

# The Breakdown of a Marriage

The breakdown of a marriage can be a stressful time for those concerned. At Hatten Wyatt we aim to provide a sensitive, friendly service whilst also ensuring that we achieve the best possible outcome for the client.

Upon the breakdown of a marriage, the husband or the wife may wish to issue divorce proceedings. To be eligible to issue divorce proceedings in England and Wales the couple must have been married for at least one year before a divorce petition can be issued and the marriage must be recognised by UK law. If these criteria are met then the divorce process can commence.

## What is involved?

In order to successfully submit a divorce petition at Court the Petitioner, (the party who submits the divorce petition), has to prove that the marriage has irretrievably broken down. This is done by satisfying one of five facts namely:

- Adultery
- Unreasonable Behaviour
- 2 Years Separation with Consent
- 5 Years Separation
- Desertion.

The most common fact relied upon by Petitioner's is that of 'Unreasonable Behaviour'. This is often a quicker route to obtaining a divorce as the Petitioner does not need to wait for a specified period of separation to pass before he/she can issue.

If the Respondent has committed adultery during the marriage, the Petitioner has the option of issuing divorce proceedings based on the Respondent's adultery providing the Respondent is willing to admit to the adultery. It is important to note that adultery has only been committed if sexual relations have been entered into between two people of the opposite sex.

## Do I have to attend Court?

Divorce proceedings are generally dealt with by post and it is not normally necessary for either party to attend court unless there are issues to be resolved regarding any children of the family or there are financial issues which need to be resolved.

## The Next Steps

Whilst the divorce petition is being prepared, (together with a 'Statement of Arrangements for Children' if there are



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children of the family), the Respondent should be notified of the Petitioner's intentions and further be given the opportunity to peruse the draft papers before they are issued at court.

Once the papers have been finalised and signed by the Petitioner and the Respondent has been given the opportunity to peruse the papers, these can then be sent to the Court to be issued. Two copies of the papers are sent to the Court together with the original copy of the marriage certificate, (which will not be returned). The court then issues the divorce petition (and Statement of Arrangements for Children, if applicable) and sends a copy of these to the Respondent directly together with a form called the 'Acknowledgement of Service' which the Respondent is required to complete, sign and return to the Court.

Once the Court have received the Acknowledgment of Service from the Respondent the Court will notify the Petitioner or his/her solicitors and the Petitioner will now be required to request a date for the Pronouncement of the Decree Nisi. At this point the Judge will consider whether the

facts have been proved before he/she provides a date for the Pronouncement of the Decree Nisi.

Six weeks after the Decree Nisi has been pronounced at Court, (on the date specified by the Judge), the Petitioner, (or his/her solicitors), can then apply for the Decree Absolute which once granted will finalise the divorce proceedings.

### **How long does it take?**

Divorce proceedings take approximately 6 – 9 months to complete providing that they are undefended and there are no complications. In the event there are disputes regarding any children of the family or finances the divorce proceedings could be delayed. At Hatten Wyatt we have experts within our Family Department who are able to assist with any matters related to the breakdown of a relationship including issues regarding family finances and children. We will also assess your eligibility for Legal Aid to establish whether we can advise and represent you under the Legal Aid System.

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