

Press release: End to divorce 'blame game' moves closer

- Cross-party support for landmark government bill as it enters the Commons today
- Ministers want to end unnecessary 'mudslinging' and allow divorcing couples to move forward amicably

Divorcing couples will soon no longer have to make allegations about each other's conduct, after a landmark bill was introduced by Justice Secretary David Gauke today (13 June 2019).

The Divorce, Dissolution and Separation Bill aims to make divorce less acrimonious – reforming our 50-year-old divorce laws – to ensure the process better supports couples to move forward as constructively as possible.

The government has acted to make sure that when a relationship regrettably breaks down, the law doesn't stir-up further antagonism but instead allows couples to look to the future and focus on key practical decisions – such as how best to cooperate in bringing up children.

Today's news comes after Ministers pledged to bring forward new legislation following significant support for reform from across the family justice sector and from those with personal experience of divorce.

Justice Secretary David Gauke said:

Marriage will always be a vitally important institution in society, but when a relationship breaks down it cannot be right that the law adds fuel to the fire by incentivising couples to blame each other.

By removing the unnecessary mudslinging the current process can needlessly rake up, we'll make sure the law plays its part in allowing couples to move on as amicably and constructively as possible.

I'm proud to introduce this important legislation which will make a genuine difference to many children and families.

Margaret Heathcote, Chair of Resolution, the family justice professionals group, said:

We're delighted that the government is introducing legislation which will help reduce conflict between divorcing couples.

Every day, our members are helping people through separation, taking a constructive, non-confrontational approach in line with

our Code of Practice. However, because of our outdated divorce laws, they've been working effectively with one arm tied behind their backs.

These proposals have the support of the public, politicians, and professionals. We therefore call on MPs and members of the House of Lords to pass this Bill without unnecessary delay, and end the blame game for divorcing couples as soon as possible.

Current law demands proof that a marriage has broken down irretrievably. It forces spouses to evidence this through alleged conduct such as 'unreasonable behaviour' or face at least two years of separation, even in cases where a couple has made a mutual decision to part ways.

Consultation responses, which included feedback from family justice professionals and those with direct experience of divorce, highlighted that this requirement can set the scene for acrimony and conflict – damaging any prospect of reconciliation and harming the ongoing relationship between parents in particular.

Therefore the government's reforms remove conflict flashpoints that exist in the current process and introduce a minimum overall timeframe, encouraging couples to approach arrangements for the future as constructively and cooperatively as possible.

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 broken down.
- Introduces a new minimum period of 20 weeks from the start of proceedings to confirmation to the court that a conditional order may be made, allowing greater opportunity for reflection and, where couples cannot reconcile and divorce is inevitable, agreeing practical arrangements for the future.

The Bill seeks to align the ethos underlying divorce law with the government's approach elsewhere in family law – encouraging a forward-looking non-confrontational approach wherever possible, thereby reducing conflict and its damaging effect on children in particular.

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; three are based on 'fault' and two are based instead on a period of separation.

- The 5 facts are: adultery, behaviour, desertion, two 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 *Owens v Owens*, is sometimes 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 5 divorce petitions over the last 3 years, close to 3 rely on conduct facts and 2 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.

- For more information please contact MOJ press office.