

Divorce & Separation

✦ Services at-a-glance



TFS

THOMAS FLAVELL + SONS SOLICITORS

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Divorce & separation

✦ Step by step guide

The prospect of a divorce or separation can be daunting and can spark off many emotions, but the process need not be difficult with the right legal advice.

Thomas Flavell and Son's family law team can bring experience to the complex issues that can arise on relationship breakdown. We aim to achieve solutions and avoid conflict wherever possible.

✦ Divorce

You will only be granted a divorce if you can demonstrate that your marriage has irretrievably broken down. To do this you need to establish one of five reasons:

- Your husband or wife has committed adultery.
- Your husband or wife's behaviour is such that you cannot reasonably be expected to live with them.
- Your husband or wife has left you for two years without good reason (desertion).
- You have been separated from your husband or wife for two years and they agree to the divorce; or
- You have been separated from your husband or wife for five years or more.

We usually start the process by writing to your husband or wife to inform them of your intentions.

The process is started by a petition being filed with the Family Court. A copy of the petition will then be sent to your husband or wife. Once your husband or wife has replied to the petition you can prepare your statement in support of the petition and submit your application for decree nisi. Once the court is satisfied that you should have a divorce it sets a date for the decree nisi. Six weeks after the decree nisi date the person applying for the divorce ("the petitioner") can apply to the court for the divorce to be made absolute. This legally dissolves the marriage. However, you are usually better to wait until financial matters have been resolved before making this application. A straightforward divorce will take about six months.

✦ Separation

If obtaining a divorce is not a priority for you and you have agreed financial matters, a deed of separation can be prepared and signed by both the husband and the wife to provide certainty as to the terms of the agreement.

✦ Children

In all matters relating to children, the children's welfare comes before anything else. Court applications can be stressful for children and parents alike and we would first consider alternatives to court proceedings wherever possible.

✦ Financial Matters

Solicitors have a professional duty to settle disputes as to financial matters out of court if at all possible. This approach is usually in the interest of both the husband and the wife. The starting point for financial matters is for both the husband and the wife to provide full details of their finances. Once this information has been shared negotiations can start.

If a negotiated settlement is not possible, a court application within divorce proceedings will be needed.

If divorce action is already underway the terms of a financial agreement would usually be recorded in a court order applied for by consent.

✦ Mediation

Mediation is an alternative to using the court to resolve disputes. A mediator is an independent person whose role is to help separating couples find their own answers to the problems they are facing.

Mediation is an option at any stage, however, if you are intending to pursue a court application relating either to children or financial issues, you will usually need to attend a Mediation Information and Assessment Meeting (MIAM) to try and establish whether your dispute can be resolved in mediation. Thomas Flavell and Sons can make a referral to an experienced mediator for you and offer legal advice to you in parallel to the mediation process.

✦ Collaborative Law

We offer Collaborative law which is a process which lets you and your former partner work through the issues each with a specially trained Collaborative lawyer.

The Collaborative process is a private way to achieve resolution and involves everyone signing an agreement that commits each party to trying to resolve their issues without seeking the Court's intervention. Your Collaborative lawyer will not be able to represent you in court if negotiations break down which means that the parties and lawyers are all committed to negotiating a solution by agreement.

✦ Cost?

Costs will vary depending upon which type of application you are considering. We will always give you an idea of the likely cost beforehand and will keep you informed throughout as to the costs incurred during the process.

** Any reference to divorce will include the dissolution of a civil partnership

Contacting us

Telephone enquiries are always welcome. Your enquiry will be dealt with professionally and efficiently by a member of our team. Alternatively you can contact us by email or visit our website for more details.

✦ 01455 610747

✦ law@thomasflavell.co.uk

✦ www.thomasflavell.co.uk



The information in this leaflet can do no more than set out guidelines. You should not rely upon any of the matters stated and Thomas Flavell & Sons accepts no liability should you choose to do so.

For full advice or further information on this or any other related matters contact our Family Law team on 01455 610747 or email us at law@thomasflavell.co.uk

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