

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

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## Divorce law: new 'no-fault' legislation will end 'blame game' for married couples

Rather than having to live apart, the person seeking the divorce will now be able to make a statement that the marriage has broken down



Under current laws unless someone can prove there was adultery, unreasonable behaviour or desertion, the only way to get a divorce without a spouse's agreement is to live apart for five years (Photo: PA)

**Divorce** laws that force couples into playing a "blame game" are to be overhauled in favour of a no-fault system, the Government has announced.

The Justice Secretary, **David Gauke**, confirmed that new legislation would come into force in England and Wales after a consultation revealed support for reforms to the existing fault-based system.

Under current laws unless someone can prove there was adultery, unreasonable behaviour or desertion, the only way to get a divorce without a spouse's agreement is to live apart for five years.

The new legislation, the first for 50 years, will keep "irretrievable breakdown" of a marriage as the sole grounds for divorce.

But rather than having to live apart or provide evidence of their spouse's behaviour, the person seeking the divorce will instead be able to make a statement that the marriage has broken down.

In Scotland, couples are able to divorce after they have been apart for one year if both parties consent, or two years if only one party wants the divorce.

Details of the proposals were unveiled last year and ministers have now decided to press ahead with them after a 12-week consultation.

## **Tini Owens: trapped in unhappy marriage**

The announcement follows the high-profile case of **Tini Owens, who lost a legal battle last year to divorce her husband of 40 years because they had not lived apart for the requisite five years.**

Tini Owens lost a legal battle last year to divorce her husband of 40 years because they had not lived apart for the requisite five years, even though it had irretrievably broken down (Photo: PA)

Ms Owens said she was unhappy in their marriage – and that it had irretrievably broken down – but had been unable to get out of it because her husband, Hugh Owens, would not agree to a divorce.

The changes will also scrap the ability of a husband or wife to contest a divorce – which is used in less than 2 per cent of cases.

The new system will include a six-month minimum period that must elapse between the lodging of a petition to the divorce being made final.

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

“Now is the right time to end this unnecessary blame game for good.”

Parallel changes will be made to the law governing the dissolution of a civil partnership.

Simon Beccle, Ms Owens’ solicitor and a partner at the law firm Payne Hicks Beach, said his client welcomed the news.

### **How many people get divorced?**

Last year, 118,000 people petitioned for divorce in England and Wales. In Scotland there were 7,938 divorces in 2016-17.

### **Why does the law need reform?**

Under the current laws in England and Wales, unless someone can prove adultery, unreasonable behaviour or desertion, the only way to get a divorce without a spouse’s agreement is to live apart for five years.

### **What will happen now?**

“Irretrievable breakdown” of a marriage will remain the sole grounds for divorce. But, rather than having to provide evidence relating to behaviour or separation, divorcing spouses will be required to make a statement that the marriage has broken down.

### **Will there be any other changes?**

The ability of a husband or wife to contest a divorce will be scrapped under the shake-up. The Government is also planning to make it possible for couples to make joint divorce applications.

### **What about civil partnerships?**

Parallel changes will be made to the law governing the dissolution of a civil partnership.

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