



## Scott Duff & Co Solicitors

### Grounds for divorce

Under the Divorce, Dissolution and Separation Act 2020 (also known as the 'DDSA') the law on divorce, dissolution, and separation was reformed and the changes took effect from 6th April 2022.

This was the biggest reform of the law on divorce, dissolution and separation since the 1960's.

The new rules mean that an application for divorce can be made after the parties have been married for a period of one year, and there is no longer a requirement to apportion any blame to either party or to provide evidence of 'conduct' or 'separation' facts. Instead, this is replaced with a simple requirement to provide a statement of irretrievable breakdown of the marriage or civil partnership or to obtain a judicial separation.

### Procedure

The proceedings take place in the family court but are mostly submitted and dealt with via the online Court. The person starting the divorce in a sole application is called the applicant,

# Divorce

## fact sheet

and the person they are divorcing is called the respondent.

Where both parties are in agreement that there should be a divorce, they also have the ability to make a joint application for divorce, and the parties will then be referred to as 'applicant 1 and applicant 2'.

In a sole application, the application form for divorce is sent to the court with the marriage certificate and the court fee. Clients on a low income may be able to apply for exemption from the court fee.

The court sends a copy of the application to the respondent and the respondent can now only dispute the application in limited circumstances. Respondents are not able to dispute whether the marriage has broken down.

After the application has been issued, there is then a minimum period of 20 weeks to wait before the parties can apply for the Conditional Order. This can also be done jointly in a joint application or solely (a joint application can be changed to a sole application at this stage if necessary to complete the divorce).

The Court will then set a date to pronounce the Conditional Order. The Condition Order is a statement that the divorce can go ahead but the parties are not divorced at this point.

Six weeks after the date of Conditional Order the applicant (or joint applicants) can apply for the Final Order which legally dissolves the marriage or civil partnership. The application for the Final Order may be delayed if there are still unresolved financial issues.

In a sole application, if the sole applicant does not apply for the Final Order then the respondent can apply for it three months after the date on which the applicant could first have applied.

It is usual practice to give the other party advance notice of the divorce proceedings allowing them time to obtain independent legal advice.

The parties are actively encouraged to make joint applications where possible, in order to keep matters more amicable, but where this is not possible, a sole application can be made, and the proceedings can no longer be defended except in very limited circumstances (for example on the grounds of jurisdiction or fraud).

We can advise as to the best way to proceed with your divorce and guide you through the whole process, to ensure matters proceed as smoothly as possible.

## **Timescale**

There is a minimum time scale for divorce which is six months from the application to the Final Order. This is to provide a period of reflection for the parties, and where there are other issues such as children or finances to resolve, it allows the parties time to make these arrangements before the Final Order is pronounced.

## **Costs**

When you are applying for divorce it is possible to agree the costs of the case, or a contribution towards them, are paid by the other party. It is usual practice to negotiate an agreement as to the costs before the divorce goes ahead.

## **Finances**

If there are financial issues from the divorce then it will be necessary to try to negotiate an agreement and if the matter cannot be resolved by agreement an application may be made to the court. The financial issues are often more involved than the divorce process.

It is usually best to wait for the financial issues to be resolved before applying for the Final Order as on receipt of the Final Order you may lose inheritance or pension rights. If you remarry before reaching a financial settlement this will prevent you from making a financial claim within the divorce proceedings.

## **Children**

The Children Act 1989 provides that wherever possible agreement should be reached as to the arrangements for the children and the court will not intervene unless it is necessary. Any issues that there may be concerning children will not be considered during the divorce proceedings but could be the subject of a separate application to the court and we will advise you further if this becomes relevant.

## **Offices at:**

3 Devonshire Street, **Carlisle**

Tel. 01228 531054

40 King Street, **Penrith**

Tel. 01768 865551

[www.scottduff.co.uk](http://www.scottduff.co.uk)