



## Divorce

When a marriage breaks down it can be legally ended by way of divorce.

### When can I get a divorce?

Divorce proceedings cannot be started until you have been married for at least one year. You must also be able to show that the relationship has irretrievably broken down.

### How do I prove irretrievable breakdown?

You must be able to rely on one of five 'facts':

- a. Your spouse has committed adultery and you find it intolerable to live with him/her ('adultery'); or
- b. Your spouse has behaved in such a way that you cannot reasonably be expected to live with him/her ('unreasonable behaviour'); or
- c. Your spouse has deserted you for a continuous period of at least two years immediately preceding the issue of the petition ('desertion'); or
- d. You and your spouse have lived apart for a continuous period of at least two years immediately preceding the issue of the petition and your spouse consents to the divorce ('two years' separation');  
or
- e. You and your spouse have lived apart for a continuous period of at least five years immediately preceding the issue of the petition. There is no need for your spouse to consent ('five years' separation').

We will advise you on which ground will be most suitable on the basis of your own personal circumstances.

### What is the divorce procedure?

The party who issues the petition is referred to as the petitioner and the other party is the respondent.



## Divorce

The process is largely the same whichever fact is relied upon to prove the breakdown. There will be differences in the information to be included in the petition but we will discuss this with you to deal with your specific needs and circumstances. In basic terms the procedure is as follows:

- The petitioner issues his/her petition.
- If you have children, a statement of arrangements will also need to be issued so that the court can be satisfied that arrangements for care are in place.
- The court sends copies of these forms to the respondent.
- The respondent completes and returns an acknowledgement of service form to the court to confirm s/he agrees to the dissolution. (The respondent can defend the divorce but this is very rare.)
- Assuming the divorce is undefended, the petitioner can apply for decree nisi, the first of two orders needed to end the marriage.
- After six weeks and 1 day the petitioner can apply for decree absolute, which legally brings an end to the marriage. It is often advisable to delay applying for decree absolute until financial issues have been settled. This is because a party may lose the right to share in certain investments by virtue of decree absolute, for example pension entitlement.

The parties will also need to settle financial matters in relation to, for instance, the family home, any other property, maintenance, pensions and savings or investments. Usually division of finances is resolved separately but alongside the divorce proceedings. We are able to advise you in this respect also. Please see our leaflet 'finances on divorce or dissolution' which is also available on our website.

### How much will it cost?

There are two court fees during the course of divorce proceedings; £300 is payable on the issue of the petition, and a further £40 is payable for the decree absolute. Solicitors' costs will vary depending on whether you are the petitioner or respondent and the complexity of your case. We will be able to discuss costs with you at your initial meeting and we will aim to keep you up to date throughout proceedings.

If you would like more advice on any aspect of divorce or family matters, please contact one of our specialist family lawyers. Lester Aldridge LLP has offices in Bournemouth, Southampton and London.