

# The highs and lows of blame-free digital divorce

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According to figures from the Ministry for Justice, divorce applications rose by 20% in the year following the introduction of no-fault divorce (2022 to 2023).

While the headline process may be more straightforward, couples going through the legal process of breaking up are still experiencing many challenges.

Heralded as a new dawn for parting couples, the [Divorce, Dissolution and Separation Act 2020](#) aimed to streamline the divorce process when introduced in April 2022. During the first quarter of 2023, the court digitally processed 96% of all divorce cases. The new process has undoubtedly streamlined the process of applying for a divorce and made it easier for clients to apply themselves.

The no-fault divorce has made divorce less confrontational, allowing couples to end a marriage with a statement of irretrievable breakdown, where previously one partner had to blame the other for adultery, desertion, or unreasonable behaviour, or the couple had to go through a period of separation.

The new law also allows couples to file for divorce jointly, reflecting a mutual agreement to part. Between January and March 2023, couples made a quarter of all applications jointly. While this is a positive step in making the process less adversarial, there is still some way to go.

Notably, the change was welcomed as a significant advance for those looking to leave abusive marriages. Now, victims of domestic abuse can take action knowing their spouse cannot contest the divorce, which can give some control back to the victim and reduce the anxiety and emotional turmoil of the divorce process.

The reforms marked a significant milestone in family law, with the potential to reduce the emotional strain on couples going through marital breakdowns. However, two years on, the bigger picture is a mixed outcome for those directly impacted by the process.

## How simplification creates complication

The attraction of what has been promoted as '[digital divorce](#)' via an online portal and the removal of apportioning blame may seem like a quick-fix, low-cost solution to what was previously a complex procedure.

Indeed, one top internet search result for divorce promises: '...complete and submit the court forms yourself. This will be the cheapest option as you only have to pay the court fees.'

But getting divorced involves more than just a legal process to end the marriage: in most circumstances, it will also require negotiation and agreement on everything from how any children may be cared for to bank accounts, business and pensions, what happens to the family home, and where each partner will live once all things financial have been mediated.

While the new digital process undoubtedly makes it much easier to take a DIY route to end the marriage, genuine problems may arise if you finalise a divorce without tackling and agreeing on financial matters.

Claims over finances cannot be resolved by personal agreement, even if they seem pretty amicable at the time. Without a financial order approved by the court, either party can make a financial claim on the other long after the marriage has ended.

Lack of advice may also leave one side open to exploitation by the other, either because they do not realise what they may be entitled to in a fair division of assets or they may not even know what assets their former spouse owns. The exchange of financial disclosure and the preparation and approval of a financial order by the courts (who will review the financial position of both parties before approving), combined with independent advice, can help overcome these issues.

A lack of knowledge affects not just those taking the DIY route. Increasing numbers of online operators who may not have the expertise to guide couples along the journey have entered the digital divorce market. The [Competition and Markets Authority \(CMA\)](#) has begun a review of digital legal services, including 'quickie' divorces, because of concerns over unregulated advisers.

The CMA has said that while alternative providers can be innovative and sometimes cheaper, it found "misleading claims about both the simplicity of the process and prices" from those offering divorce, leaving consumers "unclear about what they can be helped with or what they are paying for". The CMA highlighted "inadequate quality of service, including firms using the wrong forms, entering incorrect details, sending papers to the court late".

## The new divorce deal breaker

In recent years, financial negotiations have focused increasingly on the value of the family home and the challenge of providing a roof for each partner in the face of soaring house prices, particularly when both homes need to be big enough for children to spend time living with each parent. Alongside pension sharing, business assets and inheritances, property remains the big issue.

Following steep rises in interest rates and stricter affordability tests from lenders, many clients have been priced out of the market and consequently require a more significant share of the pot to enable them to rehouse

## Tax changes give breathing space

Alongside all the challenges, there is at least some good news, with a valuable change in how HMRC taxes divorcing couples. Since April 2023, there has been a new timetable for capital gains tax reliefs when couples break up.

Transfers and disposals between a couple can be on a 'no gain, no loss' basis while together. Previously, the relief was also allowed during the first tax year of any separation. However, once outside that first tax year, matters became complex and could involve tax charges on the spouse or civil partner transferring the asset.

The new rules allow separating couples to make a no-gain, no-loss transfer up to three years after the year they cease to live together, with no time limit when the transfer is part of a divorce agreement covered by a court order.

With financial matters becoming increasingly complex and court delays, many divorces are taking longer to complete. Hence, the change in the treatment of capital gains for separating couples is important and valuable for many couples.

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