

Why timing is important

Canonical: <https://staging-empowerfamilylaw.yottadigital.net/why-timing-is-important/>

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Why timing is important

Family law decisions do not all need to be made immediately, but some dates have legal or practical consequences. Acting early can preserve evidence, create space for negotiation and reduce the risk of discovering a deadline after it has passed.

This article gives general information about common timing issues after separation. A lawyer should check the date and rule that applies to your circumstances.

Property settlement time limits

For people who were married, an application for property adjustment generally must be made within 12 months after the divorce becomes final. The clock is linked to the divorce date, not simply the date of separation.

For people who were in a de facto relationship, an application for property adjustment generally must be made within two years after the relationship breaks down.

The Court can sometimes allow an application outside these periods, but permission is not automatic. An out-of-time application adds another issue, cost and uncertainty to the case. Obtain advice well before the deadline so there is time to gather documents, exchange disclosure and explore settlement.

Divorce has its own timing rule

An application for divorce can generally be made after the parties have been separated for at least 12 months. Separation can occur under the same roof, although evidence will usually be required to show the relationship ended.

A divorce ends the marriage. It does not itself divide property or make parenting arrangements, and it can start the 12-month period for a married person's property application. Property issues can be negotiated before a divorce is final.

Evidence is easier to preserve early

The passage of time can make it harder to reconstruct accounts, ownership, contributions and important conversations. After separation, keep lawful copies of relevant financial records and note key dates while events are recent.

Early records can help with:

- identifying the property pool and liabilities;
- tracing transactions and digital assets;
- showing the date of separation;
- recording post-separation contributions;

understanding children's routines and care arrangements; and documenting safety concerns or breaches of orders.

Parties to financial or property cases have an ongoing duty of full and frank disclosure. Starting early allows time to identify gaps and request missing material.

Children's matters may need faster action

There is no single general filing deadline for parenting orders, but delay can still matter. Obtain urgent advice if a child has been withheld, moved without agreement, may be taken overseas, is exposed to an immediate safety risk or needs an urgent medical decision.

In less urgent cases, early family dispute resolution can help parents establish workable routines before conflict becomes entrenched.

Family violence and asset risk

Do not wait for an ordinary appointment if someone is in immediate danger. Call 000.

Urgent advice may also be needed where there is a threat to sell, transfer or hide assets. The Court can make interim and protective orders in appropriate cases, but the evidence and timing of an application are important.

Starting early does not always mean going to Court

Early advice should clarify options and deadlines. It can support a negotiated agreement, mediation or consent orders and may help avoid Court proceedings. It also gives the parties time to make informed decisions rather than responding to a last-minute deadline.

How Empower Family Law & Mediation can help

We can identify the dates that matter, explain the available pathways and help you prepare for negotiation, mediation or Court action where necessary.

Read about separation , divorce , property settlement or contact our team .

Your first 30-minute consultation is free. Call (03) 7020 6542 .

For official information, see the Court's financial and property overview and time-limit guidance .

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What are the main property-settlement time limits after separation?

For a married person, an application for property adjustment generally must be made within 12 months after the divorce becomes final. The property clock is linked to the divorce date rather than simply the separation date. For a former de facto partner, the general period is two years after the relationship breaks down. The Court can sometimes grant permission to apply out of time, but this is not automatic and creates an additional dispute about delay, hardship and the merits of the proposed case. Do not wait until the final weeks. Disclosure, valuations, negotiation and mediation take time. Record the separation date, obtain the divorce order date where relevant and ask a lawyer to verify the deadline that applies to the specific relationship and application.

How do the timing rules for divorce differ from property and parenting matters?

A divorce application can generally be made after at least 12 months of separation, including qualifying separation under one roof. Divorce legally ends the marriage but does not divide property or make parenting arrangements. Once the divorce becomes final, it usually starts the 12-month period for a married person's property application, so property issues can and often should be addressed before the divorce. Parenting proceedings do not have one equivalent general filing deadline, but delay can still have serious practical consequences. Urgent advice may be needed if a child is withheld, moved, at immediate risk, likely to be taken overseas or requires an urgent medical decision. Existing parenting and intervention orders also continue to operate until changed.

Why should financial, parenting and safety evidence be preserved early?

Records become harder to obtain and memories less reliable over time. Early, lawful preservation can help identify the property pool, trace transactions and digital assets, show the separation date, record post-separation contributions and establish children's routines. It can also document safety concerns, threats or breaches of orders. Parties to financial cases have an ongoing duty of full and frank disclosure, so early organisation helps reveal gaps that need to be requested or explained. Keep copies securely and maintain a factual chronology rather than commentary written for an audience. Do not access accounts unlawfully or put yourself at risk to collect evidence. Where family violence is present, safety planning comes first. A lawyer can identify which records are material and whether subpoenas, disclosure requests or expert valuation will be needed.

Does getting advice early mean I need to start Court proceedings immediately?

No. Early advice is often valuable because it identifies the dates, evidence and risks that shape a negotiated solution. It can create time for disclosure, settlement proposals, mediation and consent orders before a limitation period or practical crisis forces rushed action. It also helps distinguish a genuinely urgent issue from one that can proceed in a structured way. Court action may be necessary where a child or person is at risk, an asset may be removed, disclosure is refused, an order is being breached or a deadline cannot otherwise be protected. Even then, negotiation may continue. Starting early means making an informed choice about the process, not automatically litigating. If immediate danger exists, call 000; otherwise provide the lawyer with a concise chronology and the next critical date.