



# What Constitutes Unreasonable Behaviour?

In order to [divorce](#) your spouse in the UK, you must prove that your marriage has irretrievably broken down. This can be evidenced by relying on one of five facts prescribed in the Matrimonial Causes Act 1973, these are:

- Adultery
- Desertion
- Unreasonable behaviour
- 2 years' separation with consent
- 5 years' separation – no consent required

Probably the most commonly used, is that the Respondent (the other party to the divorce) has behaved in such a way that the Petitioner (the spouse commencing the divorce) cannot reasonably be expected to remain living with them, also known as unreasonable behaviour.

Essentially the test for unreasonable behaviour is subjective, as what is unreasonable to one person may not be unreasonable to another. Case law dictates that the court will consider:

- The nature of the Respondent's behaviour;
- The effect of the Respondent's behaviour on the Petitioner; and
- The history of the marriage and the personalities of the individual spouses.

In reality, the particulars of unreasonable behaviour detailed in a petition do not have to be serious and, as members of [Resolution](#), we encourage clients to minimise animosity where possible and only include as much information as is required to satisfy the court's criteria. In addition, we always advise that it is not appropriate to

refer to children in the particulars of behaviour. Recent case law has identified that one party becoming “bored” of the marriage or feeling that the parties are no longer compatible are insufficient to establish irretrievable breakdown. However, they are likely to be sufficient if coupled with other examples of unreasonable behaviour.

### **Examples of unreasonable behaviour in divorce could include:**

- The respondent has become cold and uncommunicative towards the petitioner, leaving the petitioner feeling alone and unvalued;
- The respondent has stated that he no longer loves the petitioner, which has left the petitioner feeling confused and distressed;
- The respondent often criticises the petitioner for staying out late with her friends, which makes the petitioner feel resentful and suffocated.

### **Non-confrontational divorce**

It is best practice, where possible, to agree the contents of the divorce petition with your spouse/their lawyer prior to issuing proceedings. All Resolution member lawyers are bound by the Resolution Code of Conduct, which encourages solicitors to:

- Conduct matters in a constructive and conciliatory way;
- Avoid the use of inflammatory language; and
- Take into account the long-term consequences of actions and communications as well as the short-term implications.

Issuing divorce proceedings will be the first step in a potentially lengthy process depending on whether there are outstanding financial and children matters to resolve. If matters are commenced in a non-confrontational way at this early stage it can help set the right tone for the case going forwards. The less amicable the proceedings are, the higher legal costs are likely to be.

### **Does the reason for divorce affect the financial settlement?**

The fact upon which the divorce is based will not have any impact on any [financial settlement](#). The court does not want to become embroiled in who did what to whom and will only consider a party's conduct if it would be unjust to disregard it. Such situations are quite rare.

As a team of experienced [family](#) lawyers, we are here to support and guide you through this difficult and emotional time whilst taking a pragmatic approach to minimising your legal fees wherever possible. If you would like to discuss your own circumstances further please contact our specialist [Family Law Solicitors: online.enquiries@LA-law.com](#) or call 01202 786153.