

FREQUENTLY ASKED QUESTIONS ABOUT DIVORCE & FAMILY

How long before I am divorced?

At least 3 to 4 months, and this is on the basis that all parties co-operate and there are no unforeseen delays. This does not include dealing with financial matters and often you will be advised not to apply for your Decree Absolute until such time as financial matters have been dealt with

Can I divorce on 'irretrievable breakdown'?

YES, but this is only the ground for divorce and you need to prove that the marriage has irretrievably broken down. To do this you need to rely on one of five facts:

- adultery
- unreasonable behaviour
- two years separation with consent
- five years separation without consent
- desertion.

Can I change the locks on the family home?

If your partner or spouse has a right to occupy the property and there is no court order preventing him or her from exercising that right, then technically no. However, if your partner or spouse has left the property and has clearly indicated that they no longer intend to occupy, then to protect your privacy it may be that the locks are changed as long as reasonable access to the property is not denied.

I have been locked out of the house. What can I do?

If you are entitled to occupy the property then you are entitled to gain peaceful entry. You can therefore contact a locksmith and get the locks changed and look to your spouse or partner to pay the cost.

Can I change my child's surname?

If you are or were married to the child's father, and/or he has Parental Responsibility, then you will require his permission. If he will not agree, you can make an application to the court under the Children Act 1989 and the court will then decide having regard for what is in the child's best interests.

YES. If you were not married to the child's father and he does not have Parental Responsibility, although he may dispute this and can make an application to the court for Parental Responsibility and that the child has his surname.

Will I get custody of the children?

Since the implementation of the Children Act 1989 the court now makes residence and contact orders. The court will not make an order in respect of residence or contact unless there is a dispute between the parents.

We have separated, so if I sleep with someone else is it adultery?

YES. If you are still legally married and you have sexual intercourse with someone else, then that will be considered to be an adulterous act.

Further information

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