

Recently separated? Some things to consider

legal



By **MELISA SLOAN**

THE BREAKDOWN of a relationship is not nice, but with one in three marriages ending in divorce in Australia, it is a prevalent part of our lives.

In the midst of a stressful and often unfamiliar situation, it is important to review your financial and legal affairs to make sure that you and your family are covered, as the last thing many of us want is an ex-partner to receive our assets or make decisions on our behalf if we become incapacitated.

Update your superannuation nomination

Superannuation is often thought of as that little bucket in the corner that you will get access to one day when you reach retirement age, and many of us don't give it much thought beyond checking our annual statement from our superannuation fund.

However, for many, it can be an asset of financial significance in your asset pool and, as such, needs to be reviewed in the event of a separation.

Your superannuation is held on trust by your superannuation fund so is treated differently to your individual assets.

By putting in place a Binding Death Nomination, or a Non-Lapsing Binding

Nomination, you may nominate who you would like your superannuation to pass to in the event of your death.

You can download the appropriate nomination form to complete from your superannuation fund's website or alternatively call them and request they forward you a nomination form.

There are certain people who are considered dependants for superannuation purposes, so it's important that you familiarise yourself with this concept when completing your form.

Most importantly, if you currently have your ex-partner nominated as the beneficiary of your superannuation, it's imperative that you update this form to ensure that they will not receive your superannuation.

The same applies for any life insurance policies that you may have.

Update your Will

If your ex-partner had key roles and is a beneficiary of your current Will, it's imperative to update it.

If you don't have a current Will, it's time to put one in place.

Many people say that they will wait until their divorce or property settlement is finalised prior to putting a Will in place; however, what if something happens to you in the interim prior to your divorce and property settlement being finalised?

It's better to be safe than sorry.

By putting a new Will in place, that is reflective of your wishes, you get

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to choose who you want to appoint as your executor and who you want to receive your assets at the time of your death.

Update your Power of Attorney documents

It's important to update your Power of Attorney documents upon separating.

Your Enduring Power of Attorney allows you to appoint someone to make financial, legal and guardianship decisions for you if you have an accident, medical episode, or perhaps develop dementia or Alzheimer's and can no longer make your own choices.

The person you appoint as your attorney is the person who will have total control of your assets to look after on your behalf, so you need to appoint someone that you trust to this role and someone you know will take good care of you and have your best interests at heart.

If your ex-partner was your current attorney, putting a new Enduring Power of Attorney document in place will automatically revoke your existing Enduring Power of Attorney, and your ex-partner will no longer be permitted to act as your attorney.

By putting in place an Appointment of Medical Treatment Decision Maker, you can appoint someone to make medical decisions on your behalf if you can no longer make your own medical decisions at some point in the future.

Get the appropriate advice

For many, a separation brings with it unfamiliar territory, particularly if you have been in a relationship for a long time.

Therefore, it is imperative to surround yourself with a strong team and get the appropriate advice so that you can make informed decisions about your future.

Seeking the advice of a family lawyer, accountant, financial planner, and estate planning lawyer can stand you in good stead, as they will be able to advise you of important aspects of your separation from a financial and legal perspective.

If you want to control the narrative and don't want your ex-partner in key roles or to receive any of your assets upon your death, take some time to update your important documents so that you and your family are protected and have peace of mind.

Advice in this article is of a general nature only and you should seek advice for your relevant circumstances.

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