

## Ending a marriage

When your marriage comes to an end, you will probably have a number of things to sort out with your partner, which may include childcare, money, housing, and other property and possessions. You and your partner could decide to separate informally, without going to court. You could draw up a **separation agreement**, either with or without the help of a solicitor, setting out future arrangements. However, it is advisable to use a solicitor if you want to do this because of the possible long-term consequences for your financial situation.

If you want to end your marriage formally, you will have to apply to court to get a **divorce**. If you decide to get a divorce, it is advisable to try and sort out any disagreements about practical matters before going to court. This will reduce the legal costs and may also minimise conflict and the stress of the divorce proceedings.

### Divorce

You cannot apply for a divorce until you have been married for at least one year.

If neither you or your partner objects to the divorce, it is called an **undefended divorce**. There is a straightforward procedure for dealing with this, which does not require the help of a solicitor. However, it may be advisable to consult a solicitor before starting divorce proceedings for general advice, especially if there are disputes over children, property or money which you and your partner cannot resolve.

If you want to start divorce proceedings in an undefended case, you will need to get the necessary forms. You can get these from any county court (or the divorce registry in London). You can find the address by looking up 'courts' in the local telephone directory. You can get help to fill out the forms from a Citizens Advice Bureau – see under Further help.

It can take up to six months for the court to grant an undefended divorce, but longer if children and money issues are involved.

If either you or your partner does not agree to the divorce, it is called a **defended divorce** and you should get the help of a solicitor. If you want to apply for divorce and your partner objects, you will need to talk to a solicitor first.

The court will grant you a divorce if you or your partner can show that your marriage has **irretrievably broken down**. For a marriage to have irretrievably broken down, you must be able to prove one of the following:-

- adultery
- unreasonable behaviour
- desertion
- two years' separation with consent
- five years' separation without consent.

Depending on your circumstances, you may be able to get financial help towards your divorce – see under Further help.

## Family mediation

Before, or during, divorce proceedings, you may want to use a mediation service. Mediation can help you and your partner reach joint decisions about arrangements for the future. It is an alternative to solicitors negotiating for you, or having decisions made for you by the courts. However, mediation is not a substitute for legal advice. You will be encouraged to consult a solicitor during the mediation process to advise you on the personal consequences of your decisions. At the end of mediation, the decisions you have reached can be used as the basis for a divorce settlement, or a legal separation agreement.

In most cases, if you wish to make an application to the court about your children, money or property you will have to contact a mediator and arrange a Mediation Information and Assessment Meeting to see if you can resolve the dispute without going to court. The meeting can take place jointly or separately. There will be some situations when you do not need to attend a meeting, for example, where the police are investigating domestic violence.

You can find a local family mediation service by looking on the Ministry of Justice website at [www.familymediationhelpline.co.uk](http://www.familymediationhelpline.co.uk), or on the National Family Mediation website at [www.nfm.org.uk](http://www.nfm.org.uk).

You can also get information about family mediation from the ADR Now website at: [www.adrnow.org.uk](http://www.adrnow.org.uk).

You may be able to get financial help towards paying for family mediation, depending on your circumstances.

In some cases, where disputes about children are involved, you will be required by the court to use a court-based mediation service.

## Financial arrangements at the end of a marriage

When your marriage ends, both you and your partner can apply to court for maintenance from the other. You can do this regardless of whether or not you have children and whether or not you are divorcing. In most cases, you will be expected to arrange a meeting with a family mediator before the court will

consider your application. A maintenance order will normally stop if the one getting maintenance starts living with another partner.

If you have been financially dependent on your partner and you do not work, you may be able to claim benefits, or tax credit – see under Further help.

## **Property and possessions**

When a marriage breaks down, all property owned by you and your partner will be taken into account by the court when arriving at a financial settlement. This will include any property owned individually by yourself or your partner either before or during the marriage. If either of you attempts to hide your ownership of property or possessions, you are likely to be penalised by the court.

It can be difficult to establish ownership of household possessions acquired during marriage. If one partner gave a present to the other and this intention was clear, the gift belongs to the person it was given to. You will also need to sort out ownership of possessions bought jointly or bought by one partner for joint use. If you cannot agree on this, you will need to go to court, although this is likely to be the least successful way of resolving the problem. Generally, the partner with whom the children live will be expected to keep domestic goods and equipment.

## **Housing**

A court can order who should stay in the home in the short term and in the long term. Both you and your partner have a right to stay in the home until either there has been a divorce, or one of you has been ordered to leave through a court injunction.

If you decide to leave your home, depending on your circumstances you may be able to apply for long-term accommodation from your local authority as a homeless person – see under Further help.

## **Tenancies**

If you and your partner are divorcing, the long-term right to your tenancy can be decided during divorce proceedings. The court can transfer the tenancy to your name, even if your partner is the sole tenant, or you and your partner were joint tenants. However, if you are separating but not divorcing, the court will only agree to transfer a tenancy if it decides it is in the best interests of your children.

If you want to apply to transfer a tenancy, you should do this at the same time that you apply for a divorce. If you don't do this, it may not be possible for the tenancy to be transferred at a later date.

## Owner occupiers

If you and your partner are divorcing, the long-term right to ownership of your property can be decided during divorce proceedings. The court has the power to transfer property regardless of original ownership. However, if you are separating but not divorcing, the court will only agree to transfer ownership of a property if it is in the best interests of your children.

If you decide to move out, you should take steps to protect your right to move back in at a later date, and to stop your partner selling the property without your knowledge. More information about this is available from the Land Registry website at [www.landreg.gov.uk](http://www.landreg.gov.uk).

## Children

At the end of your marriage, both you and your partner will be responsible for supporting your children financially, regardless of which one of you the children live with.

If it is not possible to come to a voluntary agreement for the care of your children, a court can be asked to intervene. In most cases, the court will expect you to arrange a meeting with a family mediator first. The court can make orders about who the children should live with. The order will usually allow contact between the child and the parent with whom the child is not living, unless there are exceptional circumstances.

If your children live with you after your marriage ends you can use the **Child Support Agency** (CSA) to get maintenance for the children, although you don't have to.

## Further help

### Citizens Advice Bureaux

Citizens Advice Bureaux (CABx) give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB, including those that give advice by e-mail, click on [nearest CAB](#). You can also look under C in the phone book.

### Adviceguide

The following pages on the Adviceguide website give more information about some of the issues raised in this leaflet:

- Help with legal costs
- Consulting a solicitor
- What benefits can I get?
- Finding accommodation

This fact sheet is produced by [Citizens Advice](#), an operating name of The National Association of Citizens Advice Bureaux. It is intended to provide general

[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

**information only and should not be taken as a full statement of the law on the subject. Please also note that the information only applies to England and Wales.**

**This fact sheet was last updated on 9 September 2011, and is reviewed regularly. If it is some time since you obtained this fact sheet, please contact your local Citizens Advice Bureau to check if it is still correct. Or visit our website - [www.adviceguide.org.uk](http://www.adviceguide.org.uk) - where you can download an up-to-date copy.**