

FAMILY LAW DEPARTMENT

# DIVORCE FACT SHEET NO FAULT DIVORCE

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# PART 1

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## Grounds for Divorce

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The introduction of the Divorce, Dissolution and Separation Act 2020 which came into effect on 6 April 2022 means that those wishing to apply for a divorce only need provide a 'statement of irretrievable breakdown' of their marriage. There is no longer a requirement to assign blame in order for a respondent to prove irretrievable breakdown of the marriage.

The aim of No Fault Divorce is to reduce conflict between the parties allowing them to focus on financial arrangements and arrangements for their children.

As with the previous law, the parties must have been married for at least 12 months before they can apply for a divorce.

## Terminology updates

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- The 'Petition' is now the 'Application'
- The 'Petitioner' is now the 'Applicant'
- 'Decree Nisi' is now the 'Conditional Order'
- 'Decree Absolute' is now the 'Final Order'
- 'Defended Proceedings' are now 'Disputed Proceedings'

# PART 2

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## 1. Divorce Procedure

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- Presentation of the Application – there are now two forms of Application: a sole application (completed by one Applicant to be served on the Respondent) or a joint application (whereby the parties, known as Applicant 1 and Applicant 2, jointly apply for a divorce).
- The Application for divorce sets out the background to the marriage and contains a tick box which says that the Applicant(s) confirm that the marriage has irretrievably broken down.
- The Application can be made to the Court on paper or digitally, and in a Joint Application the same solicitor can act for both parties if they wish, although in this instance the same solicitor will not then be able to be instructed by one of the parties in relation to finance or child arrangement matters.

- The Applicant or Applicant 1 in a joint application will pay the court fee of £593. No cost orders will be made against the other party. The expectation therefore is that the cost will be shared between the parties.

## 2. Acknowledgment of Service

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- The Application must be served on the Respondent unless it is applied for jointly. An Applicant may not serve the Respondent personally, and the default method of service is by email from the Court.
- An Application can no longer be defended, except in very limited circumstances.
- The Applicant(s) must wait a minimum of 20 weeks from lodging the Application before applying for the Conditional Order (formally Decree Nisi).
- 6 weeks after the Conditional Order, the Applicant(s) can apply for a Final Order (formally Decree Absolute).

## PART 3

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The consequences of the Final Order are:-

- (a) The parties are free to remarry.
- (b) Any reference to the spouse in a Will is deleted. A new Will should be made.
- (c) Pension - the party will lose their rights under many of the Pension Schemes of their former spouse.

The consequences of remarriage are:-

- (a) Any periodical payments Order (spousal maintenance) ceases on the remarriage of the party who receives the maintenance.
- (b) The party who remarries is not entitled to apply thereafter for any form of financial provision or property adjustment against their ex-spouse