

## **DIVORCE AND DISSOLUTION OF CIVIL PARTNERSHIP FACT SHEET**

If you are having problems in your marriage or civil partnership, you should first consider whether these difficulties might be resolved with the help of a trained relationship counsellor. Organisations such as Relate may be able to help you (for further information see [www.relate.org.uk](http://www.relate.org.uk))

**NB: The process for dissolution of civil partnership is the same as for divorce. Where the term “divorce” and other related terms are used (e.g. marriage) in this fact sheet it should be taken to include the equivalent terms in respect a civil partnership e.g. dissolution. The only exception is adultery which is a specific legal term relating to heterosexual relationships and which cannot therefore be used as a basis for dissolving a civil partnership. If your civil partner is unfaithful, the basis for dissolution would instead be unreasonable behaviour.**

### **WHAT IS DIVORCE?**

Divorce is the formal and irrevocable way of ending a marriage through the court and civil procedure mechanism.

### **Reasons for an application for divorce**

To obtain a divorce in England and Wales, you need to show that you have been married for more than a year and that the marriage has broken down irretrievably.

Formally the marriage must have broken down for one of the following reasons:

- Your spouse has committed adultery and you find it intolerable to live together.
- Your spouse has behaved in such a way that you cannot reasonably be expected to live together.
- You have been separated for two years and your spouse agrees to a divorce.
- You have been separated for five years.
- Your spouse deserted you more than two years ago.

The specified reason for the breakdown of the marriage becomes the basis for the divorce application, known as the ‘Petition’. If more than one of the above reasons applies, your solicitor will advise you on which is most suitable to your circumstances and what additional information the court needs.

If you or your spouse has committed adultery, it is not usually necessary to name the other person. If the petition is based on the behaviour of your spouse, you will need to give some limited examples of their behaviour and how it has affected you. These details (known as ‘particulars’) may be agreed with your spouse in advance, to avoid exacerbating any discomfort or conflict between you both.

If you carry on living together for more than six months after either the last act of unreasonable behaviour or the discovery of the last act of adultery, then you cannot obtain a divorce based on either of these reasons. Similarly, a period of separation is discounted if you live together again for a period of six months or more.

### **What the divorce process involves**

The divorce is commenced by sending to the Family Court the Petition, your original marriage certificate and the relevant court fee (currently £550).

If you have children under 18, you will also need to give consideration to what arrangements have been made for their care.

A copy of the Petition will be sent by the Court to your spouse who is required to complete an Acknowledgment of Service saying whether or not he/she agrees with the divorce. Then, provided he/she does not contest matters:

- You will confirm that all the details contained in the Petition are true and, on application, the court will grant a Decree Nisi if satisfied that the ground for divorce is established
- After the lapse of six weeks, the Decree Nisi may be converted into a Decree Absolute, which marks the formal end of the marriage
- If the spouse who issues the divorce (the 'Petitioner') does not apply for the Decree Absolute after expiry of the six week period, the other spouse (the 'Respondent') may apply to the court to obtain it. However, in some circumstances the divorce may be held up until arrangements for any children and financial matters are agreed
- The Petitioner may stop the process at any time before pronouncement of the Decree Nisi and, if both parties agree, it may be stopped after the pronouncement of the Decree Nisi provided that it is before the pronouncement of the Decree Absolute.

If the divorce is defended, the position is much more complex and requires a much more detailed explanation.

In addition to the divorce, you may need to settle financial matters relating to the family home, maintenance, pensions, and any savings and investments. The Financial Arrangements are a separate legal process.

### **How long will the divorce process take?**

The time it takes to obtain a divorce will vary according to the complexity of each case. Even the most straightforward divorces can take up to six months. If defended or acrimonious, they can, of course, take much longer.

#### **KEY STAGES OF A DIVORCE**

Divorce Petition is sent to court

A copy Petition is sent to your spouse

Your spouse completes an Acknowledgment of Service

If undefended, you swear a declaration confirming the details in the Petition are true

The judge considers all the papers and decides whether or not you are entitled to a divorce

The Court sets a date for pronouncement of the Decree Nisi

6 weeks after the pronouncement of the Decree Nisi, you can apply to the court for Decree Absolute

Please note: The contents of this fact sheet are general and are intended simply to convey a general sense of the nature of divorce and ancillary relief proceedings. We would recommend that you ask us for legal advice tailored to your own circumstances before proceeding.