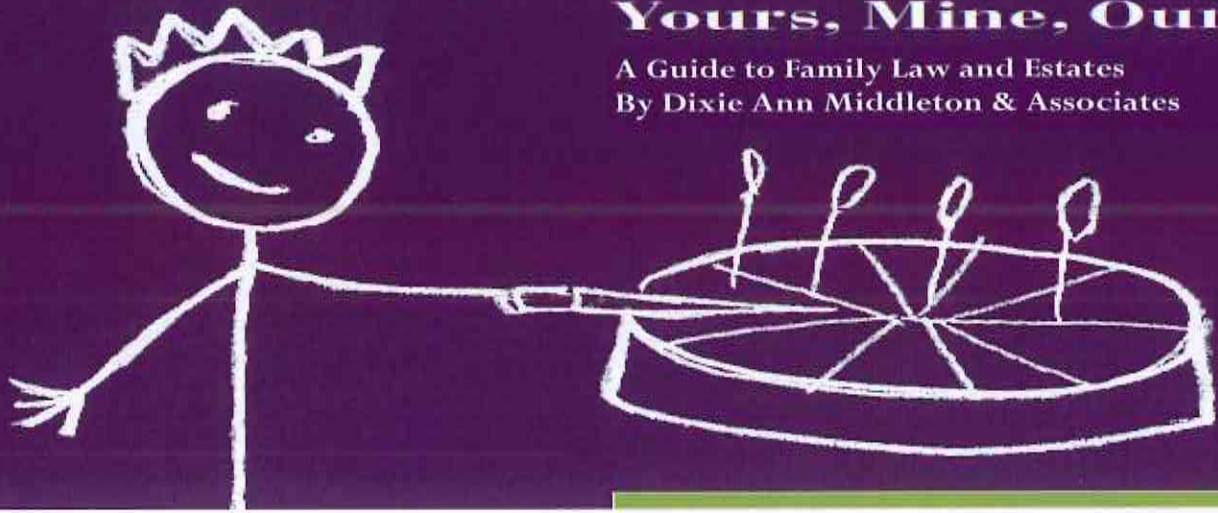


Yours, Mine, Ours.

A Guide to Family Law and Estates
By Dixie Ann Middleton & Associates



Welcome to the fourth edition of our Newsletter—"Yours, Mine, Ours".

Dixie Ann Middleton
Principal

Emma Louise Turner
Associate



Samantha Jane Vickery
Solicitor

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FAMILY LAWYERS
The Thynne Centre
4/18 Thynne Road
MORNINGSIDE Qld 4170

Ph (07) 3395 5502
Fax (07) 3399 1692
E: mail@middletonlawyers.com.au
www.middletonlawyers.com.au



We wish you, your family, friends and colleagues a safe and happy festive season. Our office will be closed from

5:00pm on Friday 23 December 2011 and will reopen again at 8:30am on Tuesday 3 January 2012.

It has been a successful year, both professionally and personally for our business and our staff. A number of us have been fortunate enough to travel overseas.

Next year Amara will be commencing full time study at QUT in the Law School. She will continue to work part time for us. We also welcome back Tamara after maternity leave and she will job share with Amara in the following years.

CHECKLIST ON SEPARATION

When you separate after a long relationship, whether it is a marriage or a defacto relationship, there is a great deal of anxiety and often confusion. To assist you in re-establishing yourself, we suggest that you consider the following action plan. Not all the actions would be relevant or appropriate for your personal circumstances. Therefore, it is provided as a guide only:-

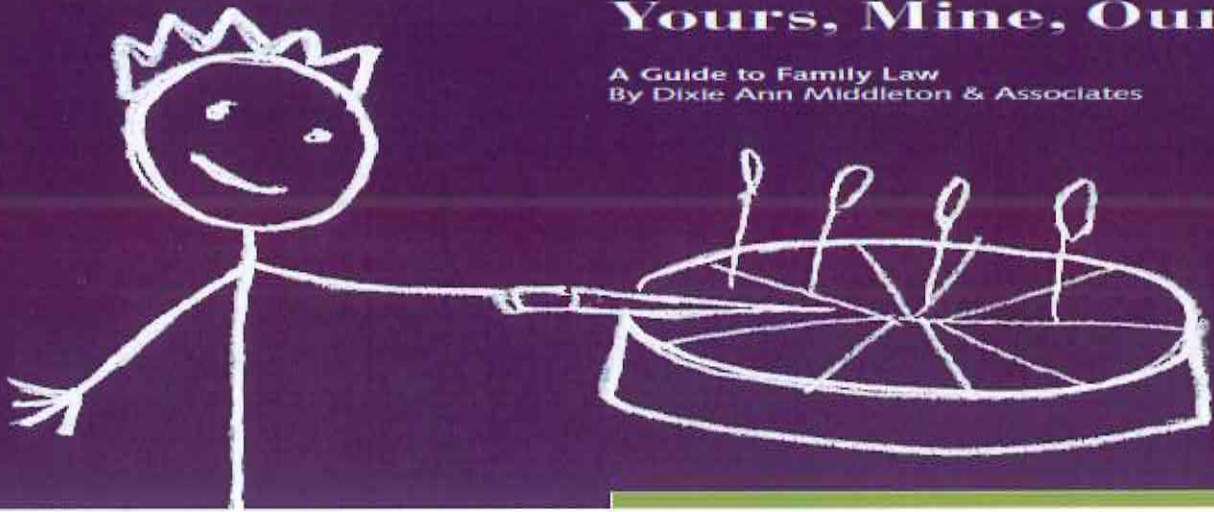
1. You should consider making an appointment to see a lawyer experienced in family law as soon as possible when considering the finalisation of your marriage or long term defacto relationship.
2. If you are moving out of the joint residence on separation then you should consider a mail redirection.
3. If you permanently relocate from the joint residence you need to consider changing your address on your driver's licence and updating your electoral enrolment, bank and Medicare records.
4. If on a separation you are remaining in the joint residence you should consider if it is appropriate to change the locks to that property and having the other party return any keys for that property.

5. If you have provided the other party with an auxiliary card or a secondary card to your bank account or credit facility, you should consider whether it is appropriate to cancel same. You may need to ask for the return of the secondary card to facilitate the cancellation of that access.

6. If there are joint bank accounts you need to consider when the accounts should be closed and the proceeds distributed – it is not always possible to do that immediately if there are direct debits coming from those facilities for on-going joint liabilities including home loans.



7. If you have joint store accounts, you should consider when it is appropriate to cancel the joint facility.
8. If you have family health insurance cover you need to check who is the main card holder. If it is not you, you need to consider whether you should take out your own health insurance so as not to run the risk of being dropped from the current family cover without your knowledge.
9. If you have provided the other party with your Enduring Power of Attorney you need to consider whether this should be cancelled and the other party notified of this cancellation. You would also need to consider if you need to appoint another person as your attorney.



CHECKLIST ON SEPARATION

10. You should consider changing the security code on banking, Facebook, emails etc.
11. You should understand the law in regards to accessing other people's emails and the penalties arising from unauthorised access.
12. If there is real estate owned solely in the other person's name and you have made contributions, directly or indirectly to that property, you need to consider whether you need to lodge a Caveat over that property with the Queensland Department of Environment and Resource Management. You will not be able to lodge this 'restraint' unless you have a caveatable interest. This aspect of the matter may become urgent for your consideration if the property is to be sold in the near future.
13. If you and the other party hold real estate in Queensland as joint tenants, consider whether the joint tenancy needs to be severed. Once severed, the property will be held as tenants in common in equal shares. Your share will then be left, on your death, per your Will.
14. You should consider taking steps to protect against the capacity for the other party to drawdown on credit facilities whether they are loan accounts in credit or in advance payments or credit card facilities where the credit limit has not currently been reached on the facility.



15. You should consider whether you need to give creditors of the other party notice that you limit your exposure under any guarantees you have provided to them to the amount outstanding at the time of the notice.
16. You should check whether you have nominated the other party a Beneficiary under your superannuation and consider whether you need to change this nomination to a different party.
17. You should check whether you have a valid Will. If you have appointed the other party the Executor and Trustee or Beneficiary under that Will do you need to do a new Will to appoint a third party in place thereof.
18. You should collect your financial records to establish evidence of your financial position at the commencement of the relationship, your financial contributions made during the relationship and your financial position at the end of the relationship. You need these records to enable detailed appropriate legal advice to be provided as to your rights and responsibilities.
19. Check the Australian Taxation Office website for lost super. If you have a number of small funds you should consider whether or not to consolidate same so as to minimise your loss through fees and charges.
20. You should check whether you have lodged tax returns up to date, and if not, attend to same.



21. If you have children, you should check the Child Support Agency website to obtain an estimate of your child support obligations—their website is www.csa.gov.au.



22. You should seek personal counselling to help you emotionally cope with your changed personal and family relationships. This may also assist you by establishing the strategy to negotiate parenting and financial arrangements into the future, with the other party.
23. If you are concerned about the other party removing the children from Australia, you should secure the children's passports and place them with your solicitor for safe keeping pending further negotiation with the other party.
24. If there are direct debits coming from your personal account or the joint account, should any of these be cancelled or should this arrangement remain in place until finalisation of a financial settlement.
25. Once you have negotiated either property or parenting arrangements, it is essential that you have the agreement documented in legally binding documentation—Consent Orders or Binding Financial Agreement.

Please note many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.