



Commentary by Simon Beccle, Partner in the Family Department and Solicitor for Tini Owens, on the Parliament's proposed change in the divorce law

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On 8 June 2020 the House of Commons voted to approve the Divorce, Dissolution and Separation Bill on its second reading. The Bill has now been referred to the committee stage in the House of Commons on 17 June and it would appear we may have a new divorce law later this summer.

Under the proposed new divorce law, it will no longer be necessary for one party to blame the other party in order for a divorce to take place. It will also be possible to apply for a divorce jointly.

The catalyst for the reform of the divorce law was the Judgment in the Supreme Court in *Tini Owens v Hugh John Owens* [2018] UKSC41 which highlighted the shortcomings of the current law which has been in place for approaching 50 years. In *Owens*, notwithstanding the fact that Mrs Owens had alleged 27 allegations of Mr Owens' behaviour towards her which she felt made it unreasonable to expect her to live with him, the Supreme Court decided that she was not entitled to a divorce. This Judgment resulted in outcry both nationally and internationally, from the media, politicians, judges, lawyers and members of the public.

The purpose of introducing a no-fault or no-conduct divorce is to enable couples to divorce with greater dignity without them having to trawl over their conduct or behaviour towards one another and attribute blame for the marriage breakdown, which so often has a negative effect at the outset of proceedings and so often damages efforts to resolve issues relating to finances and children.

Under the current law, it is necessary for one party to prove that the marriage has broken down irretrievably by alleging one of five facts. Two of these facts require the Petitioner to blame the Respondent having for either committing adultery or having behaved in such a way that the Petitioner cannot reasonably be expected to live with live with the Respondent, which is the most common basis for a divorce. The other three facts involve waiting a period of time before a divorce can take place and include the parties having lived apart for 2 years (where they both agree to the divorce) or 5 years (if one of them does not agree). The fifth fact is that one party has deserted the other.

Thus, whilst some couples may be willing to wait a period of time before they instigate divorce proceedings, others may prefer to move forward with a divorce rather sooner. The only way to end a marriage without waiting for at least 2 years is for one party to blame the other for the breakdown of the marriage. In a divorce petition, one party is required to blame the other who may have committed adultery or has behaved unreasonably. Where, the latter is cited, examples of that behaviour are set out in the divorce petition. Even though these are often kept as mild as possible, apportioning blame in this way often increases acrimony, at an already difficult time.

Under the new proposed legislation, the parties will simply need to allege the marriage has broken down irretrievably and that there will be no need for one party to blame the other for the breakdown of the marriage.

A further update will be provided on what we hope will become the Divorce, Dissolution and Separation Act in due course.

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