

**Aldridge Brownlee**  
Solicitors LLP



# Family

A guide to separation,  
divorce and family issues

## Dealing with the break up of a family, a divorce or the dissolution of a civil partnership is never easy. In particular, you will have unprecedented decisions to make on your finances, children and assets.

During this emotional time we recognise the difficulties you face and will be able to assist you during the whole process of separation and divorce. This guide takes you through the main factors to consider.

### What is the legal basis for getting divorced?

In England and Wales, to get a divorce, you need to show that you **have been married for 12 months** (two years in Northern Ireland), and that your marriage has irretrievably broken down, based on one of the following facts:

- Adultery
- Unreasonable behaviour
- Your partner has deserted you for at least two years
- You have been separated for at least two years, and you both agree to the divorce
- You have been separated for at least five years, with no need for your partner to agree to the divorce

### What is the procedure?

The formal process starts once you apply to your local Court for a divorce with a document called the '**Divorce Petition**'. The Court then posts your Divorce Petition to your partner, together with an Acknowledge of Service form which they should return to the Court.

You can then apply for the '**Decree Nisi**', which confirms the statutory criteria for a divorce have been met. After six weeks you can apply for the '**Decree Absolute**', which is the final decree which formally ends your marriage.

The whole process usually **takes between four and six months**, but can vary depending on individual circumstances and disputes that may arise.

### What is Judicial Separation?

It is a similar process to divorce but you remain married. It is used if you have been married for less than a year or if there are religious objections to divorce.

### What is a Separation Agreement?

With the growing acceptance of divorce proceedings, entering into a separation agreement is more uncommon these days. A separation agreement is a document that regulates a separation and often includes details such as financial support and living arrangements for children.

**You remain married and cannot re-marry until you go through the divorce process.**



## Who pays for the divorce costs and will I have to attend Court?

If you issue the Petition you can ask your partner (the Respondent) to pay all or part of the divorce costs. It is, however, open for parties to decide themselves by making reference to this when the 'Acknowledgment of Service' form is completed. **Attending Court is very unlikely.** The majority of cases are dealt with in writing, with no requirement to attend Court in person.



## What about personal possessions?

We advise that partners should try to divide personal property. Where the items are of significant value (i.e. antiques, jewellery, art and rugs) they are often negotiated with the help of a Solicitor as the value of these assets may be a significant percentage of the marital estate.

## What about the family home?

What is in the best interests of the children will be of paramount importance. We will be able to look at your individual circumstances and advise on the best way to resolve issues over the family home as well as other financial and property matters.

## Am I entitled to financial maintenance?

This depends on a number of factors, including without limitation, how long you have been married, whether you have children who receive maintenance and your future earning capacity. Please note, however, that all of your circumstances and those of your partner will be taken into consideration. One of our family law experts would be happy to advise you in this area.

**Financial matters are dealt with only after the your Petition been filed at Court.** They will be dealt with alongside divorce proceedings but separately and will usually need to be resolved before a divorce is finalised.

## Is the maintenance of children dealt with by the Court?

The Court is not usually involved in assessing maintenance payable to children. The Court, however, will still deal with issues of capital paid for a child's benefit.

**The Child Support Agency which is being replaced by the Child Maintenance Enforcement Commission** deals with most applications for child maintenance, and they use a formula to assess the level of maintenance payable.

If you and your partner agree the amount of Child Maintenance, the Court can include this in an Order made within divorce proceedings.

Sorting out financial arrangements, especially when children are involved, can be a complex area and again we can assist in this matter.

## How does the Court deal with disputes about children?

Parents usually come to a decision about the welfare of their children outside of Court. If however, the parents cannot agree, the Court will decide. The Court's paramount concern will be the welfare of the children and there are various Court orders which can be made, the two main ones being:

- A residence order - which provides who the children should live with
- A contact order - allowing visiting rights to the other parent



It is very unlikely children will have to attend Court even if disputes arise. For example, in England, the interests of the children are represented at Court by the **Children and Family Court Advisory and Support Service**.

## What next?

There are other factors to consider when you are considering separating. **Family Mediation and Collaborative Law** are widely used now to settle disputes that arise during divorce or dissolution proceedings.

We would be happy to discuss your individual circumstances and advise what is best for you and your family. If we have acted for you before, then please contact the person you last dealt with. If we have not acted for you before, then please telephone on the number provided below.

### If you would like to discuss any issues raised in this leaflet please contact:-

#### Lynne Barton LL.B.

Partner

Kingsway House  
13 Christchurch Road  
Bournemouth, BH1 3JY

Tel: 01202 294411

Fax: 01202 295944

Email: [Lynne.barton@aldridge-brownlee.co.uk](mailto:Lynne.barton@aldridge-brownlee.co.uk)



## Call us on 01202 294411

[www.aldridgebrownlee.co.uk](http://www.aldridgebrownlee.co.uk)

#### Bournemouth Office

Kingsway House  
13 Christchurch Road  
Bournemouth, BH1 3JY  
Tel: 01202 294411  
Fax: 01202 295944

#### Highcliffe Office

277 Lymington Road  
Highcliffe  
Christchurch, BH23 5EB  
Tel: 01425 282150  
Fax: 01425 282110

#### Moordown Office

912 Wimborne Road  
Moordown  
Bournemouth, BH9 2DJ  
Tel: 01202 527008  
Fax: 01202 532848

#### Winton Office

89 Wimborne Road  
Winton  
Bournemouth, BH3 7AW  
Tel: 01202 526343  
Fax: 01202 530875



Helping the  
local community  
for over 80 years

