

Comments from **Simon Beccle, Family Partner at Payne Hicks Beach** feature in the article concerning The Court of Appeal Judgment in the highly unusual contested divorce between his client, Tini Owens and her husband, Hugh Owens first published in Mail online on 2 May 2019 and reproduced with kind permission.

<https://www.dailymail.co.uk/money/news/article-6954871/Cutting-blame-divorce-save-couples-10k.html>

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'No blame' divorce proceedings could save couples up to £10,000 when 50-year old law is canned - here's how...

- Couples could save between £1k and £10k once divorce reforms go ahead
- Couples' need to find fault exacerbates conflict and ramps up legal costs
- Last year, 118,000 people petitioned for divorce in England and Wales

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Divorcing couples could be thousands of pounds better off once a new divorce law - which removes the need to attribute blame for the failure of a marriage to one spouse - gets the go-ahead.

A 50 year-old divorce law currently forces couples to find fault with each other but family justice professionals and married couples who've experienced a split argue that it exacerbates conflict, rather than protects the institution of marriage.

Now legal experts have told This is Money that scrapping the law will not only reduce tensions but could save couples at least £2,000 and up to around £10,000 as they potentially avoid the need to go to court and battle it out for months, if not years.



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Forcing couples to find fault for the divorce could exacerbate conflict and ramp up legal fees according to experts

Tracey Moloney, head of family law at Co-op Legal Services (pictured), explains that divorce costs could range from £1,000 to £10,000 depending on the family's needs and complexities surrounding the breakup, but points out that it's not just legal fees that will put couples under financial strain.

'If ordinarily one party was not in agreement with the divorce proceeding under current law you have to go to court.

'It's safe to say that by going to court you will encounter a barrister, instructing solicitor and time from work so you will look at thousands rather than hundreds [of pounds] and it will vary from couple to couple.'

Daniel Jones, partner and family law specialist, at law firm BLM adds: 'Parties can spend in excess of £2,000 very easily in negotiating the content of a 'blame' divorce petition.

'If a compromise is not agreed then the matter will be listed for a contested hearing at great expense to both parties.

'In addition, on a 'fault petition' the 'offending' party is currently liable to pay the petitioning party's costs.'

Last year, 118,000 people petitioned for divorce in England and Wales according to the Ministry of Justice.

The new law will come as a relief to couples who have both decided that the marriage has come to an end or who do not wish to apportion blame on each other for the breakdown of the marriage.

Jones explains: 'In some cases a party will not agree to a divorce or may not want to apportion blame against their spouse for the breakdown of the marriage.

What reasons can you currently give for divorcing your spouse?

Current divorce law requires people to give evidence of one or more of five facts; three are based on 'fault' and two are based instead on a period of separation.

The five facts are: adultery, behaviour, desertion, two years' separation (if the spouse consents to the divorce) and five years separation if the spouse doesn't consent to the split.

Data shows that out of every five divorce petitions over the last three years, close to three rely on conduct facts and two on separation facts.

Between 2016 and 2018 the behaviour fact accounted for nearly half of all petitions (46.4 per cent or 47.1 per cent when combined with the adultery fact).

Source: Gov.uk

'In such circumstances, the party wishing to divorce would have to wait five years to be able to petition.

'Under the proposed changes this 'waiting' period will be eliminated which will significantly improve timescales for some couples.'

When the new reforms come into effect, couples will lose the right to contest the divorce.

It comes as it was revealed that Tini Owens was denied her divorce petition when her husband Hugh Owens did not agree to splitting.

The Supreme Court ruled against her, obligating Tini to remain married until 2020.



Simon Beccle Family Partner at
Payne Hicks Beach

Simon Beccle, family partner at Payne Hicks Beach who represents Tini adds:

'Bringing in so-called no fault or no conduct divorce will enable couples to part ways without having to trawl over their conduct or behaviour towards one another and attribute blame for the marriage breakdown, which so often has an early and adverse effect on resolving issues relating to finances and children.

'This announcement is welcomed by Tini Owens, in particular. She hopes that no-one else will have to go through the long and painful process she has had to endure, as required by the current law. She looks forward to new divorce law which is fit for the 21st century.'

Unfortunately, the new law will not necessarily reduce the length of time it takes to get divorced as the reforms will introduce a minimum six month cooling off period from the initial petition stage.

The Ministry of Justice says this will provide a 'meaningful period of reflection and the opportunity to turn back', adding that the courts will retain the power to expedite the process where appropriate.

Jones adds: 'Generally, it would be standard to advise that divorce proceedings can be concluded within four-six months of issuing a petition, where for example, a client relies upon their spouse's unreasonable behaviour.

'Under the proposed changes however, a six month cooling off period will exist so in some respects the process could be longer than before.

'The key change the government wishes to introduce with these proposals is that apportioning 'blame' against your spouse is eliminated.

'As outlined above, on the one hand this could significantly reduce timescales for those who previously could only rely upon five years separation but for those simply wishing to proceed on a 'no-fault' basis, the timescales under the changes could actually be longer than the system we currently have in place.'

Don't wait for new laws...

So what should you do now if you know that your marriage is coming to an end?

Legal commentators say that they would advise against waiting until the law comes into effect as it could still take years.

Jones says: 'A date has still not been confirmed for when the reforms will come into effect. The only indication of time we've been given is 'as soon as parliamentary time allows'.

'Given the current political uncertainty, it's difficult to attribute a time frame, but unfortunately it's unlikely we'll see any immediate effect.

'Parliament will not be able to give this issue its attention until Brexit has been resolved.'

The divorce reforms were introduced earlier this month (9 April) by Justice Secretary David Gauke who says: 'Hostility and conflict between parents leave their mark on children and can damage their life chances.

'While we will always uphold the institution of marriage, it cannot be right that our outdated law creates or increases conflict between divorcing couples.

'So I have listened to calls for reform and firmly believe now is the right time to end this unnecessary blame game for good.'

What are the main divorce reform proposals?

- Couples can use 'irretrievable breakdown of the marriage' as the sole ground for a divorce.
- Couples will not have to provide evidence of 'fact' around the behaviour of separation with a requirement to provide a statement of irretrievable breakdown
- Couples will still have to go through the two-stage legal process referred to as decree nisi and decree absolute
- Couples can opt to put forward a joint application for divorce alongside retaining the option for one party to initiate the process
- The ability to contest the divorce will also be scrapped
- There will be a minimum time frame of six months, from the petition state to final divorce (20 weeks from petition state to decree nisi and six weeks from decree nisi to decree absolute).

Source: Gov.uk

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