

# Divorce: Where do I start?

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**Become informed.** You've never been at these cross-roads before and it is important that you become aware of the procedures and your rights. There is a lot of self-help information out there, as well as professionals to provide you advice.

There is one sole ground for divorce in Canada: marital breakdown. And there are three triggers that one can use as a reason for application for divorce:

1. Mental and/or physical cruelty
2. Adultery
3. One year or more living separate and apart. (It is possible this could mean living under the same roof during this period of time.)

In 1985 the new, revised Divorce Act removed fault from divorce and it stated that everyone has the right to divorce. But before you make application, you need to sort out future arrangements for children, housing, dividing assets/liabilities and all the other details needing attention when couples call it quits. Taking care of this final business and getting it all written down will ensure a much smoother divorce.

It's also important to answer this question: "Are you the one leaving, or are you the one being left?" Your answer to this question is important to understanding what I call "elementary divorce dynamics."

1. It's me that wants the divorce but I'm not 100% sure.  
There is tremendous pressure to make the right decision because you know it's going to affect every aspect of your life and impact many other peoples' lives. Unfortunately, divorce carries no guarantees for future happiness. The best case scenario is to make a decision that is not based on emotion, and if that unemotional decision is to move forward, then it is the right time.
2. It's my spouse who wants the divorce. I'd like to try to make it work.  
Being in this position often makes you feel like you have lost control of your life and you feel like a helpless victim. It usually comes with extreme devastation, as your life is changing before your eyes, and without you having any say in the outcome.

It's not easy to acknowledge and deal with the problems in your marriage when you are feeling ultimate desertion by the person you love. In addressing this dilemma you need to come to grips with the questions: Are you trying to hang on to a marriage based on false illusion? And, are you hoping for the impossible?

3. It's me that wants the divorce because it is just NOT working!  
If this is your story, it often leads to blame for the failure of the marriage. The other spouse is the cause of this unhappiness and this often creates anger regarding how that spouse caused you to make this decision. If you don't deal with it, the next few months of the divorce process could be filled with tension and conflict, and continued blaming.

The common threads in all three of these divorce dynamics are anger and fear, and the result from any one of these will be a contentious, tough divorce. Spouses wishing to divorce in a

dignified and respectful manner require that they be prepared and ready to separate their lives on all levels: legally, practically and emotionally. But that's easier said than done.

To help a couple through the process, we encourage them to each face their divorce dilemma, and this is done by answering 6 questions. (See Appendix A)

It is our experience that people who prepare themselves by first addressing these six questions can make their divorce much easier, with a higher probability of a positive outcome for both spouses. By starting the process in this manner they are able to make durable agreements with each other, resolve their issues more amicably and develop parenting plans that are in the best interests of the children.

### **Taking the first step: So where do you start?**

The actual process of separating and divorcing is relatively straightforward, and it can be resolved through mediation. But most couples can't do this because of 1) the fear of the unknown outcome, 2) complexity of the process and the law, 3) the complications that result non-communication, 4) lack of trust, and 5) anger.

To protect themselves, the easy answer is "lawyering up" with the hope that they'll get a good deal at the end. Most people don't know that lawyers are not allowed to act for both sides since they are hired to act in one client's best interests. Therefore, the divorcing couple must each use a lawyer, and the bills soon mount up, and this is probably at a time when their incomes no longer support just one household, but need to pay for two!

The BC government has been aware of these problems for many years and the new Family Law Act that takes effect on March 18, 2013 will encourage people to use mediation to resolve the problems of divorce and separation. Family mediation is the most widely practiced form of mediation in BC and it has proven to be absolutely effective in most cases. It provides an extremely valuable and necessary service, especially to those who could not afford a more expensive alternative.

Finally, here is a quote from a former divorce client who used mediation:

***"Skilled mediators are now able to achieve results satisfactory to both parties in many cases which are quite beyond the powers of the lawyers and the courts to achieve".***

## APPENDIX A

### Six Questions You Should Ask Yourself Before Divorce

**1. Is this a threat, or are you serious about divorce?**

Too often, the big “D” word comes up in the heat of the moment. One person may wish to be taken more seriously and to get the other person to see things their way. People who use this “card” too often lose credibility with themselves and their spouse.

However, if you are genuinely ready and you feel you have done everything in your power to save the relationship, but it’s time to move on, it probably is.

**2. Are you sure this is not an emotional reaction.**

Sustaining your decision to move forward with divorce requires you to make an unemotional decision. If emotional reaction is the trigger to move forward, this type of decision does not last.

**3. Do you still love your partner, or do you have strong feelings still?**

If you have regrets at the end of the divorce process because you feel you didn’t try harder, you may be worse off than when you started; so be sure.

**4. What is your divorce mission statement?**

You should write down your intent and desired outcome of your divorce. If you move forward because you want the other person to change, that is the wrong reason for divorce. Divorce does not have the power to change people and it has only one goal: ending a marriage. Your statement should summarize how you wish to end your marriage.

**5. Do you have skin thick enough to weather the difficult consequences of divorce? Are you ready?** The hardest part of divorce is facing the pain that comes with it – your pain, your children’s and those around you. Ask yourself if you are prepared to live with these changes:

- Your children’s anger and sadness?
- Your own sadness, loneliness and, perhaps, guilt?
- Being looked at as the “third wheel” in social circles?
- Major lifestyle and routine changes which often include fear and insecurity, and a reduced quality of life?
- Being thrown back into the dating game?
- Letting go, once and for all, of your spouse mentally and emotionally?

If you can respond, “Yes, I can,” then you are ready to move on.

**6. Can you put the emotion aside and deal with your divorce in a mature manner, and by looking at it more as a business deal?**

It doesn’t matter who is leaving who, the fact is: the marriage is ending. How you handle this fact will determine how hard or difficult the divorce will be, and how quickly you get on with your life. Attitude can be everything at this stage.

**Call 250.768.9100 for a free, no obligation consultation to speak with a mediator.**