



/guide

Your questions answered

NO FAULT DIVORCE

What does no-fault divorce mean?

The introduction of no-fault divorce, due to arrive in April 2022, will be the largest shake-up of divorce law since it began and will impact the entire divorce process.

But what do the actual changes mean for people getting divorced?

This guide will answer key questions about the new process and whether it is worth waiting for. The changes apply to divorce and the dissolution of a civil partnership.

How does no-fault divorce remove blame?

The key change of no-fault divorce allows a couple to get divorced without blaming one person or lengthy separation periods.

Currently, there is one sole ground for divorce - the irretrievable breakdown of the marriage - but people have to use one of five facts as a reason for the marriage breaking down.

There are three 'blame' based facts:

- Adultery
- Unreasonable behaviour
- Desertion

If you can't or won't allege one of these, you can only get divorced once you've been separated for two years if both spouses agree to the divorce, or five years if one spouse refuses.

The introduction of no-fault divorce will remove the need for these facts and instead allow couples to mutually cite 'irretrievable breakdown' as the sole grounds for wanting a divorce.

Either spouse can provide a statement confirming that the marriage has broken down, or both people can do it as a joint declaration.

How will the new process work?

One spouse or couple will give notice that their marriage has irretrievably broken down and submit an application for divorce.

There is then a new 'cooling-off' period of twenty weeks. Once this has passed, notice can be given to proceed with the divorce, and the court can make a conditional order - previously the Decree Nisi.

After six weeks, the court can make a final order - previously Decree Absolute. So overall, the process will take a minimum of 26 weeks; however, you need to factor in administration and processing time. Any financial settlements and child arrangements will still be dealt with separately.

Will no-fault divorce be quicker?

It is unlikely that no-fault divorce will be quicker despite the media reports of it being a quickie divorce.

Currently, the only set 'cooling-off' period in the divorce process is that once the decree nisi is pronounced, you have to wait six weeks and one day before applying for the decree absolute.

Under the new system, people will now have to wait for twenty weeks from filing their divorce petition before being able to proceed with an application for a conditional order (currently known as the decree nisi).

It is currently estimated that the divorce process can take anywhere between six to eight months, and it is expected that despite the changes, cases are likely to take a similar amount of time, not be quicker.

Will no-fault divorce be cheaper?

Potentially yes. The removal of blame at the beginning of a divorce is more likely to encourage a better relationship between couples. The case is less likely to have delays due to disagreement and, therefore, will cost less.

However, removing blame from the process does not automatically mean the case will be shorter and less

expensive. Remaining amicable and having a clear idea of any financial settlement and child arrangements from the beginning will help manage costs.

Can you make a joint application?

Under the new system, couples can make a joint declaration that the marriage has irretrievably broken down and submit a divorce petition.

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

Who can get a no-fault divorce?

Anyone entitled to a divorce in England and Wales will be able to apply for a no-fault divorce.

Could no-fault divorce affect the outcome for my finances or my children?

It is very rare for the reasons for divorce to have any impact on decisions about finances and children. This will not change with no-fault divorce and how the court looks at the division of finances and child arrangements.

However, it may make things less confrontational between couples, making it easier to reach agreements about matters without reverting to the family court.

Resolution through negotiation, mediation, arbitration, and collaborative law are all less stressful, quicker and more cost-effective options.

Shall I wait for a no-fault divorce?

As with most answers related to family law, it's not that straightforward and depends on the circumstances of the case.

For those people wishing to file for divorce without blame and not in a rush to start proceedings, it may be worth waiting. However, others may wish to move ahead as quickly as possible.

Please remember that the divorce process only ends your marriage and there are other issues such as arrangements for your children after you separate and agreeing a financial settlement that can also take time to conclude. Therefore, you may want to take advice before April, so you know what your options are and where you stand.

Whether you want to wait is up to you, but it is important to get legal advice early to understand your legal position and options.

Do keep in mind there may be an influx of divorce petitions in April 2022 because of no-fault divorce, and it is unknown whether this may add additional delays in the court process.