

Change in divorce law looks set to stop the blame game

April 2019



No-fault divorce is likely to be introduced, but professionals say fair deal on asset sharing means mediation must remain top of the agenda.

The news that no-fault divorce is likely to become law has been welcomed, but while the legislation waits for its place in the parliamentary calendar, families must continue to deal with one party being 'blamed' for the breakup or wait for the change in the law.

And with the parliamentary calendar full of another divorce - the UK's departure from the EU – no date has been given for debating the proposed changes.

Official statistics show that almost half of divorce petitions between 2016 and 2018 cited behaviour as the reason for ending the marriage, rather than the required period of separation. However, while signalling the likely shift to mutual agreement, the Ministry of Justice [announcement](#) sets out plans for a minimum six-month timeframe from making a petition until final divorce, so that couples have time for reflection before securing a divorce.

Professionals have welcomed the potential change in the law, saying it will help couples to focus on less acrimonious negotiations when it comes to agreeing arrangements for the children and/or agreeing a suitable financial settlement with each other.

Family lawyer, [William Roberts-Phelps](#) said:

"The blame game can further inflame relations that are already strained by a breakdown, so this move is certainly one to be welcomed. Hopefully, it can further support the general shift towards a more conciliatory approach to separation, as there will always be a need for negotiation between couples.

We are dealing with increasingly complex financial and family arrangements, as many couples undertake second and subsequent marriages, often with children from previous relationships. It means that even in the most amicable of divorces, it's to be expected that each side will wish to secure the best outcome in terms of asset sharing. Eliminating the additional upset of having to apportion blame for the marriage breaking down will probably increase the prospects of couples reaching agreements for their future arrangements."

Grounds for divorce under the existing [Matrimonial Causes Act 1973](#) require an applicant to prove their partner is at fault through adultery, desertion or unreasonable behaviour. Alternatively, and only if both sides agree, they can agree to wait two years before lodging their divorce petition. If no fault is given, and one party does not consent to the divorce, then the period of separation is extended to living apart for five years.

The proposed changes include:

- the irretrievable breakdown of a marriage to be the sole ground
- 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
- continuing to have a two-stage legal process, known currently as the decree nisi and decree absolute
- introducing a minimum timeframe of six months from the date of making the petition until final divorce with 20 weeks from petition to decree nisi and six weeks from decree nisi to decree absolute

William Roberts-Phelps has extensive experience practising family law, call or email William today.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

