



Good Divorce Week 2020 Day 2: How does this start?

Service area / [Dispute Resolution and Litigation, Private Client](#)

Legal jurisdiction / [Jersey](#)

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Good Divorce Week, which began yesterday, is an annual campaign that aims to promote practical and constructive ways for separating parents to put the needs of their children first.

Every year, Resolution, an organisation of family justice professionals, campaigns on a core issue to its membership. This year Resolution is asking members to commit to giving 30 minutes of free legal or professional advice to those who need it during this week.

This is not something new for us at Carey Olsen – we are always happy to have a free 30 minute initial meeting or call with you to see if we can assist you with matters arising from your relationship breakdown. However, to celebrate the week, we are also going to release a daily LinkedIn post answering some of the common questions we come across.

Day 2: How does this start?

There are normally three main elements to our advice on the breakdown of a marriage:

1. How to get divorced
2. The separation of your finances
3. Arrangements for your children

The divorce process itself is largely procedural and is started by filing a divorce petition with the Royal Court. Unless there are exceptional circumstances, you will need to have been married for three years in order to be eligible. You will also need to tell the court which of the grounds outlined in statute you are relying on as the reason for your divorce.

The main grounds for divorce are:

- Adultery
- Desertion for a period of at least two years
- Unreasonable behaviour
- Lived apart for one year and your spouse consents to the divorce
- Lived apart for two years

Relationships can break down for a multitude of reasons and it is common for spouses to try and attribute fault to each other for the breakdown. Regrettably, this is something the law currently encourages, with the need to cite a fault-based ground, namely adultery or unreasonable behaviour, if you want to start the process straight away, unless you are able to rely on one of the separation grounds. However, if you are in the position of needing to rely on your spouse's unreasonable behaviour, this does not mean that you need to press the nuclear button and include significant and hurtful detail in your divorce petition. Indeed, whilst this may be something you want to do when you're hurting from the breakdown of your relationship, doing so has the potential to cause irreparable damage to your remaining and continuing relationship and can, unfortunately, set the tone for not only the negotiations in respect of your finances, but also your co-parenting relationship. There is also little, if anything, to gain from citing your spouse's faults in great detail, as it is very rare that your spouse's behaviour will have an impact on the separation of your finances, which is dealt with as a separate issue in a post later this week.

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Our top tips:

- Try to be as amicable and pragmatic as possible in your approach to the divorce proceedings. Remember that the approach you take to the divorce proceedings will inevitably impact your negotiations in respect of finances and your co-parenting relationship with your spouse after divorce.
- Consider whether you need to start the divorce process immediately, or whether it would be preferable to wait until you have been separated for a year and your spouse can consent to the divorce.
- Be careful not to act too hastily, it's better to give yourself time to consider matters carefully and make sure you take early and sensible legal advice.



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