
Family Breakdown and Debt

Description

This fact sheet is for information only. You should get professional advice about your personal situation from a financial counsellor or a lawyer.

Main ideas

- You are not usually responsible for your partner's debts.
- You are usually responsible for joint contracts, or if you are a guarantor. You may also be responsible if you are a partner or a director in a family business.
- Get legal advice if you feel you were pressured into signing loan documents.
- If you don't formally separate your finances, you could lose your share if your ex-partner has financial difficulties.
- Family law is a complex area. Get legal advice from a family law specialist.
- Free financial counsellors can help if you having problems with debts or dealing with lenders. Their services are free.

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Protect yourself by separating your finances

It is vital to quickly separate your finances from your partner's when a relationship breaks down.

Your ex-partner has the opportunity to harm you financially if they still have access to your accounts.

Change passwords to prevent access, and withdraw any authorities you gave for your partner to deal with your accounts.

Keep copies of documents, bank statements and letters.

Joint savings and transaction accounts

Consider closing joint accounts. Split the money as appropriate between yourself and your ex-partner.

If you can't close the account, consider changing the authority on the account so both of you need to approve any withdrawal. Get legal advice if there are any problems.

Open a new account in your name. Redirect your pay, Centrelink payments or other money into your account.

Joint loans and mortgages

If both you and your partner's name are on a loan contract, you are usually both responsible for the whole loan. The creditor does not see you as 50-50 responsible. Creditors will chase the person they think is most likely to be able to pay.

It is best for both you and your ex-partner to pay out the loan. You may be able to do this by taking out separate loans.

Tell the lender about the separation and how you intend to pay for the loan. If you are struggling, [ask for financial hardship: for more details read our Financial Hardship fact sheet](#).

Ask for bank statements to be sent to your new address.

If your home loan has a linked redraw facility or credit card, ask the bank to deactivate these.

Keep records of any communication you have with the bank.

Linked credit cards

If your partner has a credit card linked to your account, contact the bank and cancel the second card.

Cancel any regular payments that are just for your partner's benefit.

If you are struggling, [ask for financial hardship: for more details read our Financial Hardship fact sheet](#).

Debts in the other person's name

In most situations, you are not responsible for debts that are only in your partner's name.

If a lender or debt collector contacts you about a debt you don't remember agreeing to or you don't recognise, ask them for a copy of the loan application form and contract with your signature on it, and account statements, so you can take a closer look and get legal advice.

If you are chased for a debt in someone else's name, ask them why they are chasing you and get legal advice immediately.

Utility accounts

If the accounts are in your name and you are moving out, transfer or finalise internet, electricity, gas and water accounts.

Rent agreements

If you are moving out, negotiate with the landlord to be released from the rental agreement. Some states have protections to let people experiencing domestic violence leave without penalty. You can get advice from a free tenancy advice service, [check our Useful Links page for details of Tenancy Services in your state or territory](#).

If you don't, then you may still have to pay rent even after you leave.

Apply for your bond to be returned or transferred to a new property.

Get a property settlement

A property settlement is an agreement between a couple who have separated or divorced about how their property should be divided between them. It can be made by couples who were married, or in a de facto relationship. The agreement should end all financial ties between you and your ex-partner. This may involve:

- one partner getting another loan in their own name to pay out their share of the joint loan (if this is realistic and consider what happens if they can't refinance)

- changing names on the property title records
- selling the property to pay out the joint loan.

Get advice from a family lawyer when negotiating a property settlement. They can guide you about what is fair and reasonable in your circumstances, so that your ex-partner does not take advantage of you.

Once the agreement is negotiated between the couple, it is registered in court. You and your partner then need to take the steps agreed to: this is very important! Lenders or debts collectors can still chase you if your name is on a loan or a debt. Your property or assets may also be at risk if you don't remove your ex-partner's name.

If the couple cannot agree, the court can make orders about how the property should be divided. The court may also direct creditors to remove your name from accounts. Talk to your property lawyer for advice to make sure these orders are followed.

If you felt pressured or forced into loans, experienced family violence, or felt financially abused

Make sure you have accounts in your own name, where your Centrelink or wages go directly and your ex-partner has no access or control to the account.

If you are leaving a relationship with a lot of debt, get legal advice. You may be able to challenge the debts. Some lenders may consider settling a debt on compassionate grounds.

Sometimes if there are assets and you are going through family law settlements, these factors can be taken into account in working out how assets and debts should be divided.

If you decide it's not worthwhile exploring a family law settlement (always get advice from a family lawyer first!), but are struggling with debts, you can also look at whether you can challenge the debts legally or come to a negotiated settlement with your creditors. You can get free legal advice by calling our Credit & Debt Legal Advice Line on [1800 844 949](tel:1800844949).

[If you experienced family violence or economic abuse, visit our Financial Abuse page.](#)
[Also read through our Financial Abuse and Family Violence fact sheet.](#)

Need more help?

See [Separating with debt: a guide to your legal options](#)

[For a list of other resources, visit our Useful Links page.](#)

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