

FAQs answered by Townsville Family Lawyer, [Courtney Aitken](#)

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[Courtney Aitken](#) is an experienced Family Lawyer and Senior Associate at OSheaDyer Solicitors, Townsville. She was admitted in 2014 and has practiced exclusively in Family Law. Courtney is also a Collaboratively Trained Family Lawyer.

When is *Separation* actually Separation? When are people considered to be '*legally*' Separated?

The laws that apply here say that **separation occurs when one person in the relationship makes the decision to separate and *communicates* their decision to the other party.**

Communication is key.

The other person does not have to agree to the separation or accept the separation. There is no formal legal process required for a separation to happen.

Can you be Separated and still be living in the same house?

A couple may be separated and:

- Still live in the same home. This is called 'separated under the one roof'.

They can also be separated and:

- Still have joint bills
 - Are yet to work out parenting arrangements for their children, and/or
 - Are yet to work out child support.
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What if the date of Separation is disputed?

Sometimes, there can be a dispute about the date of separation, or if separation did happen. If there is a dispute, the court would want to know:

- Whether they live together in the same home
- If they live together in the same home, but have separate areas or bedrooms in the home
- Whether a sexual relationship exists
- The degree of financial dependence or interdependence between them, and/or
- Whether family and friends consider the couple separated.

Not all of the above factors are required, and no single factor is considered conclusive proof of separation. It will always depend on the particular circumstances of your situation.

Why is the date of Separation important?

The date is important for several reasons:

- If you have been in a de facto relationship and you separate, there is a 2-year time limit for bringing an application to the court for property settlement orders. The time limit runs from the date of your separation.
- If you have been married and you separate, you can't apply for a Divorce until you have been separated for at least 12 months.
- Record keeping, including for Centrelink and the Child Support Agency.

If you are unsure about the date of separation, or if there is a dispute about this, it is important to seek independent legal advice specific to your circumstances so that a lawyer can advise you.

O'Shea Dyer Townsville has experienced lawyers who practice exclusively in Family Law

Everyone's situation is unique.

We always recommend seeing an experienced family lawyer so you can discuss your situation and obtain customised advice about how this process specifically applies to you.

We offer first appointments with experienced family lawyers for \$220 - a low fixed fee so that everyone can afford to obtain advice about their situation.

We are here to help you.

Call us on 4772 5155 to make an appointment.