



## MOLESWORTH BRIGHT CLEGG SOLICITORS FAMILY & MATRIMONIAL FREQUENTLY ASKED QUESTIONS

### **Can I get divorced straight away?**

The only ground for divorce is that the marriage has irretrievably broken down. This is proved by one of five factors:

- Adultery
- Behaviour
- Two years separation with consent of the other party
- Five years separation - no consent is required by the other party
- Desertion

If the Divorce is based on adultery or behaviour the proceedings can be issued straight away. With the other factors there has to be a period of separation first.

### **How long will it take?**

Once proceedings have been issued and provided there are no delays the divorce will take approximately 4-6 months. The timescale is essentially the same whichever factor is used.

### **I don't know where my husband/wife is. Can I still get divorced?**

In certain circumstances permission can be obtained from the court to proceed with the divorce without serving the papers upon the other spouse.

### **Will I have to pay?**

If you are in receipt of Income Support the Legal Services Commission will pay our initial costs. If you are on a low income you may be entitled to assistance under the Legal Help Scheme. You will be advised at your first appointment whether or not this is the case. If you are not eligible for Legal Help the costs on a private basis will be explained to you.

### **If we divorce who decides where the children will live?**

This is a decision for you as parents to make. If you cannot agree then applications can be made to Court for a decision to be made. A referral can be made to mediation to try and help you reach an agreement without the need to go to Court.

### **Can I keep my home?**

This will depend on all the financial circumstances of both parties. Full financial disclosure will need to be given by both parties to see how the matrimonial assets should be divided between you.

### **Will I get maintenance for the children?**

There is an obligation on the parent without care to pay maintenance for the children. If agreement is reached on the amount this can be recorded in a Court Order. If agreement cannot be reached an application to the CSA will be necessary.

### **Will I have to pay to sort out financial matters?**

If you are on a low income you may be eligible for Legal Funding. This covers the costs initially but takes the form of a loan. Therefore if you acquire or keep money or property you will have to use this to reimburse the Legal Services Commission at the end of the case. This is called the Statutory Charge. If you are not eligible for Legal Funding you will have to pay. This will be discussed at the first appointment.