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HMCTS urged to fix digital divorce issues during reform wait

By [Monidipa Fouzder](#) 9 June 2021

The government has been told to use the delayed introduction of long-awaited divorce reforms that would allow couples to split up without assigning blame to ensure its digital platform is fit for purpose.

Provisions under the Divorce, Dissolution and Separation Act – which received Royal assent a year ago – were due to commence this autumn. However, the Ministry of Justice [quietly admitted](#) this week that it needed more time to amend and test the digital system. The reforms will now commence on 6 April 2022.

Law Society president I. Stephanie Boyce was disappointed at the delay but said it was better to have a working system in place rather than forging ahead when there are known issues.

She said: 'We call on HM Courts & Tribunal Service to use this delay to ensure the digital platform is fully functional and that issues affecting the online service, such as the recent 'bug' in the represented respondent journey, are promptly rectified. We urge HMCTS to communicate clearly with the profession when there are issues with the digital service, outlining how it will fix any bugs in order to avoid delay. HMCTS must also ensure that there are fully developed and clearly understood contingency plans in place.'

Nigel Shepherd, former chair of family law group Resolution, said: 'Our members' experience of using online forms and processes has not been universally positive, and so it is essential that the IT is fit for purpose in order to ensure the new divorce process works the way it is intended.'

Emily Foy, a senior associate at Payne Hicks Beach, said she was aware of many couples who had agreed to wait until the autumn to formalise their separation.

Lisa Pepper, a family law partner at Osbornes Law, said: 'Couples who perhaps have been "waiting it out" may feel that they have no option now but to begin the process, citing unreasonable behaviour or adultery. This immediately introduces a contentious element into their divorce, which is sad for them and their families.'

Charlotte Coyle, a senior associate at Goodman Derrick, highlighted potential financial consequences for couples who decide to wait until next year to commence proceedings.

She said: 'For example, the value of the couples' assets may fluctuate in the next 10-12 months and there is no guarantee that the levels of income of the couple will be the same next year. Any financial settlement will be based upon the couples assets and income at the time the financial agreement is made.

'On the other hand however, by waiting for the "no fault divorce" to come in force next April, it may be easier for couples to reach a financial agreement as they are more likely to be amicable and less willing to incur legal fees by engaging in contested or protracted proceedings.'

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