

LAWPACK

HOW TO GET A

Divorce



**Instructions and information for
managing your own divorce, with
guidance on separation**

Punam Denley

This is an excerpt from Lawpack's book *How to Get a Divorce*.

To get more expert information and instructions on how to manage your own divorce, [click here](#).

How to get a Divorce
by Punam Denley

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For convenience (and for no other reason) 'him', 'he' and 'his' have been used throughout and should be read to include 'her', 'she' and 'her'.

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About the author

Punam Denley is a solicitor and partner at Blanchards Law in London. She specialises in all aspects of family law, including complex financial issues arising from the breakdown of a relationship, and many of her cases have cross-jurisdictional and trust elements.

Punam is a trained mediator and collaborative lawyer. She gives lectures to other lawyers and writes for legal and other journals regularly. She is a contributor to a book jointly published by the Law Society and Resolution (the organisation of family solicitors) entitled the *Family Law Handbook*.

Introduction

When I was approached to write this book, the first things I told my editor that I wanted to say about family law were: first, don't take advice from your friend who is a law student – you'll only be left confused and disappointed; second, don't believe everything you read in the media. I deal with divorce cases on a daily basis and am in and out of court every week. I want to give you an idea of what to expect from the family law system, and how to try to get the best out of it.

There are two main points that I need to make clear at the outset:

- 1.** In family law, divorce and financial matters are completely separate. You should probably sort the money side of things out at the same time as the divorce and get a final order from the court which separates your assets from your former spouse's and enables you to move on. It is a common mistake to believe that once you get your divorce, you're free to do whatever you want with your money. Both you and your ex-spouse have the right to make financial claims against each other, until those claims are dismissed by the court. This right to claim continues in part even if one or both of you remarry. So get legal advice.
- 2.** Family law is not a science, and there are few presumptions or hard and fast rules. It is a discretionary system, with statutes and case law providing guidance for judges in reaching their decisions. As everyone is different, so every case is different. It's hard for anyone, even lawyers sometimes, to advise on a potential outcome. Each family is unique, and no two judges will come up with exactly the same judgment in a particular case. So, what's the point of lawyers? A good solicitor will be able to guide you towards the likely outcome of your case in the

most cost-effective and direct way. He will tell you how to be proactive in trying to settle your case at the earliest opportunity, whilst making you aware of the pitfalls along the way. Laws are made by judges as well as MPs. Be aware that judges – as in all things in life – can be good and bad; there are lazy ones and there are effective ones. You do not have a choice about who hears your case, so try not to get to a stage where you place the responsibility for making one of the most important decisions in your life in the hands of a judge who knows nothing about you and your life.

In this book, ‘spouse’ includes ‘civil partners’, as the law is the same, unless I draw your attention to any differences.

A few hints and tips to help you through

Divorce may not be inevitable

First and foremost, if you are reading this book because you are considering divorce, it does not mean that your marriage is over. Consider counselling: it may be that you are just not communicating with each other, and that misunderstandings are leading to a conclusion which is avoidable. I have referred clients for counselling after an initial meeting has satisfied me that they are not at the stage where a separation should be taking place.

Divorce and separation can be expensive

Before each decision that you make, remember how much this is costing you, both financially and emotionally. There are no winners or losers in divorce. It costs us all. The general rule is that each party pays their own legal fees. Even if you ‘win’, you may end up considerably out of pocket.

You are the client

Without you there would be no case, and you have the final say in the direction that your case goes (except if matters have gone so far that you are asking a judge to make a final decision). Listen to your lawyer, but

remember that his opinion is there for you to accept or reject. If you have chosen someone based upon his reputation as a rottweiler, you may find that he is keener on scoring points against the 'opposition', rather than bringing your case to an acceptable conclusion. Once I was covering a case for a colleague on holiday, and I will never forget the client's comment that all the correspondence in the case was nothing to do with him, but rather a 'dispute' between the solicitors.

Keep talking to your spouse

If at all possible, talk to your spouse. With assistance behind the scenes from your lawyer, you may be able to resolve your matter, without the need for expensive court hearings.

Do seek a second opinion

If you are unsure about whether you could work with a particular solicitor, try someone else. You will have to discuss some of your most personal issues with him, and it is important that you feel comfortable, and have confidence that he will get the job done. One case that sticks in my mind was of a harassed client who came in to see me, directly after a court hearing. He had just been ordered to pay his wife's legal fees as a result of the advice of his lawyer. I was shocked to discover that he had been advised to fight a case that he could never have won. He had trusted his solicitor and was afraid to challenge him. You should never be afraid to ask your solicitor questions.

It is vital for your sanity that you do not lose your sense of proportion

It will make the process easier for you and for your relationship with your lawyer if you try not to let your case take over your life and that you remain positive. This does not mean that you do not take your matter seriously, but rather that you try not to view everything in black and white. Also talk to your friends and family; don't keep it all to yourself. Often the whole situation feels overwhelming and there's no point in bearing the burden of it all on your shoulders alone.

Although your lawyer may be able to give you encouragement, resist the temptation to treat him as your friend/therapist/social worker. Not only will it cost you a lot more money as he will charge you for every telephone call, but you be left feeling confused at the end of your case when your lawyer will be decidedly less enthusiastic about listening to your woes.

Some new developments in the law

Family life has changed dramatically since 1973, when our divorce laws were enacted. Yet family law has not been changed in the last 30 years or so. Cohabitation is on the increase, while marriage is declining. More than 40 per cent of children are now born to unmarried parents, according to the Office for National Statistics, whereas the situation would have been very different in the early '70s.

There have been a few changes in family law recently and I discuss these below.

The new Family Proceedings Rules

In April 2011 and 2012 there were wholesale changes to court forms and procedure in relation to most family law applications. This book takes full account of these; in particular, the requirement to consider mediation for almost everyone who wants to make an application to court. Also the precedent court forms in the Appendix are the new ones. In addition, use of the word 'Affidavit' has gone, replaced with 'Statement'.

The family courts open up

At the end of April 2009, thousands of family courts were opened up to the media. For the first time, lawyers have to advise their clients that the media might be present at their court hearings. However, just because the media can attend a hearing doesn't mean that they can report very much or have access to any court documents. A journalist must apply to the judge for permission to publish information about the case. If he publishes without that, he risks being in contempt of court. Contempt means interfering

with the proper administration of justice, and judges should be free to make their decisions without influence from the media. If someone is found guilty of contempt, he can be fined or imprisoned.

The attendance and reporting rules for members of the press are quite restrictive. The media is allowed in to all hearings concerning children and financial matters, but can't report anything which might lead to the identification of a child, and this is one of the main criticisms that media organisations have about the reforms. The pressure to change the law came about because of the secrecy surrounding care cases, where children may be taken away from their families by social services. The vast majority of these removals are right, but there will always be a few sensationalised ones where the parents might speak to the press, and the court and the professionals involved in the case can't set the record straight.

Public funding (legal aid) becomes less available

As the years have rolled by, fewer and fewer people have qualified for government help with their legal fees. Ministers queue up to tell us that the legal aid budget is growing every year, but what they don't reveal is that for lots of litigants, the government 'help' is actually a loan that is repaid at the end of the case or with interest later, when the family property or assets are sold.

The problem with restricting access to public funding is that people either stretch themselves to take out loans to pay for legal fees that they can't afford, or they just represent themselves, becoming 'litigants in person' (LPs). These are often intelligent people, experts in their own jobs, but not in the ancient and confusing rules of family law. This means that cases spend longer in the family court system, because LPs don't know how to move them along, and aren't being advised on basic legal principles. There are more contested hearings, resulting in more pressure on judges and an already overburdened and understaffed court system. Some very simple applications take months to get through the court; in some places, it would seem that the system is near to collapse.

Instead of addressing the problem, the government's response is to increase court fees, to discourage people from coming to court at all, and to try to make the courts 'break even' on the amount they collect in fees, and the amount they get from the public purse.

Sadly, increasing the availability of justice for more family litigants is not a priority for any political party.

Reforms for cohabitants?

Unmarried couples who live together find the law in England and Wales unfair and confusing, and they are right. The Law Commission produced a report on this and recommended that cohabitants should have the same rights to claim assets and property as married couples, after they had lived together for two years. An MP put his own Bill in to Parliament, but it failed due to lack of government support.

This book is mostly about the law and procedure, but I also aim to arm you with the confidence that will enable you to reach a settlement with your partner that you can live with.

Punam Denley
May 2012

CHAPTER 1

Immediate concerns and important matters to consider

In this chapter, I deal with most of the questions that clients ask during their initial conversation or meeting with me, including whether to divorce and practical matters about money and where to live. I also look at maintenance and ways to resolve your dispute.

Should we separate or get divorced?

Clearly, you are considering divorce or separation, or you would not have bought this book. It's important that you think this decision through carefully, as a lot hinges on it. Can you afford to stay living where you are now? Do you have to sell the house? Who will move out? If it's you, where are you going to live? How will you survive financially? Who will the kids live with? What happens to the dog? You are trying to pull in two directions the finances which are just enough for one family. How are you going to do it? This book hopes to answer these questions and give you practical help to get through this difficult time.

In September 2008 the Office for National Statistics (ONS) found that the divorce rate is actually going down, with fewer people divorcing than thirty years ago. The rate is highest for couples in their late twenties and the average age for a divorcing couple is around 41.

The overwhelming majority of divorce petitions (court applications to end the marriage) are brought on the grounds of the other person's 'unreasonable behaviour' and in most of these cases the woman (68 per cent, according to the Office for National Statistics) starts the case. Generally what I see is that women reach the end of their emotional tether much earlier than men, but may hang on in the marriage for the sake of the children, or for other reasons, such as financial security. I find that women often think about divorce or separation for a good few years before doing anything about it.

When men start the divorce, then, in general, they act more decisively. They allows things to slide for a shorter period of time before they decide to sort matters out. For them, there seems to be a catalyst such as another person, whereas for women, it may be just the passing of time. Equally, the positions can be reversed, and it is certainly true to say that I see as many unfaithful women as men, so I don't think it's fair to say that men commit adultery more than women.

Each case is distinctive; but what is true is that it is rare that two people reach the decision to end their relationship at precisely the same time. This means that one person is going to be pushed along to an unwanted conclusion by his partner. What do you do if you are in that situation? My advice is to talk to each other. Go for couples counselling, if you can. But if you know in your heart of hearts that it's over, then try and work out as much of the details of the divorce or separation as possible with your partner or spouse. This will save you time and money, because if you can agree the details then you won't have to pay an expensive lawyer to do it for you. A neutral third party or a mediator (see page 15) can also help.

If your spouse or partner wants a divorce, then sadly you must accept this. The state of the law in England and Wales is that if you want to get a divorce, you will almost certainly get it and you don't need to wait longer than a year after the wedding to apply for it. If you are the unwilling recipient of a divorce petition, you could try to defend the divorce but any reputable lawyer will tell you that it costs the earth and you stand very little chance of winning. The mere fact that you have resorted to battling to save your marriage in front a judge is proof enough that the relationship is at an end.

Practical matters when splitting up

Money

When people split up they often worry about money; my clients often tell me that they haven't got their own income and their spouse is refusing to give them any money. They are concerned about paying the bills, and how they are going to survive.

So, one of the first things you might want to know when you separate is, 'who pays for what before we've sorted out the divorce?' The general rule in family proceedings is that each person pays their own legal costs, so that is your starting point, but what if you can't pay?

The first thing to do if you're in this situation is ring your local office of the Department for Work and Pensions or visit them online at www.dwp.gov.uk and investigate if you're entitled to any welfare benefits.

You may need to make an emergency court application for your spouse to give you some money to tide you over, which is known as 'maintenance pending suit'. You can only get this if you are married or in a civil partnership and you must have started divorce or dissolution proceedings. You need to make a court application for this maintenance (see chapter 6 below for more details), and the court will expect you to have investigated your entitlement to benefits beforehand. There is likely to be a court hearing and it is quite expensive if you are paying for it yourself. You should find out whether you can obtain public funding (formerly legal aid - see chapter 3) to cover your legal fees. The court will only deal with your 'immediate needs', and if you can't show that you really require the money, then you will be at risk of having to pay your spouse's legal costs because you have made the application unnecessarily.

If you have a good case on maintenance pending suit, this can be resolved very quickly; usually within a matter of weeks. If, however, you have a bit of money to be getting on with, you may have to wait several months before your case can be heard by a judge.

There is a complicated procedure where you can apply for maintenance without having started divorce proceedings. If you want to do this then it is best that you speak to a lawyer, as it is quite an unusual application to make.

If you are not married but are living together, you have no entitlement to maintenance from your partner. However, if you have children with your partner, you can make an application to the Child Support Agency (now the Child Maintenance and Enforcement Commission), who may make an assessment. Unfortunately, this is likely to take several weeks at least and your best option is to see if you can get benefits such as Child Tax Credit or Working Tax Credit.

Accommodation

Another immediate concern you will probably have is: where am I going to live? How do we decide who lives where before we sort the divorce out? There isn't enough money for both of us to have separate properties but we can't bear to live together anymore, what can we do?

Accommodation for married couples and civil partners

The first thing to find out is: do you own the house jointly with your spouse? If the answer is yes, then you are entitled to 50 per cent of the equity (the value less the mortgage and any other debt secured on it). That is the starting point but you may receive less in the event of sale if you have not been married long and have no children, or more if the children are living with you and your income is not as high as that of your spouse. Also the court will look at the home along with all the other assets in deciding how to split it.

If you do not own the house jointly and it is just in your spouse's name, then you still have a financial claim to it, and a right to occupy it, because you are married and these are called 'matrimonial home rights'. You should protect these rights by registering them by way of a 'notice' at the Land Registry (see below). This right to occupy the property continues until the end of the divorce and the idea is that once your right has been registered, no-one can buy the property until your notice has been cleared. Also it means that you can't be ousted from the home without a court order.

Registering your matrimonial home rights

If you are not named on the title deeds of the property that is your main home, you should download a Home Rights 1 (HR1) form from the Land Registry website (www.landregistry.gov.uk) to register your right to occupy. It's free and the form is quite simple. Once you have completed it, send it to your local Land Registry (check on the website to find out which one covers your home). They will write to you to confirm that your right to occupy has been noted on the Land Register. This means that the property shouldn't be sold, remortgaged or transferred until you have removed your notice. You can also register such a notice on other properties owned in your spouse/civil partner's name or in which he or she has an interest.

Keeping your spouse out of the house

A common question is: my husband/wife won't let me back in the house – what do I do? Can I change the locks?

If you are married, then you are entitled to stay in the home, no question. If your spouse has changed the locks, then you can go back in the house whether he likes it or not. You can ask for police assistance although I should warn you that they are not always very helpful in my experience. So you can't keep your spouse out of the house without getting a court order such as an injunction, unless you agree with him that he should leave.

Violent spouses

Unfortunately, there are cases where your spouse is so aggressive you feel scared for your safety. What can you do?

You may be able to obtain an injunction to protect you from domestic violence where it has been used or threatened in the recent past. There are two types of injunction. The first is where there has been abusive behaviour or language falling short of violence. If you get this injunction then this prohibits your spouse from 'harassing, threatening, or pestering' you. The second injunction is where violence is involved and you may be able to get your spouse out of the home by court order. See chapter 8 for further information.

Accommodation for cohabitants

If you own the house jointly, then you are entitled to 50 per cent of the equity (the value less the mortgage and any other debt secured on it). That is the starting point and how much you will actually receive depends on how long you have been together and how much you paid towards the property when it was purchased, or towards home improvements or the mortgage.

If you do not own the house jointly then you have no entitlement to any share of it. If you have your name anywhere on the deeds or any other title document then you have an 'express interest'. Even if you don't, you may still be able to make a claim if you paid towards the house when it was purchased, or towards home improvements or the mortgage. Also did your partner ever make any promises to you that he considers the house half yours? This demonstrates his intention. Has he done anything which may show that he means for you to have a share in the property, such as adding you to his will, or putting money aside for you? This is known as a 'course of conduct'. Both of these routes can lead to your gaining an interest in the home where you do not have an express interest. This is a complex area of law and is covered further in chapter 6 below.

If you have children, you may have a better claim to stay in the home if your name is not on the deeds. Whether or not this is the case depends on lots of factors, not least how much equity there is in the property and if there are any other assets.

Case study

Ms K came in to see me. She had been in a relationship with Mr S, and had moved into his house which he owned in his sole name. The relationship broke down when she discovered that she was pregnant, and Mr S asked Ms K to leave. She rented a flat. She needed advice because the baby had been born and she needed to know where she stood. I advised her that, in relation to the money, she had no claim on his house for herself but she might be able to make a claim for her daughter. In the end she settled for a small lump sum payment and regular maintenance through the Child Support Agency. She couldn't go for anything more as her partner didn't have a huge amount of equity in his house.

Keeping your partner out of the home

If you own the property jointly, then the position is the same as for married couples. You can seek an injunction and you have the right to stay in the property. If the home is owned in your partner's sole name, then you will have more difficulty persuading a court to get them out. If you do, it will only be for a limited time, and then the court will expect you to find your own accommodation.

Severing a joint tenancy

If you bought a property with your spouse or partner then the records of ownership at the Land Registry probably show that you hold the property as 'joint tenants'. What this means is that the 'right of survivorship' applies, so that when one of you dies, the other inherits the deceased's half share automatically, without it having to be left by will. The only way to stop this happening is to 'sever' the tenancy, so that one person's half share passes into his estate to be distributed according to his will, rather than directly to his spouse. This is done by a simple form called a 'notice of severance' (see the Appendix), which identifies your names and the property address, and which is sent to your spouse/partner. Once that has been sent, a copy of the notice is lodged at the Land Registry which records this on the title documents of the property.

You might sever the tenancy if you want to stop your spouse/joint owner getting their hands on your 50 per cent share of the home if you should die before it is sold or transferred from joint names into a sole name. This procedure is the same whether you are married, in a civil partnership or cohabiting.

Keeping records, sorting out your paperwork

The importance of record keeping

It is particularly important to keep a diary if there are arguments and incidents which may lead to a domestic violence injunction. However, there may be other daily events which merit recording for all sorts of

reasons, like who pays for what in the home. Also if there is a dispute about how much time the children spend with your partner, and what they do when they are with him.

Presenting information

Here is a sample background and financial assets information and personal expenditure sheet. I ask my clients to fill it in, or complete it whilst they are with me.

INFORMATION SHEET (Divorce/Finances)

Your full name and date of birth:	
Home no:	
Mobile no:	
Email address:	

Your current address and terms of occupation:

Correspondence address (<i>if you don't want the lawyer to write to you at your home</i>):

Your occupation and gross/net income:	
---------------------------------------	--

Full name of spouse and their date of birth:	
Spouse's occupation and gross/net income:	

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Date of the marriage (original marriage certificate required if you want to divorce):	
---	--

Date cohabitation started (if you now live with someone else):	
--	--

Date of the separation (from your spouse/civil partner):	
--	--

Full names and dates of birth of any children:		
Child's name:	Date of birth:	With whom do they live?

What are the present and any proposed future educational arrangements for the children?		
Child's name:	Present arrangements:	Future arrangements:

PROPERTY ADDRESS:		
	Valuations: Amount	Mortgage:
1.		
2.		
3.		

How to get a Divorce

ROUGH BALANCE ON BANK ACCOUNTS: Bank & Building Society Accounts in credit (or with nil balance)

Name of institution:	In the name(s) of:	Balance: £

OTHER INVESTMENTS *PEPs/ISAs/TESSAs, bonds, National Savings Investments, trusts, shares*

Name of institution:	In the name(s) of:	No. of shares:	Value: £

CARS

In the name(s) of:	Value: £

INSURANCE POLICIES SURRENDER VALUES

Name of institution:	In the name(s) of:	Surrender value: £

PENSIONS

Name of institution:	In the name of:	Cash Equivalent Transfer Value (CETV): £

BUSINESS ASSETS	
Name of business:	Details of your interest and approximate value:

OTHER	
In the name of:	Details of your interest and approximate value:

LIABILITIES

BANK ACCOUNTS WITH DEBIT BALANCES	
Name of institution:	In the name(s) of and balance:

LOANS		
Name of institution:	In the name(s) of:	Amount outstanding: £

CREDIT CARDS (including store cards)		
Name of institution:	In the name(s) of:	Balance: £

OTHER MONIES OWING (tax, etc.)		
Details:	In the name(s) of:	Value: £

ANNUALISED PERSONAL EXPENDITURE SHEET

Future £

INFRASTRUCTURE

Council Tax:
Water rates (estimate):
Buildings and contents insurance:
Cost of service of central heating system:
Gas:
Electricity:
Satellite TV:
Mobile telephone:
Telephone / Internet:
TV licence:

Subtotal

PERSONAL NEEDS

Clothes:
Footwear:
Hairdressing:
Cosmetics and toiletries:
Optician:
Dentist and medical:

Subtotal

FOOD

Groceries, etc.

Subtotal

SERVICES

Laundry, cleaning:
Cleaning materials:
Stationery:
Garden plants, seeds, sundries:
Subtotal

LEISURE

Sports club subscription:
Theatre, cinema, concerts:
Books, magazines, DVDs:
Restaurants, eating out:
Subtotal

FAMILY

Food and incidentals:
Christmas expenses:
Birthday/gifts:
Subtotal

TRAVEL

Car licence:
Travel for work:
Parking:
Insurance:
Car maintenance, repairs, replacements:
Petrol and oil:
Car wash:
Subtotal

HOLIDAYS

Holiday:

Subtotal

FINANCIAL

Loan repayments:

Life insurance and endowment policies:

Maintenance:

Other expenses:

Subtotal

MORTGAGE

Mortgage and obligatory
mortgage life/critical
illness covers:

GRAND TOTAL

This is a very important bit of homework to do before you have your first meeting with your solicitor. He will need to know approximately what you're worth before he can advise you on where you stand financially. In addition, it saves time and money. The less time your solicitor has to spend asking you questions and taking notes, the less expensive your initial meeting is likely to be.

Sometimes one spouse or partner has all the paperwork. So, what can you do? This is a tricky area as the courts don't particularly want to create a 'snooper's charter' in family law. A recent case decided by the Court of Appeal has said that you can't go around the house looking at your spouse's confidential information, and if you pass it to your lawyer, he may not be able to act for you. You should seek specialist legal advice in this area. What the law currently seems to say is that only if you find documents lying around the house in communal places (i.e. not your spouse's study) can you utilise them. Have a look through papers that are easily accessible. Don't open post that doesn't belong to you – that's a criminal offence anyway. Don't open private safes, and the court has recently ruled that it's wrong to give your spouse's computer to a PC specialist to try and find out what's on the hard drive!

Ways to sort out your divorce

Keep the lines of communication open

I really can't emphasise this enough. The less you talk to your spouse/partner, the more you'll pay your lawyers, or, if you're representing yourself, the more time you'll spend out of work and in court.

Counselling

Counselling is a brilliant resource. Counsellors are generally professional and have alternative ways of looking at your problems. If there's any hope of rescuing your relationship, I can highly recommend that you go for counselling. You can find out more information from Relate and the British Association for Counselling and Psychotherapy (see Appendix).

Mediation

A mediator is an independent person who will try to broker an agreement between you and your partner through a series of meetings. He generally has a different perspective and does genuinely help you talk to each other. If you do manage to settle your case with him, he will draw up an agreement called a 'memorandum of understanding' which sets out the exact terms of the agreement and how you got to that point. You should take this to a solicitor to get advice on and have drawn up into a court document called a 'consent order' which brings to an end the financial claims that you have against one another.

Mediation is particularly important now, with the arrival of the Family Proceedings Rules in April 2011. It is known as the 'Mediation Pre-Application Protocol' and it states that if you want to make an application for the court hearing to deal with your dispute over money or your children, you must have seen a mediator for a 'mediation information and assessment meeting', unless you are in one of the exempt categories. The court will expect you to attend the assessment meeting and will wish to know at the first hearing whether mediation has been considered. The Rules say that a judge can take into account any failure to attend and may

refer you and your spouse or partner to a mediator, before taking proceedings any further.

If you are making the application then you must pay for the assessment meeting privately, unless you are in receipt of public funding.

Once you've had the assessment meeting and you are making your application to court, you must also file a completed Family Mediation Information and Assessment Form (FM1). This is filled in by the mediator.

There are exceptions to the general rule that you must attend an assessment meeting, these are, among others:

- proceedings for an emergency application such as to prevent your spouse or partner from getting rid of some money (under Section 37 of the Matrimonial Causes Act 1973);
- proceedings for enforcement of any financial order already made;
- the proposed application is without notice (i.e. you are going to court without telling your partner about it, because it's an emergency);
- where bankruptcy or domestic violence is an issue;
- where delay would result in harm or unreasonable hardship to you or irretrievable problems in dealing with your dispute.

At the time of publication, court offices are accepting court applications without a completed mediation form, but judges are sending parties to mediation at the first hearing, or later.

You can find out more information about mediation from the Family Mediation Helpline, Family Mediators Association, National Family Mediation and Resolution (see Appendix for contact details).

Collaborative law

This is where you and your spouse go to see lawyers who have trained in collaborative law. All four of you (you, your spouse and your respective solicitors) sign up to a 'participation agreement' in which you promise not to go to court and to resolve your case through face-to-face 'four-way meetings', rather than lengthy letters between the lawyers. If any one of you

makes an application to court, you break the agreement and lose the right to be represented by your chosen solicitor. You have to start all over again and find a new solicitor. The idea is that you are committed to sorting out your case without going to court. Collaborative law is suitable for unmarried couples too.

You can find out more information about mediation from the Collaborative Family Lawyers website and Resolution (see Appendix for contact details).

Instructing a legal professional

The conventional route is where you and your spouse instruct solicitors to draw up divorce or other proceedings and try to resolve things through letters and telephone calls (see chapter 3, 'Getting Legal Advice').

If that fails, then there will be a court hearing and a judge may ultimately decide for you. This is both good and bad. It's good because it means you are forced to sort things out because of court deadlines, but it's bad because it's expensive and if you go all the way to final hearing, you're leaving one of the most important decisions in your life to a stranger.

Can I stop the divorce once it starts?

Yes, you can, as long as it hasn't gone too far, and as long as your spouse agrees. If you both agree that you want to stop the divorce, you can, but only if you haven't reached the final decree which dissolves your marriage – decree absolute. Also, if you have made an application to court, you can withdraw it with the consent of your spouse.

Above all, don't be afraid to ask your spouse if the marriage can be rescued.