

# InfoSheet: Getting divorced

## Our service commitment

We take a personal interest in you and want to help take the stress out of one of life's most challenging times. We are here to help you, give you guidance and professional advice. We will take the time to listen to you.

Our commitment to you is that we will:

- outline how long we expect it to take
- regularly update you on how your matter is progressing
- give you a clear indication of the costs before starting work for you
- provide flexible payment options
- give you access to our Accredited Specialist in Family Law

## The first steps

For a discounted fee of \$250 you can consult with one of our specialist lawyers who will provide you with advice in relation to your specific issues and point you in the right direction for the best outcome for you and your family

*alternatively .....*

You can consult with one of our specialist lawyers at our Free Family Law Clinic held monthly at our Dapto or Shellharbour offices. This appointment is restricted to 30 minutes and provides a summary of the family law process.

## Grounds for divorce

The only basis for a divorce is "irretrievable breakdown of marriage". You must establish this by proving that you have been separated from your spouse for 12 months and that there is no reasonable likelihood of reconciliation. It is possible to be classed as being separated from your spouse even though you may remain living under the same roof.

## Keep you informed of progress

We will notify you in writing when various stages have been completed. More importantly, we will contact you immediately if any delays occur or problems are encountered.

## A clear indication of costs

We will tell you what the cost of the divorce will be, including:

- court filing fee
- process server's fee
- legal costs
- exemptions that apply to you

## The process

### Our first meeting

This meeting will last for about an hour and we will ask you to tell us about the things covered in this information sheet. When arranging your divorce, we also need to consider things such as:

- parenting orders & financial support for children
- the division of property
- protection from violence or harassment
- your Will & estate planning
- counselling / meditation

We will ask you a series of questions that provide us with all the details we need to handle your divorce. Once this is done we prepare the Application for Divorce for your signature. The application is then filed with the court.

### The court hearings

We will give you six weeks notice of the date when your divorce will be heard by the Federal Magistrates Court and we will have the papers delivered to your husband or wife.

You will normally not be required to attend court, unless you have children under the age of 18 or you and spouse have lived under the same roof. We can take care of every detail during the proceedings.

Once the court is satisfied that a proper separation has taken place and arrangements for the children have been made, it will grant your divorce. The divorce automatically becomes final one month and one day later and we will send you a copy of the court order.

### Court filing fee

You may be able to have the court fees reduced and you should talk to us about this.

## Marriage certificate

You will need to give us your original marriage certificate. If you do not have one, we can obtain one from the Registry of Births, Deaths & Marriages.

## What about the children?

Before granting the divorce the court will need to be satisfied that proper arrangements have been made for your children.

The court will need to be advised what has been arranged for their financial support, living arrangements and time spent with the other parent.

We will give you advice about these matters.

## Trial reconciliation

After you have separated you may want to try living together again. If, after a trial reconciliation, you decide to go ahead with the divorce, the later separation is added to the separation and both count towards the 12 months necessary before you can apply for a divorce.

If the time spent together again lasts for three months or more, you will have to prove that you have had a full 12 months apart after the second separation.

## Married less than two years

If you have been married for less than two years before you apply for a divorce the law requires that you make an appointment for you and your former spouse to see an approved marriage or court counsellor to discuss reconciliation. We can arrange this for you.

If discussions fail, the counsellor will give you a certificate which forms part of your application for a divorce.

## Living in the same house

You can get a divorce even if you live in the same home. Couples can stay in the same home and still be separated. You may both want to be with the children or live under the same roof for financial reasons.

If you both remain living in the same home you need to show to the court that one or both of you has decided to end the marriage and you no longer share the usual activities of a married couple, such as eating meals together or going out together.

You can still be involved in household chores, see your children's teachers together or share the family car.

The important question is whether the marriage relationship has ended and whether your family and friends know this.

## Australian citizen?

You do not have to be an Australian citizen to get a divorce in Australia. You can get a divorce if:

- either you or your spouse have your permanent home in Australia even though you may be away temporarily, travelling or working
- one of you is an Australian citizen by birth or citizenship
- one of you has lived in Australia for 12 months

## Married overseas?

If your marriage is valid it does not matter whether you were married in Australia or in another country. We may need to get your marriage certificate translated into English if your marriage certificate is written in a language other than English.

