

Separation and divorce



Going through separation or divorce is traumatic, and there are also important financial decisions to be made at this time

This fact sheet provides information to help you as you deal with the complexity of splitting up one of your biggest assets – your super. Separation or divorce can be financially devastating. With nearly one in three marriages ending in divorce*, and the number of single parent families in Australia increasing, it's important to understand the impact relationship breakdown can have on your finances and your ability to save for retirement.

Financially, divorce affects men and women differently, depending on how assets are divided and where dependent children are living.

Impact on income and assets

The median age of divorce for men is 45 years* and for women 42 years*, and almost half involve children. Typically, men's living standards decline as women tend to be awarded the family home. On the other hand, women's incomes can drop sharply if the husband was the main wage earner.

Research shows that divorced single men and women have less household assets than married and never married people.

Divorced women with dependent children find it particularly difficult to recover their income after a divorce. This is because they often face the challenge of combining paid work and family responsibilities with less support. Keeping super saving going with a limited income can be a big challenge.

Relationship breakdown and your financial future

There is also a longer-term financial impact for both men and women who separate or divorce.

Looking at a range of living standard measures such as income, super, housing, assets and financial hardship, this impact can continue into later life.

For example, households with men and women aged 55–64 years who have never divorced earn around \$10,000 a year more than households headed by divorced single men and women of the same age†.

When separated and divorced people are earning less, there's less money in the household budget to contribute to long-term savings like super.

* ABS Divorces Australia, 2011

† Wellbeing of older Australians, Australian Institute of Family Studies, 2010.

What you can do

The end of a relationship doesn't have to mean the end of your financial plans. While it will involve adjusting to your new situation, there are a few important things you can do to stay on track:

1. Assess your financial situation

When a relationship breaks down, it can help to take a good look at your financial position.

The first phase is an information gathering exercise where you look at all your financial assets and debts. Gathering copies of bank accounts, super balances, bills, financial commitments and other legal documents can give you a clear picture of your financial situation.

Call AustralianSuper for a Statement of Advice to see how much super you have and chase any lost super you have in other funds from previous jobs.



Go to the AustralianSuper website at www.australiansuper.com/LostSuper for help on finding lost super

Call AustralianSuper on **1300 300 273** to get a Statement of Advice with your current super balance.

You can also use the Budget Planner online at www.australiansuper.com/calculators to help you record your expenses.

3. Get legal help

You will need to have a lawyer to split your assets and your super. Even if you don't go to court, certain parts of the super splitting process require you to declare that you have received independent legal advice and AustralianSuper cannot split the super unless it receives confirmation of this, or an order from the court.

A lawyer can also help you through the process of dividing all your assets in the property settlement and represent you in court if necessary.

Community legal centres and Legal Aid agencies offer free legal advice, and services are available in every state and territory. You can find a list at the Australian Government's MoneySmart website at www.moneysmart.gov.au



2. Get financial advice

For most people, a relationship breakdown is extremely stressful. The thought of making important decisions can be overwhelming. A financial adviser can provide you with knowledge and guidance to help you feel more confident about the decisions you make.

Financial advisers are experienced professionals, familiar with super and investment issues. They have the expertise to provide you with information about the impact of a relationship breakdown on your super.

They can also:

- › talk to you about what to expect once an agreement on splitting your assets (including super) has been reached
- › help you decide what to do about your super contributions going forward – as you may need to adjust to a change in income
- › give advice on how to invest your part of any super payment made.

AustralianSuper members have access to professional financial advice on a fee-for-service basis. Call **1300 300 273** and make an appointment to see a financial adviser to discuss your situation.

You can also get over the phone advice about your super. Call **1300 300 273** and ask to speak with a superannuation adviser over the phone.*



Resources

There is plenty of information and support available to help you understand and cope with the difficulties of going through a separation or divorce. Those difficulties can range from the financial strain of living on a reduced income to the practical and emotional challenges of adjusting to your new situation.

- › The Family Law Courts website, www.familylawcourts.gov.au is a good source of information on how to:
 - apply for divorce
 - get legal advice
 - deal with property and money, and
 - make arrangements for children during and after separation.
- › The Family Relationships Australia website at www.familyrelationships.gov.au is the Government's main resource about family relationship issues, including the range of services to help people who separate.
- › Department of Human Services: Child support at www.humanservices.gov.au has information on Government support for separated parents.
- › Women's information and referral services provide women with free and confidential support, information and referrals in each state and territory. The websites generally have information and advice for women on the financial impact of separation and divorce.
- › Mediator locator is a simple tool at www.mediatorlocator.com.au to find a mediator to help you come to an agreement with your ex-partner without going to court.



What happens to super?

Super is one of the most valuable assets a couple has, and like other assets such as the family home, valuables and investments, many couples choose to split their super during the process of separation or divorce.

Under family law, when a marriage or de facto relationship breaks down, super can be split under a superannuation agreement reached by the two people involved, or if an agreement can't be made, you can have the court determine the settlement.

You should get legal advice before deciding what to do. A lawyer can help you understand your rights and responsibilities, and explain how the law applies to your case. A lawyer can help you reach an agreement with your former partner without going to court. You may also choose to use a mediator to help you negotiate with your partner.

Your super

Your partner has the right to request information about your super from your super fund, and when an agreement is made to split your super, your partner will be asked where their part of your super should be paid (see 'The process of splitting super').

Your partner's super

You can request information about your partner's super from their fund.

If your partner's super is split, when the super becomes available you will have the following choices:

- › Add the money to your AustralianSuper account. If you are not a member, transfer your part of the super into a new AustralianSuper account.
- › Transfer the super to another fund.
- › Take the super as cash if you are eligible for a cash payment. (Generally you can't take super as cash unless you're at retirement age or if you have super money which is 'unrestricted non-preserved'.)



Superannuation is considered an asset and may be included in a property settlement.

If you're involved in a separation or divorce, call us for help on **1300 300 273**.

What's fair?

Super is often a forgotten asset when it comes to property settlements. Often this is because one partner is not aware of the value of the other's super, or they're young and don't realise its value as they are unable to access it.

But as super will grow to be one of a couple's biggest assets, it is important to factor it in to any agreement.

There are guidelines for dividing up property in the settlement process, based on the income and assets each partner has brought to the relationship during your time together, how much each of you have worked both inside and outside the home, as well as where any dependent children will live after the split.

When coming to an agreement about super, some possible approaches include:

- › One partner may get part of their settlement in the form of their ex-partner's super.
- › One partner may receive more super now and less of the other assets like the family home.
- › Where one partner has super and the other has little or none, the super may be split 50/50 along with the other assets.

A lawyer or mediator can advise you on the options for splitting super.

Case study

Ben and Caroline separated a year ago. After two decades and two children together, it took a few months of talking to work out how to divide their property and assets.

Under their agreement, Caroline kept the family home and stayed the main carer for the children. Ben received half of Caroline's super and transferred the money to his super account. He works full-time and the children stay with him five days a fortnight.

Ben's cost of living goes up because he has to cover his own day-to-day living expenses, as well as contributing to the costs of raising the children.

For Caroline, life is a challenge as she returns to work full-time to pay the mortgage, as well as caring for the children. After getting financial advice, she follows a detailed budget to deal with her new income and expenses, and contributes extra to her super to catch up for the super split.

The process of splitting super

Here is the process for splitting super. If you are receiving some of your partner's super, the process describes what you must do. If your super is being split, it describes what will happen and what your former partner will need to do.

1. Request information about the super accounts

Before you can work out how to split the super you both have (and whether to split it at all), you need to find out how much super is available.

- › If your super is with AustralianSuper, login to your online account for an account balance or call us.
- › If your ex-partner's super is with AustralianSuper, you must provide a *Request family law information* form to us.
- › If your ex-partner has super in another fund, contact that fund.

You can download this form online at

www.australiansuper.com/forms or call **1300 300 273**

to request a copy. A \$50 fee applies to a request for family law information from AustralianSuper.

2. Decide how you will split super

There are a number of ways to do this. The most efficient way is to prepare a formal written agreement with the help of a lawyer. This is likely to cover super as well as other family assets.

The agreement must be accompanied by a signed certificate, stating both you and your former partner have taken independent legal advice about the agreement.

You can also seek a consent order to split super. If you and your former partner have reached an agreement from the outset, you can file an application for consent orders in the Family Court, together with a consent order recording the agreement. The orders can be made without either of you going to court.

If you can't reach an agreement with your former partner, you will need to file an application for a court order. Family law registry staff can tell you what forms you need to file. Even when an application is made to a court, it is possible to reach an agreement at any stage without the need for a court hearing.

- › For your super and your ex-partner's super, consider these amounts as part of any agreement or make a super agreement.

3. Apply to AustralianSuper

If you're seeking court orders about super, you must tell us in writing. You can do this online at www.australiansuper.com/email or send a letter to GPO Box 1901, Melbourne Vic 3001, including you/your ex-partner's member number.

- › For your ex-partner's super, once the order is made or an agreement reached, you will need to advise the fund. If it's AustralianSuper, complete an *Apply for a payment (family law)* form.

Contact us

Call **1300 300 273**
(8.00am to 8.00pm AEST/AEDT weekdays)

Email www.australiansuper.com/email

Web www.australiansuper.com

Mail GPO Box 1901, MELBOURNE Vic 3001



Whatever the outcome of splitting the super in a relationship, there are a number of different ways to top up your share.

As an AustralianSuper member you can get over the phone advice about your super*.

You can also go to the AustralianSuper website at www.australiansuper.com to find out the options, including Government co-contributions for low income earners.

* The financial advice you receive will be provided under the Australian Financial Services Licence held by a third party and not by AustralianSuper Pty Ltd (AustralianSuper) and therefore is not the responsibility of AustralianSuper. With your approval a fee may be charged if a Statement of Advice is provided.

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