



## **DIVORCE & SEPERATION**

### **Separation**

If you decide to separate you do not necessarily need to divorce straightaway. There are the following alternatives to divorce:

- You separate and deal with the financial aspects of the separation by agreement which can be evidenced by a formal Deed of Separation.
- You separate and leave financial matters as they are.
- You apply to the Court for a Decree of Judicial Separation which does not dissolve the marriage but enables the Court to resolve financial disputes between the husband and the wife
- You can apply to your local Family Proceedings Court for maintenance for yourself.

### **Mediation**

Mediation is an alternative to using the Court to resolve disputes. The Mediator is an independent person (often a Solicitor) whose role is to help separating couples find their own answers to the problems arising from the separation. Resolution have a list of Solicitor Mediators and can be contacted on 01689 850227. [Sue Harrison](#) is a trained mediator.

### **Divorce**

There is only one ground for divorce and that is irretrievable breakdown of the marriage. The person who starts the divorce (the Petitioner) has to prove one of the following facts against their spouse (the Respondent).

- That the Respondent has committed adultery and the Petitioner finds it intolerable to live with him/ her.
- That the Respondent has behaved in s such a way that the Petitioner cannot reasonably be expected to live with him/ her.
- That the Respondent has deserted the Petitioner for a period of two years.
- That the Petitioner and the Respondent have lived apart for two years and the Respondent consents to a divorce.
- That the Petitioner and the Respondent have lived apart for five years.

It is necessary for you to have been married for at least one year before you can start divorce proceedings.

### **Your Divorce**

The divorce is started by filing with the Court a Petition and a statement detailing the arrangements for any dependant children. The Court staff will send a copy of your Petition to your husband/ wife with an Acknowledgement of Service form which he/ she should complete and return to the Court within 8 days. Once we have received the Acknowledgement form from the Court your application for Decree Nisi can be prepared and sent to the Court. This is when the District Judge looks at your Petition and decides whether you are entitled to a divorce. If so, a date for the granting of the Decree Nisi will be fixed by the Court. You can apply for the Decree Absolute (the final decree which dissolves the marriage) six weeks after the Decree Nisi is granted. If you chose not to apply for the Decree Absolute your husband/ wife can apply 3 months after the first date on which you could have made the application. An undefended divorce can take between four and six months from start to finish however it can take a lot longer if either or both people involved delay in taking steps during the proceedings. The divorce can be stopped at any time before Decree Absolute.

### **After Decree Absolute**

Divorce affects inheritance under a Will if you have one. If you wish to be sure that your assets go to your chosen beneficiaries you should update your Will. If you remarry, any existing Will is automatically cancelled.

### **Your National Insurance**

If you have been paying lower rates of National Insurance you should consider paying the full rate as this will affect your entitlement to certain benefits. These benefits include Maternity Allowance, Contribution Based Job Seekers Allowance, Incapacity Benefit and your Retirement Pension.