

Divorce Law - a guide to procedure

Jurisdiction

Any person domiciled and living in England or Wales for at least 6 months or habitually resident in England and Wales for at least 12 months prior to the presentation of a petition can start a divorce. It is necessary for the parties to have been married for at least one year prior to the presentation of a divorce petition

Grounds for divorce

There is a single ground for divorce namely that the marriage has broken down irretrievably, but a divorce needs to be evidenced by one of five "facts"

- 1 Adultery-an adultery petition is normally issued only when the respondent is prepared to admit to the adultery
- 2 Unreasonable behaviour on the part of the respondent whereby the petitioner can not reasonably be expected to continue living with the respondent
- 3 Desertion for a continuous period of two years prior to the presentation of a petition
- 4 Separation for a continuous period of two years prior to the presentation of a petition with both parties agreeing to a divorce on this ground
- 5 Separation for a continuous period of five years, regardless of agreement

Children

A statement of arrangements for children accompanies the divorce petition. The statement sets out the present and future arrangements for the children of the family. This is capable of being agreed by the parties to limit a dispute at a later date. If there is a dispute as to matters such as residence and/or contact, the court will only, if called upon by either party, adjudicate on the dispute. It is nowadays normal for the parties to be referred to mediation to try to resolve children's disputes before the matter proceeds to court.

Finances

The petition will contain a prayer or claim for financial relief but it will be necessary for either party to make a separate application to the court in the event that such matters have not been resolved. Very often financial issues are not resolved before the divorce is pronounced. However urgent matters can be referred to the court pending final determination of the financial issues.

Timetable

In normal circumstances a divorce will be completed within about three months but if there are contested issues to be determined these will not be finalised within this timescale. It is sometimes necessary to delay applying for a final decree pending resolution of financial matters.

Finally

This is a brief guide to divorce procedure and is not intended to be a comprehensive resume of the law. We are always available to answer your queries and if you do not have a solicitor discuss your representation on an initial free of charge or commitment basis.