

Reducing conflict in separation and divorce

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This is an article about keeping conflict at the lowest level possible in divorce. I am a family divorce lawyer and mediator at Hopkin Murray Beskine Solicitors and I advise many people who are deciding to end their relationship or marriage, and who want to make plans for the future.

The divorce procedure in this country is still quite archaic. It is not enough that you have both reached the difficult conclusion that the marriage has come to an end and you need to separate. To use the divorce courts to finalise financial matters, a divorce petition is necessary to trigger the court's authority. When you divorce you will find that it uses the terminology of blame. Whose 'fault' is it that the marriage has come to an end? This rarely has any impact on decisions about how finances are divided or about the care of the children unless the behavior is so extreme that it cannot be ignored.

For most divorcing couples, the reason the marriage is ending is something that has been thought about in the months and years leading up to the decision. It is unlikely to be useful to revisit this at the point when you probably both agree to divorce, and when you are trying to reach agreements about finances and arrangements for your children. Nevertheless the court process requires that you do describe the reasons for the breakup, and describe them in terms of blame.

To divorce, you are given a limited choice of options. You can either say that you are divorcing because one of you has committed adultery, or because one of you has behaved so unreasonably no reasonable person would expect you to keep living with them. Other than this you would have to show that you had been living apart. There are three ways of divorcing if you have lived apart- either you have been abandoned for 2 years, or you both agree to divorce after living apart for 2 years. If neither of



these fits, then you need to live apart for 5 years.

This means that if you both agree to divorce, the only way you can do it by a simple consent, without a blame-based divorce, is if you have lived apart for 2 years. You may have pressing reasons to divorce sooner. Usually people want to sort out finances. To do that using the power of the court, you do need to start the divorce. This is why so many divorcing people use the ground of unreasonable behavior:

To divorce on these grounds, you will need to produce examples of unreasonable behaviour. Use examples that are as mild and moderate as possible. The only reason you need to put them in your petition is that this is the fastest way that you can both achieve a divorce. There is rarely any benefit in thinking of all the worst things you can. Try to agree the wording to minimise the hostility and conflict that can otherwise develop about this. This is a time when you will want to focus on the future rather than focusing on the past.

If you have any questions or queries about this article or any of my other editorials, all of which are on our website www.hmbsolicitors.co.uk, please feel free to email me on sb@hmbsolicitors.co.uk.

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