

TO LEAVE OR NOT TO LEAVE?

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When couples separate, as Family Lawyers we are often asked whether leaving the family home will affect an eventual property settlement. After deciding to end a relationship, it often becomes hard to live under one roof together and relationships can become strained, especially when there are children involved.

A dilemma sometimes arises when its time for one person to leave. Who should leave?

The first consideration is the children. Parties need to consider what is in the best interests of the children. If it is clear that the children will live primarily with one party, then to avoid disruption to the children's routine, it is best if the children and their main carer remain in the family home. The home will then become part of any property settlement and neither party should be disadvantaged.

If there are no children, parties should consider who is most likely to retain the property in an overall settlement, and who can best maintain that property, both financially and otherwise.

When one person leaves the family home, they can take their fair share of the household goods. They should also take with them all of their financial records, such as tax returns, superannuation statements and bank records. This will help with a property settlement as the financial records are often hard to obtain once one person leaves the home.

It is important to remember that if you leave the family home, it does not mean that you will lose or forfeit your entitlement to a fair and equitable share of the property.

In relation to the mortgage repayments, it is important to seek financial advice as to your liability under any mortgage.

This is general information only and does not constitute specific legal advice. If you would like further information in relation to this matter or other legal matters please contact our offices at reception@hhg.com.au.



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