Divorce law reform – No-fault divorce

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The government has announced its commitment to a reform of divorce law, introducing no-fault divorce which hopes to remove the painful battles that couples often face when divorcing.

The need for divorce law reform

The memorable case of Owens v Owens (2018) demonstrated the need to reform divorce law within England and Wales. In this case, Mrs Owens was stuck in her unhappy marriage for 5 years after Mr Owens disputed her divorce petition – which undoubtedly increased both parties' costs and slowed down their divorce process.

Following this case, the Justice Secretary, David Gauke, recognised the need to reform the law and launched a consultation last autumn. It has now been confirmed that the government is committed to introducing legislation to reform divorce law.

Divorce law – how it currently stands

The current legislation provides that the individual who starts proceedings must prove that the marriage has irretrievably broken down based on one of the following:

- Adultery
- Desertion
- Unreasonable behaviour or

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- Separation of a minimum of 2 years, with consent
- If contested, the requirement of separation significantly increases to 5 years', as seen in Owens v Owens (2018).

However, these grounds for divorce are not always suitable for everyone and can often exacerbate the situation, such as:

- Relying on adultery can be painful for both parties, it can be a distressing reminder for the individual who has been mistreated and it can make the other party feel uncomfortable.
- Unreasonable behaviour is commonly relied upon. Unless the behaviours set out in the petition are carefully worded, this can add further animosity and unnecessary confrontation into a situation which is already difficult. Couples find themselves entering into the blame game and any hope of remaining amicable throughout the divorce process can quickly be lost.
- Separation of a minimum of 2 or 5 years prolongs the process with an obvious negative effect on both parties.

How can the introduction of no-fault divorce law benefit you if you are thinking of divorcing?

- It should cause less animosity and confrontation throughout the divorce process by removing the need to blame the other party in order to obtain a divorce;
- The process should be quicker and more efficient allowing couples to divorce in a more cost-effective way; and
- It should lower stress levels for both the couple and their children and wider family.

How to obtain the best outcome in divorce

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Although this divorce law reform may appear to make the process more straight forward, it is important to note that it is still beneficial to instruct a solicitor to guide you through your divorce, particularly in relation to the financial settlement, in order to obtain the best outcome for you and as efficiently as possible.

Need further advice?

Relationship breakdown is never easy but our specialist divorce solicitors offer a practical and sympathetic ear to help guide you through this difficult time. For a free initial conversation, please contact our Family Law team today.

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