

**Payne Hicks Beach** feature in the article concerning Divorce law: new 'no fault' legislation in the highly unusual contested divorce between Payne Hicks Beach client, Tini Owens and her husband, Hugh Owens first published in BBC News online on 9 April 2019 and reproduced with kind permission.

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**BBC**

**NEWS**

## Divorce law: Reforms to end 'blame game' between couples

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**Divorce laws in England and Wales are to be overhauled so couples can split faster and, it is hoped, with less acrimony.**

**Under current rules**, one spouse has to allege adultery or unreasonable behaviour by the other for divorce proceedings to start straight away.

In future, they will only have to state that the marriage has broken down irretrievably.

It will also stop one partner refusing a divorce if the other one wants one.

Justice Secretary David Gauke said the changes would help to end the "blame game".

### Fault lines

Currently, "fault-based" divorces, where there are allegations of adultery or unreasonable behaviour - can take as little as three to six months.

But "no-fault" divorces can take much longer - with couples having to prove they have been living

apart for at least one year in Scotland, and at least two years in the rest of the UK.

Living apart can include living in the same house, provided they are not sharing a bed or living as a couple.

- **'I was married and divorced in my 20s'**
- **Should it be easier to get a divorce?**
- **Humanist marriages 'least likely to end in divorce'**

Mr Gauke told BBC News: "Frankly, we are not going to keep marriages together by having a divorce process that just makes it more acrimonious [and] tries to apportion blame in such a way that the couple are likely to have a weaker, poorer relationship subsequently than they would otherwise do." He said the new law would be introduced as soon as possible, when parliamentary time allowed.

The changes follow the Supreme Court's rejection of a woman's appeal for divorce after her husband refused to agree a split.

Tini Owens, 68, from Worcestershire, wanted to divorce her husband of 40 years, on the grounds that she was unhappy.

But husband Hugh refused to agree to it and the Supreme Court unanimously rejected her appeal.

It meant the couple must remain married until 2020.

The UK's most senior judge, Baroness Hale - who is also one of the judges overseeing that case - has repeatedly called for the laws to be overhauled, describing them as "unjust".

Law firm Payne Hicks Beach said its client Ms Owens welcomed the proposed changes.

The firm added that Ms Owens hoped nobody else would have to go through the "long and painful process she has had to endure".



Image copyright PA Image caption Tini Owens was refused a divorce by the family court and Court of

The new rules will include a minimum timeframe of six months from petition stage to decree absolute - the legal document that ends a marriage.

At the end of this period the applicant will be required to continue to affirm their decision to seek a divorce before the divorce is granted.

The government says this will give a "meaningful period of reflection" and the "opportunity to turn back".

In addition, a new option will allow couples to apply for a divorce jointly.

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## **Analysis: Old system was not letting couples move on**

By BBC legal correspondent Clive Coleman

The introduction of a "no fault" system is huge. It represents the biggest change in divorce law in 50 years.

Why has it happened? Because the current fault-based divorce system is now seen by many to exacerbate the stress and tension of an already highly stressful time.

Critically it exposes children to the damaging impact of ongoing conflict between their parents both during the divorce and afterwards.

While the wider family justice system attempts to help people to resolve issues in a nonconfrontational way, the legal divorce process can make this more difficult because of the way it throws fault and blame into the mix when spouses are trying to end their relationship and make sensible living arrangements for their children.

Fault, blame and having to prove two or five years separation were not seen to be helping couples move on with their lives - and that's why they are being consigned to legal history.

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## **'My husband refused to divorce'**



Image copyright [LYDIA VOWDEN](#) Image caption [Lydia Vowden said her divorce was a protracted one](#)

Lydia Vowden, from Exeter, said she left her husband in June 2016 but it took more than two years for her divorce to be finalised.

"In that time I was an emotional mess and also struggling financially, as I had left the marital home with nothing.

"Disregarding the huge amount of financial cost, the emotional ramifications of the process are horrendous.

"A change to the system can only be a positive and will hopefully allow some of the stigma around divorce to be removed," she added.

The plans come after a 12-week public consultation which showed widespread support for no-fault divorce.

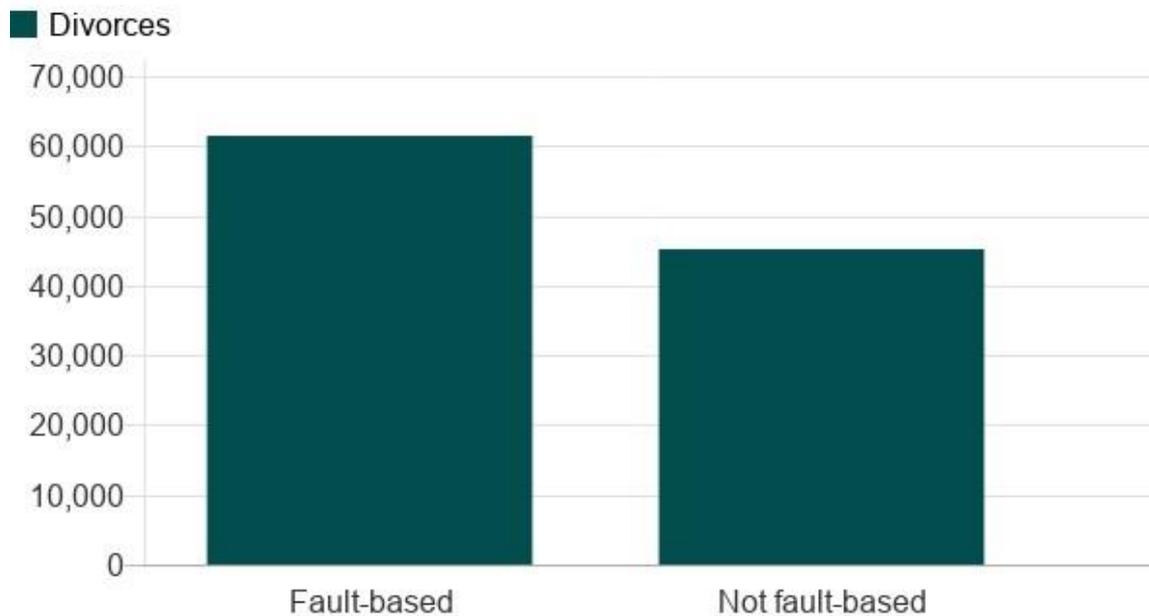
Mr Gauke said overhauling divorce law could help prevent conflict between parents, which in turn risk damaging their children's futures.

The blame element can cause "incredible animosity" between separating parents, Aidan Jones, chief executive of the charity Relate, told BBC News.

He said: "That's what can cause difficulty for the children but also it can cause difficulty for the parents themselves, so anything we can do to reduce that is, I think, incredibly important."

## The blame game

### Divorces in England and Wales by reason given



Source: ONS



Divorce lawyer Zahra Pabani, family partner at Shakespeare Martineau, welcomed the announcement and called on the government to help move family law "into the 21st Century".

"The wounds of divorce aren't only felt by the separating couple, but also by their children and wider family," she said.

"This firm commitment by the government to help end the mud-slinging process that divorce so often becomes is long overdue."

But Colin Hart, chairman of Coalition for Marriage, said the current system's "in-built delay" allowed for calm reflection and he raised concerns about access to children, assets and the family home.

- **The blame game: Divorcing in the UK**
- **'I'm divorced, so Sikh men don't want me'**
- **13 people file for divorce on Christmas Day**



Media captionThe existing law 'requires you to focus on the negative', says Amelia Jacob.

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## Grounds for divorce in England, Wales and Northern Ireland

People who apply for a divorce must prove their marriage has broken down and give one of the following five reasons:

- Adultery
- Unreasonable behaviour
- Desertion
- The couple has lived apart for more than two years and both agree to the divorce
- The couple has lived apart for at least five years, even if one partner disagrees

*Source: Gov.UK*

## Grounds for divorce in Scotland:

In Scotland, simplified divorce procedure is available to couples without children of the marriage under 16, where people can prove their marriage is broken down. This can happen with one year's separation, with the consent of both partners, or two years separation without consent.

Otherwise, there are two legal grounds for divorce:

1) The marriage has broken down irretrievably, which must be proved by:

- Adultery
- Unreasonable behaviour
- The couple has lived apart for more than one year and both agree to the divorce
- The couple has lived apart for more than two years, but one does not agree to divorce

2) One partner has an interim gender recognition certificate - issued to a transsexual person who is starting the legal process of recognition of their acquired gender.

*Source: Citizens Advice Scotland*

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