



guide



DIY Divorce

THE TOP 3 PITFALLS OF DOING IT YOURSELF

This Stowe guide explains some of the pitfalls people may encounter when undertaking a “do it yourself” divorce.

Potential errors in DIY divorce forms

Whilst the paperwork to petition for divorce is easily found online, it is not always simple to complete and people must be aware of the legal implications. This is particularly relevant for those petitions based on one party’s behaviour or adultery.

For example,

- Adultery must be admitted or proven.
- ‘Unreasonable’ behaviour – may be too lightly drafted, especially where parties are amicable but have no other option than to use a behaviour-based petition to divorce. They may include or be reliant on incidents that are barred from being relied on, for example where they are more than 6 months before any separation.
- One may wrongly assume that the other party will accept a behaviour petition or give their consent, which is necessary in the case of a 2-year separation petition.

Without knowledge, unsuspecting parties can easily overlook these issues leading to petitions being knocked back by the court or defended, increasing the time the divorce takes and raising frustration for all involved.

Financial claims and DIY divorce

When talking to clients, I often encounter a misunderstanding that the divorce process also resolves any financial issues or potential claims. This is not the case. Separate steps must be taken to ensure financial protection for the future.

For example, without a final financial settlement your ex-partner could:

- Apply in the future for payment of a lump sum or transfer or sale of a property.
- Apply for provision from any pensions, amongst other claims.

This might happen, for example, if one party receives inheritance after the divorce, wins the lottery or comes into money in some other way or perhaps where one party starts a successful business venture or an existing business takes off.

Professional legal advice when undertaking DIY divorce papers is extremely important.

Without the benefit of legal advice, people can easily leave themselves open to financial claims in the future.

The remarriage trap

Following the divorce, there are some circumstances where one party may remarry, potentially losing their financial claims against their ex-spouse whilst the other spouse retains theirs.

This does depend on a number of factors including the party's role within the divorce proceedings and whether they have completed the parts of the petition that relate to financial matters. A specialist divorce lawyer will be able to advise you on these risks and the best steps to take to protect yourself.

The need for legal advice when doing a DIY divorce in England

Understandably cost is an issue when instructing a solicitor to handle your divorce. The removal of legal aid has certainly made this much harder for people. If possible, please do get a solicitor to sense check your divorce petition, and, where possible, take some initial advice on the process and the dos and don'ts based on your circumstances.

Whether you have assets to divide or otherwise, considering the financial claims that exist between you and taking professional advice will ensure that you reach a settlement that meets your needs today, with no unexpected surprises in the future.

Need more information?

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



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