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Your questions answered

ARE THERE ANY ALTERNATIVES TO DIVORCE?

The purpose of this Stowe guide is to explain the alternatives to getting a divorce.

Many people going through a separation don't necessarily feel ready to dive straight into divorce proceedings. In those circumstances, are there any alternatives to divorce? And how can parties protect their assets and positions?

Judicial separation

If the reason for not wanting to start divorce proceedings is due to religious objections, or if the parties have been married for less than one year, people can consider judicial separation.

Judicial separation is a process which does not dissolve a marriage, so the parties will legally remain married, but it enables the Court to make orders regarding their assets and therefore offers some security and protection in that respect.

However, it does not enable either party to remarry and means the Court's powers regarding the parties' assets are more restricted – in particular, they can't make an order regarding the sharing of pensions.

Annulment

In rare circumstances, the parties may wish to seek an annulment. This is possible if the marriage is void or voidable.

A marriage is considered void due to the following reasons:

- You are closely related
- One of the parties is under 16
- One of the parties was already married or in a civil partnership (bigamy)

A marriage can be considered voidable due to several reasons including:

- The marriage was not consummated – you have not had sex since the wedding (This does not apply to same-sex couples as sexual intercourse is defined in English law as being between a man and women only).
- One of the parties had a sexually transmitted disease when you got married
- The female party was pregnant by another man at the time of the marriage
- One of the parties did not fully consent to the marriage, for example, they were forced into the marriage or were drunk
- One spouse is in the process of transitioning to a different gender

If an annulment is possible, you can apply to the Court for an order regarding the division of the parties' assets. The application for an annulment can be found [here](#).

Separation agreement

A separation agreement is a document which formally records the practicalities of a relationship coming to an end. It can include any terms you wish, but commonly sets out how living arrangements will be managed and what is to happen with assets including property, savings, or income.

The document does need to be prepared properly and agreed and signed by both parties.

The advantage of a separation agreement is that this option can proceed without the need to begin a divorce, judicial separation or annulment. It can, therefore, provide the parties with a clear explanation as to how their separation will work from a financial perspective.

However, if or when a divorce does take place, the Court does not have to be bound by the terms of the document. The court should take the terms into account in reaching their decision, but they can justify departing from the agreement in certain circumstances and if one party wishes to try to renege on the agreement.

It is therefore imperative that these documents are prepared properly and with full legal advice in order to make it more likely the terms will be implemented, although even within these circumstances, there is no guarantee.

Everyone's circumstances are different and there are a number of options to try and accommodate as many as possible; however, divorce continues to be the most popular way of formally separating from a spouse.

Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit www.stowefamilylaw.co.uk



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