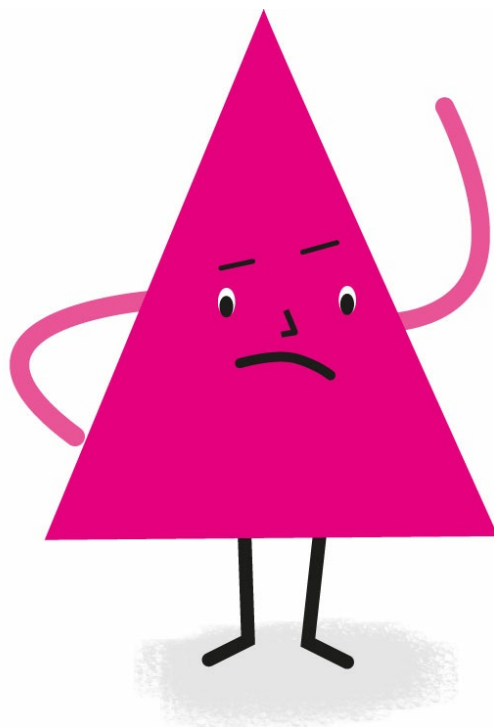


# Relationship breakdowns and banking

Many people have shared finances such as joint bank accounts, insurance policies, personal loans or mortgages. When everything's going well, these joint arrangements are a convenient way to organise shared expenses and commitments. But problems can arise if the relationship breaks down and the parties do not agree on how the arrangements should be managed moving forward.



We hear from many people whose relationship troubles have led to problems with their finances – whether they've separated from their partner, are in dispute with a business partner or fallen out with family members. Dealing with issues arising from joint facilities can be challenging, particularly when the parties are not getting along.

This guide sets out what you can expect from your bank if your relationship deteriorates and you can't agree about what to do with funds or accounts. A bank won't get involved in the relationship dispute – its responsibility

is to protect the funds while you work out your differences or make a joint decision about the bank account or loan.

Banks should treat all parties fairly and reasonably, ensuring they are given the same information and options. Banks should also be alert to factors indicating possible **economic harm**, and handle any instances with care and sensitivity.

## Advice for avoiding problems when relationships end

1. Have healthy conversations with your partner about money – see Good Shepherd's **Healthy Financial Relationships Toolkit** for tools to help.
2. Talk to your partner in advance about how assets will be divided in the event of your separation and consider legal advice to put formal arrangements in place if necessary.
3. Ensure you understand your account mandates, and that they reflect your agreement with the joint account holder or signatory.
4. Let your bank know if you are worried that your joint account holder may access accounts contrary to what's been agreed – your bank can freeze the accounts to protect the funds. See our **quick guide to freezing an account** for more information.
5. If your account is frozen, set up a separate account you can operate in the meantime.

## Bank account mandates

Your bank account mandate (or operating authority) sets out who owns the funds in your account, and who can operate the account.

There are two common ways for more than one person to access an account:

1. Joint accounts: where more than one person holds the account. Each person has rights over the account and they jointly own the funds in it. In the case of a joint credit card account or other debt, each person is jointly and severally liable for the amount owing. Any changes to the account generally need to be agreed to by both/all parties.
2. Authorised signatories: one person holds the accounts and owns the funds in it but gives permission for another person to transact on the account. The account owner can revoke the signatory's authority to access the account at any time.

If your relationship breaks down, you should contact your bank as soon as possible to sort out any shared bank accounts. You should be able to remove the other person as an authorised signatory from your solely-owned accounts, but will require their consent to make changes to any joint accounts.

The bank won't be liable for any transactions made in accordance with the mandate and prior to the bank being notified of the relationship dispute (see **Franklin's case**), but could be liable if it fails to keep funds secure after being notified of the dispute or relationship breakdown (see **Pip's case**).

See our quick guide to **account mandates** for more information.

# Joint accounts

When notified of a dispute over the operation of a joint account or the ownership of funds in it, a bank will usually freeze the account to protect the funds until the dispute is resolved. Stopping an account that is in daily or frequent use will almost inevitably cause complications

You will not be able to make withdrawals from the account unless the other party agrees, but deductions such as automatic payments and direct debits may continue after the account is frozen, particularly for important obligations like loan repayments and insurances. It is important to ensure there are sufficient funds in the account for these payments, or to arrange an alternative payment method.

Deposits into a frozen account can continue, but you will not necessarily be able to access these – even if you can demonstrate that those funds are intended for you alone (eg wages, salary or a benefit). You may wish to arrange for the sender of any income to pay funds to an account in your sole name.

Your bank will only unfreeze the account once you and the other account holder have agreed on how the account will operate moving forward. If you can't agree, you may need a court order to unfreeze the account.

Problems with relationship breakdowns and joint accounts can also arise where the account holders receive different levels of service from their bank, leaving one person feeling that they were treated unfairly (see [Tama's case](#)). In cases where a bank fails to take appropriate steps to protect the funds, the bank may be liable to pay compensation to one or more account holders (see [Rose's case](#)). Banks should ensure that their actions during a freeze are fair, without taking sides (see [Kate's case](#)). Banks should also take care that the freeze only extends as far as is necessary over *joint* accounts (see [Ana's case](#)).

# Joint loans

Your family home may be the largest asset in your relationship. When relationships breakdown, one partner may move out of the home and the other assume responsibility for the loan repayments. Similarly, a couple may have joint lending for a vehicle, but one person may have sole use of that vehicle after they split. However, both parties continue to be liable for the full loan, and a bank is not required to release any party to a loan until all lending has been repaid. In most cases, the person retaining the property will take a new loan in their sole name to repay the loan in the joint names.

You can generally repay your loans at any time – regardless of an ongoing dispute – but any increase in joint lending will need joint consent (see [John's case](#)). The bank will need to comply with its obligations under the Credit Contract and Consumer Finance Act 2003. The bank's terms and conditions or policy will determine whether the following actions require joint consent as well:

- Loan repayment holidays
- Interest only repayments
- Fixing interest rates.

Division of relationship property may be subject to the Property (Relationships) Act 1976, and you may need legal advice about how this may apply. Free and independent legal advice is available from the [Citizens Advice Bureau](#) or [Community Law](#).

# Forgery or improper pressure to take out a loan

In some rare cases, complaints from relationship breakdowns may raise issues about the circumstances under which the loan was taken out. In some instances, a partner, family member or friend may have forged someone's signature or used their relationship to obtain financial gain at the person's expense (for example, by pressuring them to provide a guarantee for their loan).

If you discover that your signature has been forged on a loan document, the debt is invalid – regardless of how good the forgery was or whether the bank knew of the forgery. If you received some benefit from the loan and have repaid it, your bank may not be required to fully reimburse you. But if you received no benefit and are unable to recover the money from the person who forged your signature, your bank may be required to compensate you (see [Enya's case](#)).

If you are asked to enter a loan agreement as a co-borrower or guarantor for a friend or family member but the loan doesn't benefit you, this may be of concern to your bank. Your bank should ensure that you seek legal advice which is independent from the other party to the agreement to ensure you are fully aware of the implications and aren't being taken advantage of.

## Insurances

It is commonplace to have your spouse or partner as the policy owner of your life insurance, as this will make it easier for them to claim the insurance when you pass away. However, control over the policy may rest with the policy owner – not the life insured (you) – which can leave you unable to make changes to your life insurance if your relationship ends. You should keep this in mind when setting up or reviewing insurance policies.

## KiwiSaver

Sometimes issues arise with KiwiSaver in a relationship separation. Under the Property (Relationships) Act 1976 you can separate your assets by reaching an agreement, however a court order is required before the KiwiSaver provider can move the funds – see [Cassandra's case](#) and our [quick guide to KiwiSaver](#) for more information.

## How we can help

We can consider complaints about a bank's actions during a relationship breakdown – for example, whether it took appropriate steps to protect funds and whether it treated the parties fairly.

Where we find the bank has acted inappropriately, we can recommend the bank compensates you for any direct financial loss and/or significant inconvenience resulting from its wrongdoing. In some rare cases (such as when a signature was forged on a loan agreement), we may also recommend the bank forgive a debt or release security.

We are not able to require a bank to unfreeze an account, nor can we ask it to compensate you for costs, losses or inconvenience arising from the relationship dispute. See our [compensation information sheet](#) for more information.

**Get in touch**

0800 805 950

[help@bankomb.org.nz](mailto:help@bankomb.org.nz)

[bankomb.org.nz](http://bankomb.org.nz)