



# I want to keep my home and buy out my partner

## Description

### Buy out your ex? Keeping the house after separation.

Going through a divorce or separation isn't easy. If you have a shared house with your former partner and want to transfer the mortgage into your name, you might not know where to start and who can help you. Here, we'll guide you through the process and connect you with the right advisors.

### Your guide to buying out a partner in a mortgage.

Relationship breakdowns are hard enough, but breaking up with someone you share a mortgage with can make the process even more stressful and complicated.

### What to know before buying out

If you've decided to buy out your partner, you should know how buying someone out of a joint mortgage works.

1. In Australia you can't just "take over" the home loan. Transferring the loan follows a similar process to selling and buying a property. It's a formal process between you, your ex and the bank which involves you refinancing the loan into your sole name.
2. To avoid paying stamp duty, the refinancing partner (you) will need a legally binding separation agreement or consent orders made by the family courts.
3. To transfer the home loan, you'll need to be able to qualify for the mortgage on your own. You should be prepared to pay a bit more than that to cover any necessary payments to your former partner.

If your financial options are limited, you should seek the advice of a mortgage broker that can help you understand your options and find the best solution for you. [Connect with one of our trusted mortgage brokers.](#)

## How to buy out: Know your options

When buying out your ex wife, ex husband or former de facto partner, there are two basic steps you should take:

- Seek legal advice
- Agree on the value of property to be divided

Afterwards, your options are:

- Refinance your home loan (a mortgage broker can help)
- Increase your home loan to pay out a divorce settlement
- Make it formal with the help of a lawyer to avoid stamp duty

## How do I calculate my partner's share of the property?

There's no mathematical formula, no matter how long or short the relationship is. This is where it may be priceless to have a solicitor's help in negotiating a fair share for you and your ex.

To aid with this, it's priceless to get:

- either a property valuation
- or 3 appraisals and use the average of these as the value of the home

To identify the pay-out figure, calculate the equity you have in your home.

## Factors to consider before buying out

To ensure a fair and equitable outcome for both parties involved, you should be aware of these factors:

- Get legal advice – independent, unbiased advice ensures you are getting the best outcome. The strategic advantage of that is knowing that an independent lawyer will be able to predict what advice your ex-partner may be receiving.
- You might not agree with your partner – while an amicable agreement with your former partner is the least stressful, least expensive and time-consuming process, that's not always possible.
- If you or your ex have stopped making mortgage payments, you'll get credit damage which might prevent you from refinancing. Holding off on making repayments is affecting your credit score and will also adversely impact the likelihood of your bank's approval when you apply to refinance.
- Be aware of other costs involved – you will have to pay stamp duty if you don't enter into a [BFA](#) or Consent Orders plus other various avoidable fees.

## Are there any alternative options?

1. You can transfer your share to your partner's name – but be aware that this will attract stamp duty
2. You can sell the property and split the proceeds – you will then have to find another place to live in

3. Agree to continue being co-owners of the property and rent it out – this is the least ideal scenario, you should seek the advice of a lawyer that can explain the pros and cons to you.

Whether your separation is amicable or not, dividing assets and debts isn't easy. From lawyers, to solicitors, financial planners or mortgage brokers, here you can find all the help and advice you need to make your property settlement as stress-free as possible.

## FAQs

### **Are both people named on a joint mortgage agreement responsible for the monthly repayments?**

Legally, yes. But if you are stuck in the house by yourself and your ex stopped paying, you can apply for financial hardship from your bank.

### **Will I pay stamp duty? How do I buy out my ex without paying stamp duty?**

Yes, you will have to pay stamp duty unless you have a legally binding separation agreement or Consent Orders made by the family courts (Consent Orders don't actually involve anyone going to court but are an administrative process).

### **What to do if you have bad credit and are buying an ex out of the house?**

Bad credit can hurt your chances of getting a bank loan, but some non-bank lenders could help. Reach out to a mortgage broker that can assess your situation and help you understand your options.

### **What if we have missed repayments on our home loan?**

Contact your bank immediately and explain the situation. You can ask for an extension of time if you are in financial hardship, otherwise you need to make the payments immediately. If this continues indefinitely, the house will be sold by the bank and you might end up with nothing after the sale.

### **What if you need funds for a buyout?**

If you need funds for a buyout, the best way is to seek the advice of a mortgage broker or financial planner that can help you understand your options.

### **Date Created**

February 2023