

Divorce 'blame game' to end

- biggest shake-up of divorce laws for 50 years
- government reintroduces Divorce, Dissolution and Separation Bill to Parliament
- new law to ease impact of unnecessary conflict on couples and children

The Divorce, Dissolution and Separation Bill represents the biggest shake-up of divorce laws in half a century and aims to reduce the impact that allegations of blame can have on a couple and in particular children.

Currently, one spouse has to make accusations about the other's conduct, such as 'unreasonable behaviour' or adultery, or otherwise face years of separation before a divorce can be granted – regardless of whether a couple has made a mutual decision to separate.

The new law will remove this 'blame game' by allowing one spouse – or the couple jointly – to make a statement of irretrievable breakdown. It will also stop one partner contesting a divorce if the other wants one – which in some cases has allowed domestic abusers to exercise further coercive control over their victim.

The Bill was first introduced in June 2019 after a public consultation and is being brought before Parliament again following the General Election.

Justice Secretary & Lord Chancellor Rt Hon Robert Buckland QC MP said:

The institution of marriage will always be vitally important, but we must never allow a situation where our laws exacerbate conflict and harm a child's upbringing.

Our reforms will stop divorcing couples having to make unnecessary allegations against one another and instead help them focus on separating amicably.

By sparing individuals the need to play the blame game, we are stripping out the needless antagonism this creates so families can better move on with their lives.

Aidan Jones, Chief Executive at relationships charity Relate said:

We're pleased to see this important bill being reintroduced to Parliament today and hope for the sake of countless families that it is passed. Evidence tells us that parental conflict is damaging to children's outcomes in life, yet the current fault-based system leads divorcing partners to apportion blame.

The proposed changes will encourage a positive start to the new

relationship divorcing couples must form as co-parents. Divorce isn't a decision people tend to take lightly but the introduction of a minimum timeframe will provide an opportunity for couples to reflect and seek vital support such as counselling and mediation.

The Bill will bring divorce law in line with the government's approach to family justice – avoiding confrontation wherever possible and reducing its damaging effect on children in particular.

Crucially, it will also introduce a 20-week period between the initial petition stage and when the court grants the provisional decree of divorce (the 'decree nisi'). This will provide a meaningful period of reflection and the chance to turn back, or where divorce is inevitable, it will better enable couples to cooperate and make arrangements for the future.

Specifically, the Divorce, Dissolution and Separation Bill will:

- Replace the current requirement to evidence either a conduct or separation 'fact' with the provision of a statement of irretrievable breakdown of the marriage (couples can opt to make this a joint statement).
- Remove the possibility of contesting the decision to divorce, as a statement will be conclusive evidence that the marriage has irretrievably broken down.
- Introduces a new minimum period of 20 weeks from the start of proceedings to confirmation to the court that a conditional order of divorce may be made, allowing greater opportunity for couples to agree practical arrangements for the future where reconciliation is not possible and divorce is inevitable.

Notes to editors

- The government published its response to the public consultation, [Reducing Family Conflict: reform of the legal requirements for divorce](#), on 9 April 2019.
- Current divorce law requires people seeking divorce to give evidence of one or more of five facts to establish the irretrievable breakdown of the marriage; 3 are based on 'fault' and 2 are based instead on a period of separation.
- The 5 facts are: 'unreasonable behaviour', adultery, desertion, 2 years' separation (if the other spouse consents to the divorce) and 5 years' separation (otherwise). These are summary versions of the facts.
- The behaviour fact, for example, which was an issue in the case of the high profile Owens v Owens case, is often called 'unreasonable behaviour' but is actually 'that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent'.
- Separation-based facts are effectively unavailable to those who cannot afford to run two households before resolving their financial arrangements on divorce.
- At present, where both parties agree, the court can dissolve the

marriage after the couple have lived apart for a minimum 2 years. Where one spouse disagrees, the other spouse will either have to wait to be separated for 5 years before a divorce is granted or may instead obtain a divorce if they demonstrate to the satisfaction of the court that their spouse has committed adultery or that they have behaved in such a way that the party cannot reasonably be expected to live with them. Desertion is rarely relied upon. The legal definitions of the facts can be found in [section 1\(2\) of the Matrimonial Causes Act 1973](#)

- Data shows that out of every five divorce petitions over the last three years, close to three rely on conduct facts and two on separation facts. Between 2016-18, the behaviour fact accounted for nearly half of all petitions (46.4%, or 47.1% when combined with the adultery fact). In 2018, 118,000 people petitioned for divorce in England and Wales.
- The ability to contest a divorce is rarely used (in less than 2% of cases). The Bill removes the possibility to contest a divorce but all divorce applications could still be challenged on the bases of jurisdiction, the legal validity of the marriage, fraud or coercion and procedural compliance.
- The current law does not require any minimum period of time to elapse before granting the decree nisi (conditional order of divorce). Between 2011 and 2018, around one in ten cases reached decree nisi within 8 weeks, and 3 in 10 cases between 9-13 weeks. It is expected that without the introduction of a minimum timeframe, the average time would reduce as online divorce is extended.
- The average period to the final decree is much more varied, as some parties take a long time to make financial arrangements before they apply for the final decree. We will retain the current minimum period of 6 weeks before a final decree can be applied for.
- The divorce will not be automatic at a fixed date at the end of the minimum timeframe, but will require the applicant to continue to affirm their decision to seek a divorce. This keeps the important safeguards of the existing process.
- Parallel changes will be made to the law governing the dissolution of a civil partnership which broadly mirrors the legal process for obtaining a divorce.
- The proposed legislation will not cover other areas of matrimonial law such as financial provision. Financial provision on divorce is handled in separate proceedings and the court has wide discretion to provide for future financial needs.