



Who gets the family pets after separation or divorce

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For many families, pets such as dogs, cats or birds are well-loved members of the family. They bring joy, make great companions and play an integral role in family life. But what happens to your pets when your relationship breaks down? Separating pets from their owners or children can be difficult and become a source of tension between couples upon separation. It is important to know how pets are treated during separation and what arrangements can be made for your pets.

How are pets treated in family law matters?

There are no specific provisions in the *Family Law Act 1975* (Cth) that deal with pets. Rather, pets are considered property similar to a car or furniture and are dealt with as part of the [property settlement](#) process. This information often comes as a surprise to most people, given they feel a much stronger emotional attachment to their pets than other assets or personal possessions.

Pets are not usually 'valued' like other assets, such as monies in a bank account or a share portfolio, unless they have an objective value derived from their use; for example, in breeding or racing. If pets are breeding or racing animals, they are essentially treated as a business asset as they generate income for their owner.

Pets that do not fit into the category of a business asset due to income generation are generally considered to have little monetary value within a property settlement.

What are your options to determine your pets' future after separation?

The Court encourages separated couples to reach an agreement between themselves regarding their pets where possible. There are various options available to you which are outlined below.

Negotiate what happens with pets with your former partner

In the first instance, it is usually best to attempt to discuss and negotiate the arrangements for your pets with your former partner. You and your former partner are best placed to have these negotiations as you know your pet best and understand each family member's individual attachment to the pet.

Children often have a strong bond with their pets and are used to spending time with them as part of their daily routine. In some cases, the family pet may [accompany the children between the two households](#) consistent with the parenting arrangements, with the expenses of the pet shared between the parents.

Where you and your former partner are unable to negotiate directly between yourselves, it is often helpful to participate in [Family Dispute Resolution](#). This process involves a third party, known as a Family Dispute Resolution Practitioner assisting you and your former partner to communicate and make decisions regarding your pet's future.

What happens with your pets if you cannot reach agreement?

If agreement cannot be reached with your former partner, you can make an application to the Court for property orders which include your pet.

The Court will consider a number of factors when determining the arrangements for your pet including, but not limited to, the following:

- Who was primarily responsible for the pet's care during the relationship and post-separation including feeding, bathing, training, walking and arranging vet visits?
- Is the pet registered in your name or your former partner's name?
- Who paid for the purchase of the pet? Was the pet given to you or your former partner as a gift?
- Who has been responsible for the financial expenses associated with the pet, including pet insurance, vet bills, food and grooming fees? Who can meet these ongoing expenses?
- Do you have new living arrangements suitable for the pet, for example, pet-friendly accommodation?

The Court is also likely to consider the impact or extent of any emotional attachment that you, your former partner and/or the children may have with your pet. The Court ultimately has discretion when making decisions regarding the future of your family pet.

How a family lawyer can help

There is no 'one size fits all' approach when it comes to making arrangements for your pet following separation. If you are separated or thinking about separating, and you're concerned about your pet's future, contact us and speak with one of our experienced family lawyers today.

Contacting Smith Family Law

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