

# Press release: New divorce law to end the blame game

- strong support for Justice Secretary's divorce reforms
- six-month minimum timeframe to allow for reflection and better future planning

Divorcing couples will no longer have to blame each other for the breakdown of their marriage as the Justice Secretary today (9 April 2019) announced a new law to help reduce family conflict.

The move follows a public consultation where family justice professionals and those with direct experience of divorce voiced their support for reform. New legislation will therefore be introduced to Parliament to update our 50-year-old divorce law which has been shown to exacerbate conflict.

Ministers are acting to change the law after responses also revealed that the current system can work against any prospect of reconciliation, and can be damaging to children by undermining the relationship between parents after divorce.

Justice Secretary David Gauke said:

Hostility and conflict between parents leave their mark on children and can damage their life chances.

While we will always uphold the institution of marriage, it cannot be right that our outdated law creates or increases conflict between divorcing couples.

So I have listened to calls for reform and firmly believe now is the right time to end this unnecessary blame game for good.

Aidan Jones OBE, Chief Executive at relationship support charity, Relate said:

This much-needed change to the law is good news for divorcing couples and particularly for any children involved. The outdated fault-based divorce system led parting couples to apportion blame, often resulting in increased animosity and making it harder for ex-partners to develop positive relationships as co-parents.

As a large body of evidence shows, parental conflict is damaging to children's wellbeing and chances in life, whether the parents are together or separated. It's good that the government has listened and taken action on this, demonstrating commitment to reducing parental conflict.

While divorce isn't a decision that people tend to take lightly, we do support the extension of the minimum timeframe which will allow more time to reflect, give things another go if appropriate, and access support such as relationship counselling or mediation.

Current laws demand proof that a marriage has broken down irretrievably and force spouses to evidence 'unreasonable behaviour' or years of separation, even in cases where a couple has made a mutual decision to part ways.

Marriages are not saved by the ability of one spouse to 'contest' a divorce in court. Very few divorces are contested but this practice is known to be misused by abusers choosing to contest a divorce purely to continue their coercive and controlling behaviour. The government therefore proposes to remove it.

Proposals for changes to the law include:

- retaining the irretrievable breakdown of a marriage as the sole ground for divorce
- replacing the requirement to provide evidence of a 'fact' around behaviour or separation with a requirement to provide a statement of irretrievable breakdown
- retaining the two-stage legal process currently referred to as decree nisi and decree absolute
- creating the option of a joint application for divorce, alongside retaining the option for one party to initiate the process
- removing the ability to contest a divorce
- introducing a minimum timeframe of 6 months, from petition stage to final divorce (20 weeks from petition stage to decree nisi; 6 weeks from decree nisi to decree absolute).

Starting a minimum timeframe at the initial petition stage reflects consultation respondents' views that couples 'feel divorced' when the court grants the provisional decree of divorce (the 'decree nisi'). This will provide a meaningful period of reflection and the opportunity to turn back. Where divorce is inevitable, it will better enable couples to reach agreement on practical arrangements for the future. Courts will retain the power to expedite the process where appropriate.

These reforms retain what works well in existing divorce law and remove what stands in the way of resolving difficulties more amicably when a marriage has irretrievably broken down and requires an orderly, legal ending. The new legislation is expected to be introduced as soon as Parliamentary time allows.

## Notes to editors

- The government's consultation paper, [Reducing Family Conflict: reform of the legal requirements for divorce](#), was published on 15 September 2018 and ran for 12 weeks closing on 10 December 2018.
- Current divorce law requires people seeking divorce to give evidence of

1 or more of 5 facts; 3 are based on 'fault' and 2 are based instead on a period of separation.

- The 5 facts are: adultery, behaviour, 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 *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".
- 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 at [www.legislation.gov.uk/ukpga/1973/18/section/1](http://www.legislation.gov.uk/ukpga/1973/18/section/1)
- Data shows that out of every 5 divorce petitions over the last 3 years, close to three 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). Under proposed changes, 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 a period of time to elapse before granting the decree nisi. Between 2011 and 2018, around 1 in 10 cases reached decree nisi within 8 weeks, and three in ten cases between 9-13 weeks. We expect 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.