority information www.rta.qld.gov.au/Resources/Median-rents to assist renters to find an affordable area for private rental.

- A Centrelink social worker for accommodation options and financial assistance.
- Rent Connect Officers in the Department of Housing on (13 74 68)
- Neighbourhood Centres for local, general housing information www.yellowpages.com.au/qld/community-centres
- Tenants Union of Queensland for legal advice about tenancy issues - 1300 744 263

What are the options for financial support after we separate?

You can apply for child support from the other parent if you had children together and they live with you. If you apply for, or receive Centrelink, you will need to apply for child support. Speak to a Centrelink social worker if you have concerns about your safety. You may be exempt from doing this.

You may be entitled to **spousal / de facto maintenance** to cover your own living expenses in some circumstances, e.g. you are unable to work. If you need money urgently you could apply to the Family Law Courts for an urgent maintenance order.

You can find more information in our Separation Booklet at <http://www.wlsq.org.au/resources/legal-toolkit>.

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Legal Advice:

Women's Legal Service at www.wlqs.org.au or 1800 677 278
North QLD Women's Legal Service at www.nqwls.com.au or 1800 244 50
QLD Community Legal Centres at www.qails.org.au
Legal Aid Queensland at www.legalaid.qld.gov.au or 1300 65 11 888

Domestic Violence Assistance:

DV Connect (24hrs/ 7days) 1800 811 811
QLD DV Services at www.qlddomesticviolencelink.org.au
Call 000 for emergencies or Policelink (non-emergency) 131 444 (24/7)
www.police.qld.gov.au/apps/stationlocator/

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