

Family Law

No Fault Divorce



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After a long campaign by many couples and family law organisations, 'no fault divorce' was introduced in England and Wales in 2022.

This new and less acrimonious divorce procedure has brought about long-awaited reforms to an area of legislation that had remained largely unchanged for almost 50 years.

No fault divorce promotes a more constructive approach to separation and divorce, encouraging amicable dealings and reflection.

This short guide outlines the key points you need to know. It is not comprehensive, and it is strongly advised that you seek professional legal advice if you are considering a separation or divorce.

The previous system of divorce

Before April 2022, couples wishing to divorce or end a civil partnership had to rely on one or more 'facts' to prove that the relationship had irretrievably broken down. These facts are:

- Unreasonable behaviour.
- Adultery.
- Desertion.
- Separation for at least five years.
- Separation for at least two years with the consent of both parties.

This meant couples either had to wait a minimum of two years or base the divorce on the 'fault' or wrongdoing of the other spouse or civil partner.

Where one spouse or civil partner disagreed with the divorce or the facts relied upon, they could contest the divorce and delay it – and in some cases, prevent their spouse from moving on or seeking financial support and settlement.

For years, it was argued that this system was outdated and combative, particularly in cases where there was no significant conflict. Couples often relied on claims of unreasonable behaviour simply to progress the divorce, which meant blame was apportioned where it did not need to be.

No fault divorce

Under the Divorce, Dissolution and Separation Act 2020, the sole ground of irretrievable breakdown remains, but there is no longer a requirement to establish one or more 'facts' to prove it.

The rules have also modernised much of the archaic language used in divorce proceedings to make the process easier to understand:

- Decree Nisi will become a Conditional Order.
- Decree Absolute will become a Final Order.
- Petitioner, i.e. the person applying for divorce, will become the applicant.

Separating spouses can apply jointly for a divorce order where they agree that the relationship has irretrievably broken down. A sole application is also permitted, even if the other party does not agree.

Commencing the process is sufficient grounds to prove irretrievable breakdown, meaning the ability to contest a divorce, dissolution or separation has been abolished.

To give couples time to plan and consider their actions, the law also introduces a minimum period of 20 weeks from the start of proceedings to the granting of a Conditional Order.

The six-week period between the Conditional Order and the Final Order remains the same.

How we can help

Our dedicated Family and Relationship Team specialise in a wide range of Family Law matters, from straightforward separations to multi-national divorce proceedings and complex financial settlements.

If you would like advice on divorce, civil partnership dissolution or any other Family Law matter, please contact us.

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