When home no longer feels like home – Separation and parenting arrangements

written by Tilly Ryan | 27 September 2023



Home.

A four-letter word that holds so much meaning. For most people home is a haven, a safe place to feel protected. Home is where we can relax and be our "true selves" without fear of reprisal, judgment, or rejection. Home provides the foundation from which a child can grow and safely explore the world.

> "The ache for home lives in all of us, the safe place where we can go as we are and not to be questioned."
> – Maya Angelou

But for many, home is anything but safe or harmonious. What happens when the home you thought you knew no longer exists due to separation, abuse or violence?

The SR Family Law team witnesses in family law the unfortunate reality of children who no longer have a sense of home. There are many reasons for this, and it can vary from child to child, even when the children are in the same family – each person's lived experience is different. Sometimes a child can be scared and worried because the adults in their lives are making huge life decisions that significantly impact them, for example selling the family home or living between two care givers. At the same time, that child's sibling may feel excited by the change or think it is "cool" to now have two homes. Both responses are valid and need to be considered by the caregivers when determining parenting arrangements.

We also know that parents and caregivers often try their best to provide the best they can for their children, yet it can be hard to know how to protect children when the family dynamic is changing. This can lead to children feeling adrift and without a secure place that feels like home to them – they may feel that they don't want to go home because their caregivers are fighting all the time, or that their needs are overlooked when decisions are made.

It is possible that you may be on the same page as your partner in the parenting arrangements for your child. You both may understand that your child needs a feeling of security, and it is not in the interests of the child (or indeed you as parents) to be treated as a "pawn" in the relationship breakdown. It can be hard to "rise above" in a separation and it is easy to forget that your children may also be feeling pain, anger and hurt. Sometimes parents aren't perfect, there is no such thing as perfect parenting – it is possible to change direction once you know your decisions and choices may be adversely affecting your child.

Some families have successfully navigated separation through "birdnesting" which means the children remain living in the family home and the parents take turns moving out. Birdnesting can be challenging and may not be a viable option for some families. It isn't for everyone, but birdnesting arrangements can work for children when the caregivers share open, honest and calm communication, and there are also respectful boundaries between the separating partners. When there is a risk to a child's or partner's safety, birdnesting is not necessarily a good option – this arrangement needs to be carefully considered in your circumstances and you need to be prepared that it may not always be smooth sailing.

> "Home is a shelter from storms – all sorts of storms."
> – William J. Bennett

And in extreme cases, sometimes we know that it simply isn't safe for a child to go home due to neglect, abuse, violence, addiction, or the caregiver's inability to provide a safe and stable environment. Quite simply home is where the storm is, rather than the shelter from the storm. The family law system in Australia provides for a child to have a meaningful relationship with both parents, but that is

on the proviso that they are safe and free from harm, neglect, or abuse. This can occasionally mean that home can't be with one or both parents – ultimately the needs of the child are paramount. Ultimately, a caregiver may feel that they are offering their best to their child, but sometimes that simply isn't good enough and so home may mean living apart. It can be hard for parents and/or caregivers to accept, but it is imperative that a child is protected from harm both outside and from within the home.

> "There is nothing more important than a good, safe and secure home."
> – Rosalynn Carter

So how do we work with you to establish a sense of home when everything feels uncertain? There's no right answer but here's some of the things that we at SR Family Law try to do to help you as you navigate the family law system:

SUPPORT

It can be hard to admit that you aren't coping or that your child is struggling to accept their new reality post separation. We have a network of mental health experts who we work with to support you and your family including counsellors, psychologists, and therapists. We pride ourselves in seeing you not just as a legal case but as a whole person who needs to be supported through the maze – not just the family law system but more broadly both during your legal matter and beyond.

SERVICES

Experience has taught us that you can't always go it alone – everyone needs help at one point or another. Because of this, SR Family Law has developed relationships with service providers who can offer assistance, guidance and options to our clients. We can provide you with introductions to people who may be able to assist you with practical advice and guidance including:

- financial advisors and accountants
- mortgage brokers
- real estate agents & buyers agents
- removalists
- tradespeople
- allied health

… whatever you may need we will help you find the right person.

We know that by offering you help to find and engage with the right people we can help ease some of the uncertainty you are experiencing. Having the support of service providers who understand your situation means that you can focus on moving forward and creating a home for you and your family.

SAFETY

Unfortunately, there are times when a child cannot remain with one or both of their parents. SR Family Law understands this is not an easy situation for a child or parent to be in – we will work with you to achieve the best outcome for the safety of you and your child. It can be hard to determine, particularly when there may be differing sides to the "story". This is why we rely on the expertise and recommendations of family therapists who are able to determine what is in the child's best interests.

A child may also be appointed a lawyer by the Court to advocate on their behalf – known as an Independent Children's Lawyer ("ICL"). An ICL has the responsibility of voicing the needs and/or wishes of the child in family law matters – particularly in circumstances where the parents cannot agree or there are safety concerns. In the end, the principle that guides family law is the best interest of the child free from harm.

SOLUTIONS

To help you take the next steps in creating a new home and sense of stability for your family, we work with you to achieve a timely and cost-effective outcome in your matter. We understand that dealing with lawyers is not what anyone really wants to do no matter how nice we are as people or however good we are at our job – we know that you want to spend time with your family and move forward in your life. Because of this we strive to work with you to find solutions that don't drag you through unnecessary legal hurdles (especially Court) and we keep your legal expenses as low as possible while still providing you with the best legal care. Money in your pocket within a reasonable time frame gives you the opportunity to focus your attention on building a new life and home for your family.

The team at SR Family Law will work with you to help you find your "home". We know that home is likely to look, feel and be different for everyone, and we use our experience to ensure we are responsive to what works for you and your family – we do not take a "cookie cutter" approach. With a little bit of care, attention and empathetic listening from the SR Family Law team, we will support you create your new home for you and your children. We work with families to develop parenting arrangements that are conducive to the child's best interests while also being realistic about the lifestyle and demands on co-parents.

The path through separation can seem hard when working through parenting differences and changing what home looks like, but step by step you will get there. Remember home is not tied in the past or in an imagined future, it is in the everyday steps you take to be

the best you can, for yourself and your family.

Free initial consultation: Contact us to discuss your personal situation.

We hope you have found this information to be of use in giving you an understanding of our firm and the work we do specifically in relation to Family Law and matters related to Family Law. We know that every family law matter is unique, and your personal circumstances require you to receive personalised legal advice that considers your specific needs, objectives, and circumstances. We strongly encourage you to contact our office to talk to us about your personal circumstances and how this information specifically applies to your situation. We welcome you to get in touch with us to book a free initial consultation with our team.

We are a boutique legal firm focused on family law. Our team has a depth of experience and expertise that cannot be matched by legal practices that work across numerous areas of law.
Wherever you are in the separation process, our team can assist you. Book your free initial consultation with one of our family lawyers today, phone during office hours on 07 56 466 466 or book online via our meeting calendar here.
