

EXPERT ADVICE

FAQ: Separation and Divorce



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No one gets married expecting to be divorced one day, but life can take unexpected turns. Knowing your legal rights and obligations upon separation can save you time, anxiety and money.

An experienced family-law lawyer can walk you through the legal process, assist you in getting a fair settlement and help put appropriate arrangements in place for any children.

Here are some of the more common questions we get asked about separation and divorce.



L-R Kellie Cullihall, Sharon McKim-Ryan, Alex Kindervater, Katrina Hanlon

If her lips are moving, then she's lyin' lyin' lyin'!

Q: My spouse cheated on me, what does that mean for my separation?

A: Divorce laws changed in Canada in the mid-80s to a "no fault" concept. That means you no longer have to prove your spouse did something wrong in order to get a divorce. The only ground for divorce is a breakdown of the marriage. Adultery is one of the ways that a breakdown can be proven. Practically though, cheating will have no impact on how things such as custody and access or property division will be decided.

He should have put a ring on it.

Q: We lived together for several years but never married; do I have any rights?

A: Common-law couples do not have the same rights as married people on separation. If you are not married and property is not registered in your name you will have to prove that you have earned an interest in the property in order to get any share of it. There are several ways you can prove you have an interest. If you are in this situation, you should

seek advice from an experienced family-law lawyer.

She didn't have to cut me off.

Q: We separated and my spouse is not letting me see our children. What should I do?

A: It is a child's right to spend time with both parents. If you and your spouse cannot agree about how the time will be divided then you can apply to the court for an order that outlines the parenting time that each of you will have with the children.

I ain't saying he's a gold digger, but ...

Q: I have my children half of the time. Do I still have to pay child support?

A: If you have shared parenting, there is no legislated formula for determining child support. If you and your spouse cannot agree on support, the court will look at a number of factors to determine what, if any, child support should be paid. These include both parents' incomes and expenses, as well as the personal circumstances of each parent. ■