

7 Tips for Starting a Healthy Separation

Most people have heard horror stories about divorce and would like to avoid such experiences themselves. An adversarial divorce could involve massive legal expenses, high levels of stress, and prolonged conflict which ends up harming the children.

The good news is that there are ways of managing separation that will help your family make the transition during divorce from one household to two without destroying the functionality of your partnership as parents and your respective savings.

Some of the steps you will need to take to get started on a healthy separation may seem counter-intuitive to you. However, there are specific strategic advantages for each one. Keep in mind that de-escalation of conflict needs to be an ongoing priority.

1. Treat your co-parent as you would treat a business partner

These are the basics of any decent relationship but are frequently overlooked or disregarded during separation. When you get separated you need to start a new relationship paradigm – that of business partners:

1. Be courteous.
2. Answer emails, text messages, and phone calls.
3. Don't badmouth your co-parent, especially not on social media or to your children.
4. Do what you say you're going to do.
5. Communicate important information.
6. Provide requested documentation in a timely manner.

7. Do not treat the other person as the enemy.
8. Model desirable conduct.
9. Demonstrate that you can be trusted and that you do not want to participate in a race to the bottom in terms of your behaviour.

You will have to continue to work together on the resolution of all of the issues arising out of the breakdown of your relationship, and if you have children, you will have to continue to work together and co-exist as parents of shared children for years to come (including attending birthday parties, graduations, weddings, and so forth).

It can be helpful to consider how you'd like to see your relationship years down the road – for example, you probably don't want your children to have to worry about how to plan a wedding with both of you in attendance. Don't do anything now in the heat of the moment that will create tension and unpleasantness for years to come.

Separation can be an overwhelming time of intense mixed emotions, including sadness, guilt, denial, relief, anger, and fear, to name only a few.

Although it can be tempting in a moment of disagreement to let your anger flow, it's better in the long-term for your family if you take a deep breath and maintain your patience.

Sorting out the details of a legal separation usually takes longer than people hope and expect. Give both you and your partner time to understand the shifting needs of your family as you move from being a one-household family to a two-household family.

Handling your emotions in a constructive and respectful way is an important component of moving ahead on the path towards an amicable divorce.

2. Don't make any significant changes

If you have been paying for all of the family bills, continue to pay all of the bills until you and your partner have reached an agreement on how expenses will be handled going forward.

Neither of you should withdraw or spend significant sums of money without the consent of the other – in most cases, this is not the time to buy a new vehicle or take a trip to Las Vegas!

Some people find comfort in making arrangements with their financial institution to require both of their signatures for withdrawals from savings and investment accounts until they have divided their accounts.

If there is no safety concern, do not move out with the children. The children are entitled to a stable environment and shouldn't be moved around more than necessary.

Wait to move until you have worked out a parenting plan. However, safety is the first priority, and you should obtain legal advice immediately if you believe that you need assistance with moving yourself and your children to a safe location.

3. Discuss the various options for pathways to an amicable divorce

A little individual reading and research can be helpful before discussing your dispute resolution options. Familiarize yourself with mediation/ arbitration, and collaborative law, and then discuss the options so that you are on the same page in terms of pros and cons.

Discuss which option seems appropriate given the level of complexity of your issues and the state of your ability to communicate with each other at the present time.

You may find that one person has no particular preference while the other person is drawn to a certain process option. It may or may not be difficult initially to agree on a process.

Take the path of least resistance and choose a process that you could each “live with” as a test run. You can then work on choosing the appropriate professional(s). The processes are voluntary so either of you could choose to end the initial process if you feel that it is not working well for you.

4. Choose your family mediator and/or lawyer

Regardless of which dispute resolution process you choose and even if you don't hire a lawyer to represent you throughout the process, you should get independent legal advice from a family law lawyer at some point in the process, whether it is at the beginning, partway through negotiations, and/or before signing the draft Separation Agreement/Parenting Plan.

Ask for a referral

Ask around for recommendations. Ask your friends, neighbours, co-workers, and family members for feedback regarding specific family law lawyers.

You should find out what they liked about certain lawyers and what they didn't like – this is important because it may be that the other person's goals were quite different from yours and that the recommendation would be poorly suited to your situation.

Consider personality

Don't forget that lawyers are not one uniform kind of person, even within a certain area of law – some are peacemakers at heart while others enjoy the thrill of debate and banter; some are diplomatic and some take pride in their reputation for being a bulldog; some are more focused on the big picture of reaching overall resolution while others are focused on advocating for a win on every legal issue.

Some might say that these are all strategies that can be employed by any lawyer depending on the situation, rather than being characteristics. Regardless, in my opinion, it is the rare individual who does an excellent job with both styles of dispute resolution.

An amicable problem-solver and a tenacious litigator have very different skill sets, experiences, outlooks, and instincts. Most lawyers will have a dominant strength in one or the other style. Lawyers who also do a lot of work as mediators will often have a more resolution-oriented style.

There is no right and wrong in terms of style and each style has merits in certain circumstances. The key is to choose the right style to help you reach your goals in your circumstances.

If you and your partner are both reasonable people who disagree about some issues, you will probably benefit from a mediator or lawyer who will work towards a resolution with you without involving court processes.

In this case, you will do well to research the professionals in your area who are trained in mediation or collaborative law.

Consider your personal scenario

If you are in a relationship with someone who is a bully, an abuser, and/or has a serious personality disorder, mental health issues, or substance use problems that prevents him or her from engaging

in rational discussion, you may do better with a family law litigator who takes an aggressive court-based approach.

Trust your gut

Lastly, given that we're human, there's no getting around that some professionals are more knowledgeable, better organized, more emotionally intelligent, and/or better communicators than others, attributes that don't necessarily have anything to do with a person's years of experience or hourly rate. Try to find out about these types of characteristics as well.

Make your choice based on a trusted recommendation and some of your own research.

5. See a counsellor and/or doctor

Separation can be devastating for families, whether or not there are children involved. There are many issues that arise with which a lawyer can't help because they are not legal issues.

Our society has become overly focused on the law with respect to the breakdown of a family, but the law is not equipped to provide all of the assistance that most families need.

Mental health is just as important as legal counsel

Serious emotional issues can arise for the separating couple and for the children, during the deterioration of the relationship and upon separation. These issues will not resolve themselves.

There are many different approaches to counselling so research the options to decide which will work best for you and your family.

Many people don't want to be involved in the stereotype of counselling: flaky discussions reflecting back on their childhood.

There are now future-focused, pragmatic, behaviour-based methods that can help with specifics, for example, appropriate communication for co-parenting or handling feelings when the other person re-partners.

Unresolved emotional issues very frequently interfere with the resolution of legal issues. It can lead to one or both people causing long delays by refusing to engage in discussion.

Parties may get stuck on a particular issue, and/or create conflict in situations that should objectively be fairly uncomplicated.

In addition, even if you and your partner are doing your best in good faith to move towards an agreement, it may be that you experience a significant amount of stress and anxiety during the process due to the many unknowns in your future.

Gathering and exchanging the necessary documentation and negotiating the terms of an agreement can take longer than people hope and expect. Unfortunately, when you are working towards an agreement, you need to move at the pace of the slower person.

Be patient even when it's difficult

One person will always be further ahead than the other in the grief cycle relating to the breakdown of the relationship and therefore will have to wait for the other person to become mentally ready to finalize the details of the separation by agreement.

The very nature of an agreement is that you need the other person to agree with you, which cannot be forced. If you are the person who is ready to move on and waiting for the other person to come around, you may need to deal with your anxiety with the help of a counsellor or medical professional. There's no remedy in law for anxiety.

Provide emotional support and resources for your children

If you have children, there is no question that your children have been affected by your separation. They may seem fine. They may be acting out. Either way, allow them to express their emotions and get some professional assistance with the best way to help your children move forward.

6. Wait to start a new relationship

This suggestion is not based on moral considerations; it is a strategic issue. More often than not, a new boyfriend or girlfriend on the scene is massively disruptive to the negotiation process underway for the Separation Agreement.

Regardless of which person ended the relationship, a new relationship can cause surprisingly intense emotions for the “replaced” partner. This often translates into complications such as some manner of financial backlash, parenting altercations, and general escalation of disagreements.

Depending on the nature of a new relationship, it can have bearing on whether and how much spousal support may be payable.

The new partner may also become a factor in the parenting arrangements for the children (for example, the new partner will be under scrutiny to determine whether his or her presence around the children is in their best interests).

If you can manage to wait to start a new relationship until your Separation Agreement has been finalized, you will avoid one possible hot button issue that commonly derails originally amicable discussions.

7. Start your dispute resolution process sooner rather than later

I have found that the longer uncertainty continues, the more likely it is that communication will deteriorate, and tension will escalate. Change is difficult for most people and particularly so when they are not in full control of the outcome.

You can reduce the fear and anxiety that arise for most people during separation by dealing with your issues promptly.

Don't encourage your partner's imagination to wander into worst-case scenarios by dragging your heels on starting the resolution process.

Conflict-Free Separation is Possible

The separation will be challenging, but if you follow most of these 7 tips, you will give yourself the best chance of achieving a healthy and efficient resolution.

It will be hard work and it will likely take all of your willpower, but your future self will thank you for your effort.