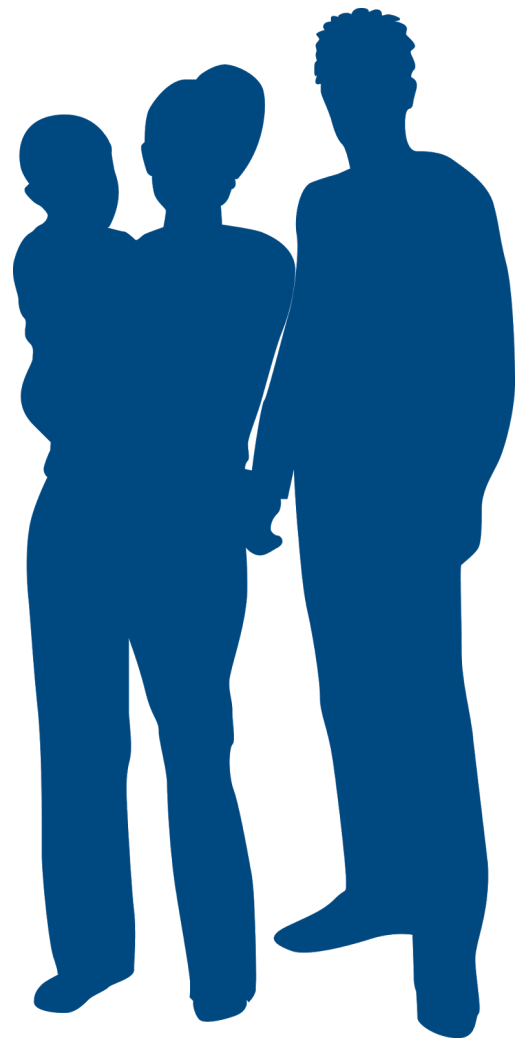


# Divorced from reality

Six steps to ensuring  
divorce processes meet  
separating families'  
needs



Katherine Vaughan and Roberto Merola



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# Summary

Going through a divorce is always going to be a difficult time. For those couples and families who want and are able to stay together, support should be made available to help them do so. However, our data shows that those who don't want or aren't able to stay together are struggling. Slow, unnecessary processes and poor services are stopping people from being able to make practical agreements and move forward with their lives. This is having a negative impact far beyond the divorce itself and affects the rest of people's lives.

Family justice is changing. Family courts are closing, legal aid is harder to access, processes and tools are moving online, and people are being encouraged to use less combative forms of dispute resolution. This time of significant change has the potential to improve couples' and families' experiences and help preserve positive relationships in the family. However, six important steps should be taken to allow couples who aren't able to stay together to achieve a 'good separation'.

**1 Give people an idea of what lies ahead.** A lack of understanding of what divorce involves leaves many feeling lost, anxious and unable to make decisions.

- People should be able to access real people's stories to help them understand the sorts of experiences couples have.
- This should form part of a range of interactive online tools that use basic questions to tailor signposting and information to each person's needs.
- The Ministry of Justice (MoJ) should develop these online tools to support the needs of domestic abuse survivors as particularly vulnerable people.

**2 Enable people to make informed decisions about services.** Not being able to compare between different options means people fail to access the services that could help them resolve their problems.

- The MoJ should raise awareness of the different types of mediation and alternative dispute resolution processes (ADR) available.
- Mediation and Information Assessment Meetings (MIAMs) and online information should help people understand the different forms of mediation and ADR.
- People who are eligible for legal aid should be able to use it for a range of appropriate types of mediation, ADR and other family law services.

- Family solicitors' websites should display information on complaints, communication channels, domestic abuse accreditations and average prices.

**3 Encourage constructive relationships.** The requirement to place blame and the adversarial approach adopted by some legal professionals often make it harder for couples to work constructively with each other.

- The MoJ should allow couples to submit a no fault divorce petition and then obtain a divorce if they still want to do so after 6 months.
- Family law regulators should explore ways to spread the good practice that exists - issuing guidance, training and tools to ensure that all legal professionals promote amicable relationships where possible.

**4 Simplify language and processes.** Intimidating forms and the decree absolute create unnecessary difficulties for users.

- The MoJ and HM Courts and Tribunals Service (HMCTS) should build user-friendly divorce forms. Forms should include prompts, explanations, examples of common errors, diagnostic questions and auto-filling.
- The decree absolute confirming the end of the marriage should be 'opt-out' rather than 'opt-in', removing the need for an additional form.

**5 Design legal processes that reflect life changes.** There is currently a lack of support to help people cope with the changes that come at the same time as divorce, such as to finances, housing, work and health.

- Service providers should refer or signpost couples to practical and emotional support throughout the process to ensure a more seamless and integrated support offer.

**6 Create a system that works for everyone.** Designing services with vulnerable people (such as digitally excluded people or victims of domestic abuse) in mind is vital to ensure nobody is left behind.

- The MoJ should ensure online services are simple and intuitive, and have in place a clear plan of support for people who do not have the skills or access to use digital services.
- The MoJ's review of legal aid evidence requirements should also ensure that it is easier for victims to access legal aid, and that victims are not charged to obtain the evidence they need, such as by a GP.

# Background

The breakdown of a relationship can be a very difficult time in people's lives. At Citizens Advice, we see the variety of problems people face when getting divorced. In 2016, we advised more than 65,000 people face to face about divorce, separation or dissolution and dealt with almost 100,000 relationship breakdown problems. We use this insight to understand how people navigate the divorce process and how intricately bound up divorce is with other major life changes, such as moving home and starting a new job. Divorce is the most searched term on our website, with 10,000 unique searches each week. By looking at the range of online search terms (from "getting a divorce needing somewhere to live till divorce finalised", to "legal aid for divorce", to "access to children following divorce") we have unique insight into how people approach their problems.

This is a time of great change in family justice. Changes to legal aid in 2013 mean fewer people are accessing family lawyers than before. Physical courts are closing down and people are increasingly being redirected to alternative means of dispute resolution as well as online.

## **Fewer people are able to access family lawyers**

Legal aid was removed for most of family law under the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (LASPO) in April 2013. This has radically changed the legal advice and representation available to users.<sup>1</sup> People getting divorced are increasingly going to court without a lawyer - divorce and annulment cases where neither party had legal representation rose from 25% in 2011 to 40% in 2015.<sup>2</sup> Others aren't going to court at all - cases where either side had to attend at least one hearing fell from 11% in 2011 to 6% in 2015.<sup>3</sup> 2 in 5 (43%) people going through divorce or dissolution deal with their legal issues without obtaining advice and assistance, either relying on friends and family or going through it alone.<sup>4</sup>

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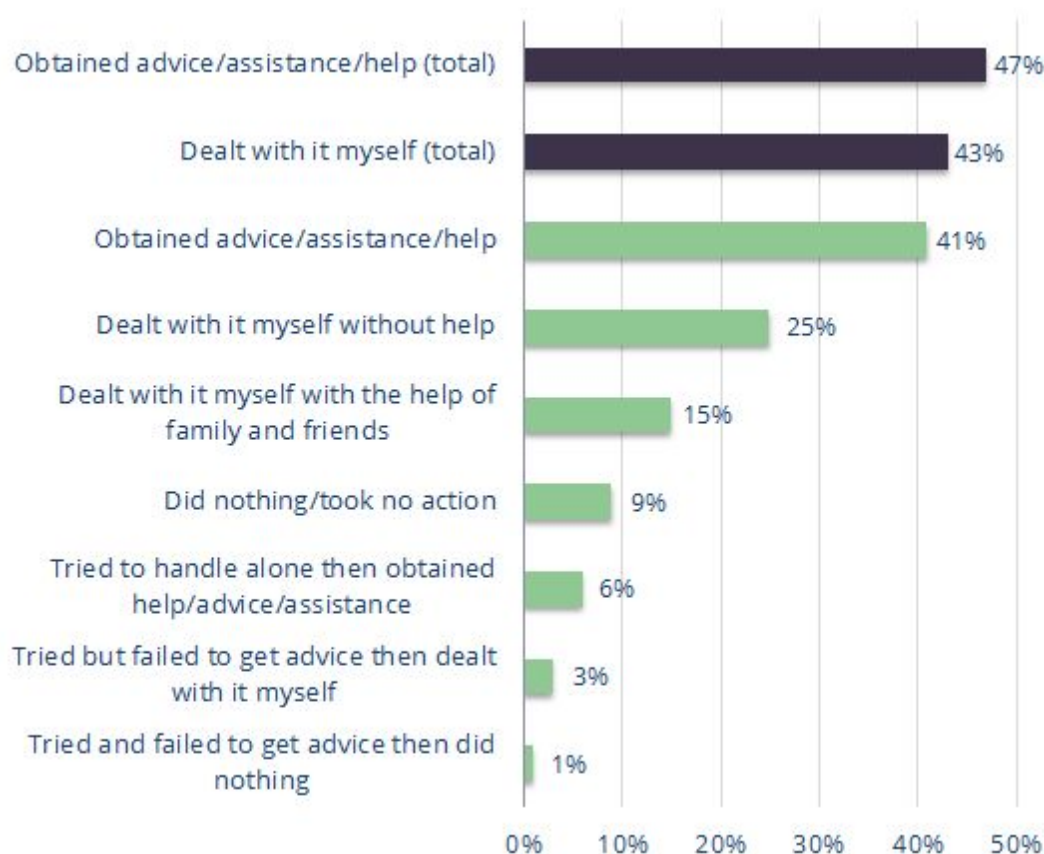
<sup>1</sup> Legal Aid Agency, [Legal Aid Statistics England and Wales](#), December 2016: between 2012-2013 and 2015-2017, there has been a 43% reduction in applications for legal aid and a 37% reduction in awards in private family cases.

<sup>2</sup> Ministry of Justice, [Family Court Statistics Quarterly](#), December 2016.

<sup>3</sup> Ministry of Justice, [Family Court Statistics Quarterly](#), December 2016.

<sup>4</sup> Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#).

**Figure 1. Support in divorce proceedings**



Source: Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#)

### **Family justice is moving out of the courtroom**

The number of physical courts is reducing and the cost of going to court is rising. Since HMCTS consulted on its plans to consolidate the court estate, 84 courts have closed or are earmarked for closure, including 19 family courts across England and Wales.<sup>5</sup> At the same time, costs to court users are rising sharply, for instance court fees for divorce rose a third last year to £550.<sup>6</sup>

Against this backdrop, the Ministry of Justice (MoJ) is strongly incentivising alternative forms of dispute resolution. In April 2014, the MoJ introduced the requirement for couples to attend a Mediation and Information Assessment Meeting (MIAM) before initiating court proceedings.<sup>7</sup> The role of these meetings was to increase the take up of mediation in family disputes. However, the

<sup>5</sup> HMCTS, [Potential Implementation Dates](#), January 2017.

<sup>6</sup> Ministry of Justice, [Consultation Results](#), April 2016.

<sup>7</sup> As provided for in section 10 of the *Children and Families Act 2014*.

number of MIAMs stabilised at around half the level taking place before LASPO.<sup>8</sup> According to the Justice Select Committee, this was due to the delay between LASPO's introduction and mediation being made compulsory, the removal of lawyers as promoters of alternative dispute resolution, and the lack of clear and accessible legal aid and information on mediation.<sup>9</sup>

The MoJ is currently developing an 'Out of Court Pathway' to help people resolve their problems in this new context. This comprises information, tools and services to help separating couples access the services they need and come to practical solutions. The MoJ's 'Transforming Our Justice System' initiative also plans to simplify processes and information to allow couples to make the right arrangements themselves, as well as introducing new and less combative forms of dispute resolution.<sup>10</sup>

### **The justice system - and help to use it - is moving online**

The Ministry of Justice is increasingly identifying areas where users would benefit from services being available online as well as in person. Benefit tribunals, civil claims of up to £25,000, traffic penalty tribunals and guilty pleas in the Magistrate's courts are the first wave of processes to be digitised.<sup>11</sup> The MoJ is currently testing and developing new digital tools as part of this wholesale shift to digital - including online pleadings and virtual hearings.

In family justice, Her Majesty's Courts & Tribunals Service (HMCTS) is currently preparing a pilot project to allow divorce petitions to be lodged online, with parties being able to upload copies of relevant documents.<sup>12</sup>

This development of digital tools is not limited to government. There has also been a steady rise in online tools (such as CourtNav, an online tool that allows users to check their divorce petitions for mistakes before submission) and advice, and a growth in online peer-to-peer support.

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<sup>8</sup> Ministry of Justice, [Legal Aid Statistics in England and Wales](#), September 2016.

<sup>9</sup> Justice Committee, [Impact of Changes to Civil Legal Aid under Part 1 of LASPO](#), March 2015.

<sup>10</sup> Ministry of Justice, [Transforming our Justice System](#), September 2016.

<sup>11</sup> Ministry of Justice, [Impact Assessment](#), September 2016.

<sup>12</sup> The Times, [Online Divorces to Spare Couples Time and Trouble](#), 3 January 2017.

# Our research

This report builds on previous research by Citizens Advice. Previous Citizens Advice research found that the majority of litigants in person in the family courts find self-representation difficult, time consuming and emotionally draining.<sup>13</sup> But we found that a lot of the difficult experiences people were having weren't just down to self representing, they were the result of wider problems with the process of divorce. This research in turn builds on our wide programme of work on the experience of victims of domestic abuse.

## Research method

### Using our data

The Citizens Advice data used in this report comes from an analysis of the type of problems people come to us with when divorcing and a cluster analysis of what issues people faced alongside divorce and separation. This data was supplemented by Google Analytics on search queries and movement through the website to understand how people go about trying to resolve their problems. This report also draws on anonymised case notes from our frontline services and a survey of 208 frontline advisers, gateway assessors, trustees and managers as well as those in support, research and campaigns roles.<sup>14</sup>

### Supplementing our data

We recruited ten people who had divorced since LASPO. The sample represented a range of ages, genders and household incomes. We spoke to people with and without children and joint assets, people who had varying levels of cooperation with their ex-partner, and people who did and did not use legal advice and/or representation. With these people, we did in-depth journey mapping and depth interviews. A brief description of our 10 case studies is included in Appendix A.<sup>15</sup>

This research covers England and Wales.

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<sup>13</sup> Citizens Advice, [Standing Alone](#), March 2016.

<sup>14</sup> Respondents to this survey are hereon referred to as 'advisers'.

<sup>15</sup> All names and any identifiable descriptions have been changed to preserve anonymity throughout this report.



# 1. Give people an idea of what lies ahead

Few people going through a divorce fully understand what lies ahead - whether their legal position, their rights or simply the implications of decisions to come.<sup>16</sup> There is no single pathway for finding out about divorce and no common starting point for discovery. One of our interviewees explained that starting the divorce process is “like going into a tunnel and you have no idea what is in there”. Many want an outline of the journey ahead from the outset and several of our interviewees believed they would have considerably benefited from it. However, everyone’s journey is different, and a route map just does not exist.

For many, searching online is the first point of call. This can provide valuable information. However, information can also be conflicting, partial or out of date. Several respondents were frustrated to discover the information they encountered was incorrect, unmoderated or simply not relevant to their situation (such as information from American websites).

Online forums - where people exchange stories and advice - act as a lifeline for many, allowing people to hear other people’s experiences.



“It’s good to have sign-posting, otherwise you’re left just putting random words into a search engine then just fingers crossed, and hopefully you’ll end up with the right thing... Everyone I spoke to had a sort of niche bit of information. So it would be good to have [clear links like] ‘Gingerbread... are especially for separated parents... and this is the advice they give you.’”

While forums were described by some respondents as showing a “light at the end of the tunnel” that is the divorce process, the content of these platforms is often negative, too. “Horror stories” of things going wrong often gave readers as many new concerns as the concerns they solved.

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<sup>16</sup>Law Society, [Online Survey of Individuals’ Handling of Legal Issues in England and Wales 2015](#): Only 16% of respondents with divorce or dissolution issues described themselves as completely understanding their rights.

Many of those going through a divorce do not anticipate the costs or timescales and therefore fail to access appropriate support. One of our respondents described the continuing disputes with her ex partner and the timescale for resolution like “a snowball getting bigger, bigger and bigger, and you have no idea when it’s going to end”.

Our advisers see this, too. Fewer than 1 in 10 (9%) Citizens Advice advisers think the divorce clients they see tend to understand the options available to them throughout the process. Not having a clear sense of the process, costs and timescales involved can heighten stress and anxiety and make people feel powerless. It can also mean people make decisions that do not stand in their favour.

Some of our respondents felt that not having the full picture at the beginning of the process led to them achieving worse outcomes. For instance, two of our respondents moved out of the family home before fully understanding the implications it would have on their ability to negotiate agreements in the future.



“So I would advise people, probably not leave the marital home like I did. You know, I did it because I wanted a roof over my children’s heads. If I stayed in the marital home and filed for divorce while I was with him, I could have put a charge on the property.”



“I ended up living with my mother for a couple of weeks, while I found somewhere to rent... The only thing I wish I’d have done is kicked him out, instead of leaving. Not for the house [but] for the kids, because [of] the upheaval for the children.”

### **Recommendation 1: The Moj should provide real people’s stories through an interactive tool.**

Everyone’s divorce is unique. Complexities around finances, housing and children mean that no one divorce is the same as another. However, common themes run through divorce, and a view of other people’s stories can begin to outline the different routes people can take. Understanding, for instance, that someone else’s divorce was slowed down by difficult decisions about pensions

will help others to begin to envisage the shape that their own journey might take.

As the MoJ develops online tools, they should create a set of detailed, anonymised stories that reflect the diversity and complexity of real people's journeys. They should include all aspects of the formal divorce process, such as submitting the initial divorce petition and choosing the grounds for divorce. They should also feature other life events, timelines, costs, and moments of decision (such as between paying for legal advice and choosing self-representation).



“So it’s a bit like driving. If you go down Heathrow, it’s a motorway. It’s faster, but you’re probably going to come across some heavy traffic because it’s Sunday night and the traffic is horrendous to get home. The scenic route, it’s slightly longer, but you’ll get there and there is no traffic. It’s that, kind of - you know, the consequences. I needed to know.”

These stories should be available online, behind a short set of questions which allow users to filter out stories aren't relevant to them. The text surrounding these tools should make clear that the stories present the variety of journeys and the complexities that occur along the way, and cannot predict what anyone else's journey may look like.

Links to this tool should be available in those places where service users naturally go.<sup>17</sup> In the context of digitisation, information sources should include where people look online, for instance on the Citizens Advice website, Relate, Cafcass, Resolution, Gingerbread, other support organisations and the online portal through which the divorce petition is submitted.

### **Recommendation 2: The MoJ should develop tools that signpost people to wider support as well as relevant divorce services.**

Once people begin to get a clearer sense of what lies ahead, they should have access to tailored signposting to services useful to them. The MoJ's current focus on tools to help parents agree to child arrangements is a welcome first step.

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<sup>17</sup> The Law Commission, for example, has in the past called for information about the divorce process to come from the court with which the divorce petition is lodged. The Law Commission, *Family Law: The Grounds for Divorce*, October 1990.

However, signposting should not be restricted to support on the divorce process itself but rather should be expanded to reflect people's wider needs. The majority (55%) of clients we see with divorce and separation issues also seek advice on other life changes they face at the same time. The issues most linked to relationship breakdown are benefits, housing, legal rights, debt and other family issues.<sup>18</sup> If new tools are to meet people's needs, they should also cover the breadth of issues people face when going through a divorce. For instance a male domestic abuse survivor would be directed to relevant support service such as Men's Advice Line, and someone facing single parenthood would be directed to Gingerbread.



"I think with something like that, it's better to be personalised, so then you know that you're getting the right advice. When you read stuff off of the Internet, you don't know quite whether that's correct... They always tend to be very generalised, don't they?"

### **Recommendation 3: The MoJ should develop these online tools to support victims of domestic abuse**

Information that helps people understand what lies ahead must reflect the needs of victims of domestic abuse, as they are likely to have a different path to others and they must be able to access the support to which they are entitled. Not all victims of domestic abuse are aware of, or have come to terms with, the fact that they are experiencing domestic abuse.<sup>19</sup> Tools that effectively screen for less stereotypical abuse such as financial abuse and controlling behaviour have the potential to help more people. More accurately assessing where domestic abuse may be taking place will ensure tools do not mistakenly signpost to options, such as mediation, that are unsuitable for victims of domestic abuse. Tools should be user tested with victims of domestic abuse and the MoJ should work closely with specialist domestic abuse organisations to understand their needs.

Information and guidance cannot be limited to online tools. The role of face to face organisations, like Citizens Advice, and user-focused assisted digital provision, will be vital to ensure everyone is able to benefit from these tools.

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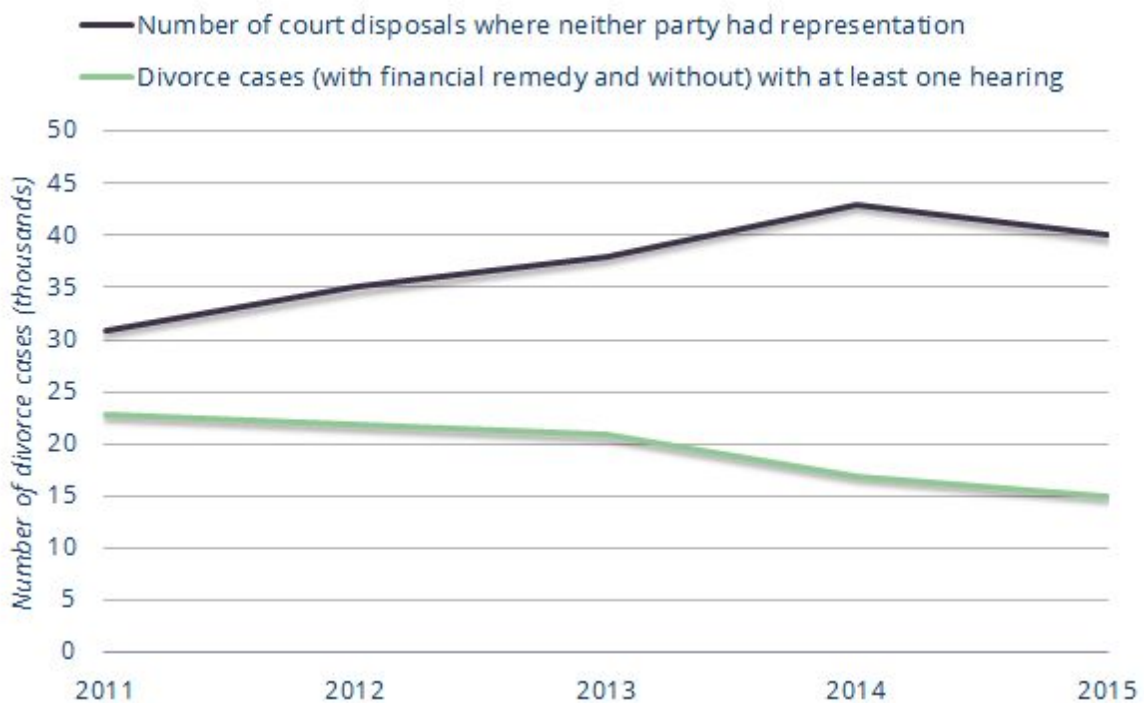
<sup>18</sup> See [Step 5](#) for a more in-depth analysis of this.

<sup>19</sup> Citizens Advice, [A Link in the Chain](#), August 2015.

## 2. Enable people to make informed decisions about services

Before changes to legal aid for divorce proceedings in 2013, many people went through the divorce process with the help of a solicitor. However, people are increasingly sorting out separation themselves, without relying on courts or using legal services, or just using them for discrete parts of the process.<sup>20</sup> Between 2011 and 2015, the number of divorce cases with at least one court hearing has fallen from 11% to 6% of all cases started.<sup>21</sup> In the same period, among those couples going to court, the number of cases where neither party had legal representation has risen from 25% to 40%.<sup>22</sup> However, people are struggling to make informed decisions about how to navigate this new world.

**Figure 2. Divorce cases with legal representation and divorce cases with at least one hearing (thousands)**



Source: Ministry of Justice, [Family Court Statistics Quarterly](#), December 2016

<sup>20</sup> Ministry of Justice, [Legal Problems and Resolution survey 2014-2015](#): 25% of people with family problems used self-help resolution strategies.

<sup>21</sup> Ministry of Justice, [Family Court Statistics Quarterly](#), December 2016.

<sup>22</sup> Ministry of Justice, [Family Court Statistics Quarterly](#), December 2016.

The primary contact with professional services during divorce happens at mediation, heavily promoted by the government in recent years. In the *Children and Families Act 2014*, MIAMs became compulsory for all couples wishing to go to court to resolve family disputes. MIAMs allow people to assess whether mediation can be used to come to agreements rather than going straight to court. If one of the parties wants to start court proceedings, they will need a form from the MIAM mediator confirming mediation is not suitable in their case.

## There is more to alternative dispute resolution than people think

People's experience of mediation varies. Some of our interviewees found mediation useful and thought it should be encouraged, especially where children are involved. However, mediation is not the right option for all couples. A significant proportion of people who attend mediation do not reach an agreement (37% in 2015).<sup>23</sup> Three of our interviewees felt like they had automatically been funnelled into mediation, finding it inappropriate or unproductive:



"I think the only thing about the whole process that really annoyed me was the mediation. It was all really big, hyped up, and, 'You must do this,' and, 'You must go to mediation,' and, 'This is the best thing for you.' It wasn't."

Respondents who had attended mediation presumed it was 'one size fits all'. After completing mediation, some felt it could have been better tailored to each couple's individual situation and would have been more valuable in a different format:



"I think I got a lot from [mediation] and the fact that [my ex-wife] refused to come was difficult when it could have made us a lot of progress... If she didn't want to sit in the room with me, maybe she should have seen him individually and seen the same person that could maybe give me information..."

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<sup>23</sup> Ministry of Justice, [Legal Aid Statistics in England and Wales - April to June 2016](#).



“I think you almost need like a stepped process. You know, mediation because we can't physically be in the same building together through to, 'Actually, we've got most things settled and we just want to talk through the financial stuff,' and stuff in-between.”

These comments demonstrate the low awareness of the different forms of mediation available for family issues.<sup>24</sup> Mediators can use one or a combination of these forms depending on the couple's needs.

## Types of mediation

### Sole mediation

Most common process, involving the two parties in a meeting with a qualified mediator.

### Co-mediation

The two parties meet in one room but with two qualified mediators.

### Direct consultation

A child who wants to be involved talks to a specially qualified child mediator. Can be combined with any other method.

### Shuttle mediation

The two clients each stay in their own separate room and the mediator or mediators “shuttle” between them. There no is face to face communication between the parties.

### Other forms

Many mediators use a combination of the above or different kinds of mediation altogether.

<sup>24</sup>Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#): 33% of respondents with divorce or dissolution issues were not aware of legal service providers that could help with the problem.

Alongside this, there was also low awareness and take-up of other support mechanisms that may have supported our respondents better. These included counselling and other methods of alternative dispute resolution (ADR) including arbitration and collaborative law.

## Types of ADR

### Mediation

An impartial mediator helps parties work out an agreement. Agreements will be put in writing but are not legally binding.

### Arbitration

Like a judge, an arbitrator gathers all relevant facts and makes a binding decision. At the end of the process parties apply to court to get the decision ratified.

### Solicitor negotiation

A party's solicitors negotiate an agreement with the other party or their representative.

### Collaborative law

Parties participate in a number of meetings where they are each assisted by a collaborative lawyer. The lawyers look at the couple's circumstances and help work out an agreement that is fair to both people.

Some interviewees reported finding the mediation process to be productive for making agreements but were frustrated by the difficulties in turning the outcomes of mediation into final settlements. At the moment, a solicitor must draft a consent order and apply to the court for approval.<sup>25</sup>

<sup>25</sup> The [Family Mediation Council](#) is currently considering whether to allow its mediators to draft consent orders.





“It’s either just a conversation to get people to talk to one another, which is something we didn’t need, or it’s something which needs to really underpin the process... You know, you want more of a direct correlation between what you’ve come up with at mediation going into the final financial settlement... It’s no good agreeing to something here if the solicitor further down the line is going to say, you know, that’s not possible. Just something I’ve remembered, there is something which goes between the two. Is it called resolution?”

**Recommendation 4: The MoJ should raise awareness of the different types of mediation and alternative dispute resolution processes available.**

At present, government pages (and the site to which government links) do not break down the details of different services offered by service providers. New tools should allow separating couples to compare different methods of dispute resolution. They should make clear that separating couples do not have to attend mediation sessions together and clearly explain the differences between mediation and other forms of ADR.

**Recommendation 5: Mediation and Information Assessment Meetings (MIAMs) and online information should help people understand the different forms of mediation and alternative dispute resolution.**

While couples should be encouraged to resolve their disagreements out-of-court where appropriate, they should be encouraged to think about all options available. Mediators should cover the full range of appropriate ADR methods when conducting Mediation and Information Assessment Meetings and help people consider these different services. Good practice already exists: for instance the Family Mediation Council’s standards framework and Code of Practice require mediators to provide unbiased information on the different services available to users, and to consult the parties when making case management decisions.<sup>2627</sup> However, our research with users shows that this is not always happening in practice. Further research should be done to identify ways in which mediators can be supported to do this.

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<sup>26</sup> Family Mediation Council, [Manual of Professional Standards and Self-Regulatory Framework](#), September 2014.

<sup>27</sup> Family Mediation Council, [Code of Practice for Family Mediators](#), September 2016.

Separating couples should also be able to search for service providers by the type of approach they take and the service they offer. This would allow for users to access the most appropriate service, not just the nearest. For this to be possible, registers of mediators should be updated to include this type of information. The search tool available on the British Association for Counselling and Psychotherapy's website is a good example of what this could look like, as it allows people to search for a therapist by reason for therapy, type of client and format of session.<sup>28</sup> This type of search functionality is necessary to ensure that new online tools and information on different forms of mediation and ADR are able to feed into the rest of couples' journeys.

**Recommendation 6: People who are eligible for legal aid should be able to use it for a range of family law services, including other types of mediation and ADR.**

Currently, conditions for the use of legal aid are strict. They exclude other types of alternative dispute resolution and some of the non-conventional types of mediation outlined above. For example, legal aid is not usually available for mediation where clients attend sessions at different times, where parties seek the help of a co-mediator or where the session is conducted by telephone or on Skype.<sup>29</sup> However, our research clearly shows the current provision isn't helping everyone to come to a resolution. These changes would ensure the legal aid that does exist helps provide a more comprehensive system of support which people are able to make informed choices about.

## **People relying on solicitors struggle to shop around to ensure quality and value**

For people getting a divorce, choosing a legal service provider can come at an emotional and distressing time. Many make this decision on the basis of recommendations from friends and family.<sup>30</sup> Among our respondents, too many reported struggling to assess the cost and quality of the service. This led to those who had turned to solicitors feeling let down.

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<sup>28</sup> British Association for Counselling & Psychotherapy, [Find a Therapist](#).

<sup>29</sup> Legal Aid Agency, [Family Mediation Guidance Manual](#), March 2015.

<sup>30</sup> Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#): 34% of people with divorce/dissolution issues rely on such recommendations.

Lack of competition in the legal services market is heavily evidenced. The Competition and Markets Authority recently found that only 22% of consumers compare more than two providers before choosing their legal representative.<sup>31</sup> The quality of legal services, like many other professional services, are difficult to gauge for most people. However, previous Citizens Advice research showed that unclear information about the services lawyers can provide makes it difficult for people to judge the quality of legal professionals, compare services and develop realistic expectations.<sup>32</sup>

While cost is a primary factor in choosing a solicitor, price information can be difficult to find.<sup>33</sup> The Solicitors Regulation Authority's code of conduct states that clients should receive the best possible information about the likely overall cost of the service (at the time of engagement and as the matter progresses) in a clear and accessible way.<sup>34</sup> However, only 1 in 6 (17%) law firms advertise their prices online and only 1 in 4 (25%) legal services customers are able to shop around.<sup>35</sup> Many of our interviewees struggled to obtain at least an indication of costs without first attending a meeting with solicitors - often at a cost. Some chose the only solicitor who gave them a quote without charging:



"I didn't want to get into a conversation where they were then trying to sell me something... I'd pretty much already decided that if they email me back and say how much it costs in black and white, I'll just pick the cheapest one of those. I won't bother to speak to people who insist that I need to speak to them, basically."

Many of those people who received a quote from their solicitor were only given an indication of how much the service might cost rather than a quote. Only one third (33%) of users are quoted a fixed price for the service provided.<sup>36</sup> On the other hand, more than half (53%) of customers are given an estimate of what the advice might cost, and 31% are only told the hourly rate.<sup>37</sup>

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<sup>31</sup> Competition and Markets Authority, [Legal Services Market Study: Interim Report](#), July 2016.

<sup>32</sup> Citizens Advice, [Standing Alone: Going to the Family Court without a Lawyer](#), 2016.

<sup>33</sup> Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#): 54% of people with divorce and dissolution issues wanted to find out the cost of the service before obtaining advice, with only 64% of these reporting this was easy to find out.

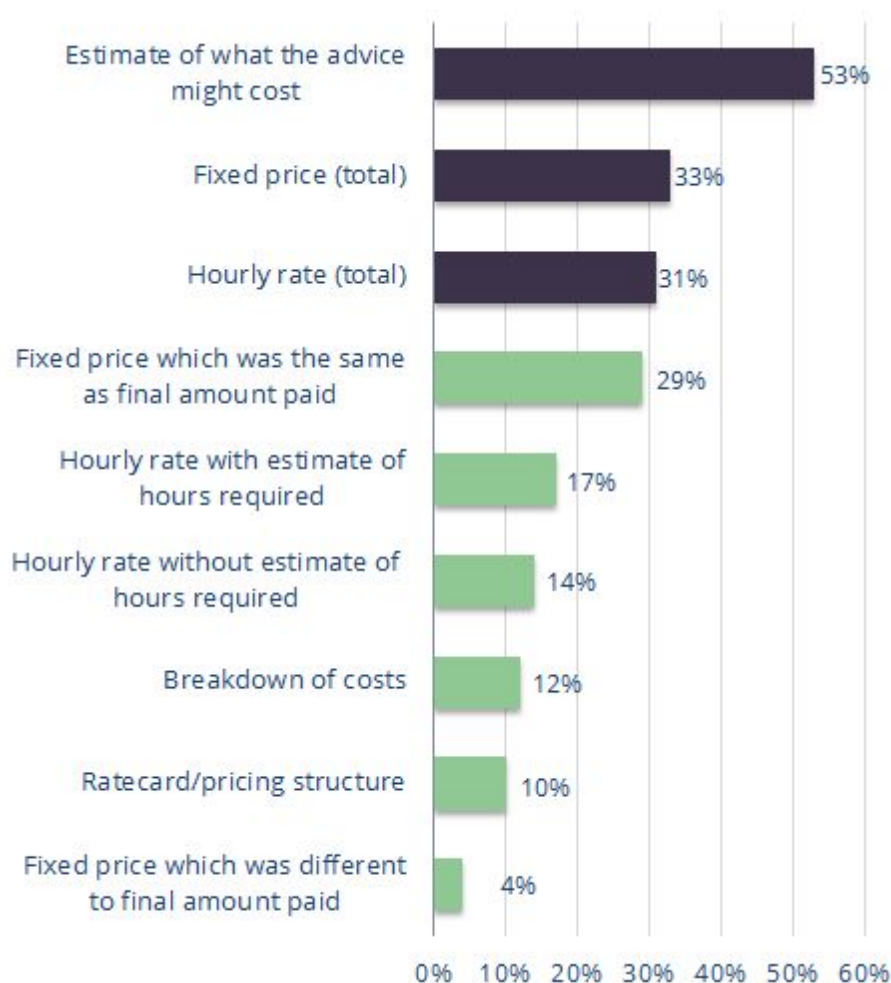
<sup>34</sup> Solicitors Regulation Authority, [Code of Conduct](#), November 2016.

<sup>35</sup> Legal Services Board, [Prices of Individual Consumer Legal Services](#), April 2016.

<sup>36</sup> Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#), May 2016.

<sup>37</sup> Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#), May 2016.

**Figure 3. Presentation of payment terms by legal service providers**



Source: Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#), May 2016

This leaves people feeling anxious about asking for clarification. It also discourages people from chasing up outstanding issues:



"I think if there was a fixed cost attached to something like that, so let's say, you know, you would have these divorce forms all listed with numbers. [The solicitor would tell you] we can fill out the D8, whatever, for £50. I'd know then, that it takes away that fear of 'I'm going to step into the dark and not know how much this is going to cost me in the long run'."

**Recommendation 7: The Solicitors Regulation Authority (SRA) should require all family solicitors to display core information on their websites.**

Choosing legal service providers is often a distress purchase. At times of stress, we know that people don't always find the best services.<sup>38</sup> Information on price should be widely available and located where people go to find it. The recent call by the Competition and Markets Authority (CMA) on regulators to improve the quality, usefulness and prominence of information on providers' websites can begin to improve people's experiences.

An important piece of information for many people is cost. The minimum price disclosure requirements specified in the CMA's market review will be valuable in reducing the difficulties people face in accessing quotes for legal services. However, our previous research shows that the way in which this information is communicated will affect how far people are able to use it and is key in determining the benefit to consumers.<sup>39</sup> People should not be given a complex set of variables and expected to do the calculation themselves. Instead, the SRA should consider requiring family solicitors to advertise on their website the mean average price paid by someone in a variety of scenarios. These would range from simpler cases (for example where the split is amicable and the couple has no children) to more complex ones (for example where the divorce is disputed and the couple has children and shared assets).

Cost is not the only factor in people's decision making. Core information made available should include complaints data; whether professionals have accreditations for working with victims of domestic abuse; practical information such as what communication channels (such as email or phone) are available; opening hours and accessibility.

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<sup>38</sup> Citizens Advice, [Taking Greater Care](#), November 2016.

<sup>39</sup> The Behavioural Insights Team for Citizens Advice, [Applying Behavioural Insights to Regulated Markets](#), May 2016.

### 3. Encourage constructive relationships

Divorce processes should not exacerbate problems between a separating couple. Our interviewees described several moments where professionals and processes derailed agreements or caused friction between partners. Chief among these was the requirement on the person applying for divorce to place blame on the other. At present, separating couples who both agree to get divorced must be separated for at least 2 years if neither of them wants to put blame (for instances of adultery, desertion or unreasonable behaviour) on the other.

The fault requirement has previously been highlighted by the MoJ as having the potential to create greater hostility between the parties and to drive them away from mediation.<sup>40</sup> The Government has also previously recognised the value of not requiring individuals to place blame on one another. Part 2 of the repealed *Family Law Act 1996* allowed couples to apply for a divorce after a 9 month “period of reflection and consideration” where both parties believed the marriage to have broken down. However, the Government later repealed that part of the 1996 Act in its entirety,<sup>41</sup> for the most part due to the failure of information meetings intended to take place during this period.<sup>42,43</sup>

The damage caused by the fault requirement is felt by many of the clients we see about relationship breakdown issues. Several of our interviewees were frustrated by the requirement to place blame in divorce, which was felt to waste time and unnecessarily aggravate relationships. Half of our interviewees said they would have chosen a no fault option had this been available. 4 in 5 (83%) of our advisors say a no fault divorce option would have at least some positive impact on people’s experiences, with 1 in 3 (33%) saying it would have a significant positive impact.

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<sup>40</sup> Family Mediation Task Force, [Report](#), June 2014.

<sup>41</sup> *Children and Families Act 2014*, section 18.

<sup>42</sup> These information meetings covered the availability and suitability of marriage counselling, mediation, the use of solicitors, the welfare of children and the division of financial assets. They were piloted between 1997 and 1999 and were found to be unable to meet their stated objectives of saving saveable marriages and encouraging the mediated settlement of disputes.

<sup>43</sup> House of Commons Library, [No Fault Divorce Briefing Paper](#), November 2016.



“You have to write [in] a little box, don’t you, where you write the reasons why you’re saying that it’s unreasonable behaviour. So, he wasn’t very impressed at all, he went absolutely mad, actually, and then said he wasn’t going to sign anything, and that he would have to consult his solicitor.”



“I guess there's that big question around if you put adultery down you have to prove it and how messy does it get because of putting that down. So... [I] put unreasonable behaviour, just because I think you're just stirring like a big pot of emotions... It would have got really messy and probably would have drawn out the process with making it a lot harder for me along the way. Yes, it just seems [like] an unnecessary thing.”

One interviewee explained that the decision to divorce in her case was mutual and that neither party was at fault. Nonetheless, he and his wife agreed before submitting the divorce petition that he would tick the ‘unreasonable behaviour’ option so that they could avoid the 2 year waiting period. Their case is far from unique. A quarter (27%) of couples citing unreasonable behaviour admit their claims are false but were the easiest way to get a divorce.<sup>44</sup>

A second issue raised by our interviewees concerned the combative approach of some legal professionals. In our previous research on litigants in person, we found that people dealing with solicitors were often concerned with their behaviour or the quality of their service.<sup>45</sup> Common complaints about solicitors concerned slow and impractical communications and poor explanation of the reasons behind decisions. In addition, many of our respondents perceived solicitors as creating unnecessary tension in the family by derailing existing agreements or pushing for conflict.

It is important that legal experts do their best for clients. Without their steer, people may inadvertently disadvantage themselves or walk away from their assets. However, legal professionals should balance the need to look out for their clients’ interests with the need to support families by encouraging positive relationships between separating couples.

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<sup>44</sup> Resolution, [News Release](#), 3 December 2015.

<sup>45</sup> Citizens Advice, [Standing Alone](#), November 2015.

**Recommendation 8: Introduce a no fault divorce option, allowing couples to submit a divorce petition and then obtain a divorce if they still want to do so after 6 months.**

The requirement on couples to place blame on each other before accessing divorce makes it harder for people to resolve their problems amicably. Marriage is a commitment and divorce is a serious and major decision for people for a range of reasons. It is not only the end of a relationship, but it also involves a significant change for children (if the couple has children) and serious decisions about finances and living arrangements.

One criticism of no fault divorce is that an improved divorce process will devalue marriage by making it too easy for people to separate. However, many of our respondents felt that once they reach the petition stage, most couples will have made up their minds, therefore, “surely it’s better to get it over and done with as painlessly[...] as possible, for both people involved, especially if there are children.” In Scotland (where consensual no fault divorce after one year of separation has been available since 2006) there was an increase in divorces between 2005-06 and 2006-07, but numbers have since settled to the same levels as before no fault divorce was introduced.<sup>46</sup>

The concept of a no fault option is not new. No fault divorce has been an option in Scotland since 2006, and elsewhere since the 1970s and 1980s.<sup>47</sup> In the UK, the national organisation of family lawyers and other professionals, Resolution, has called for its introduction.<sup>48</sup> The Supreme Court Deputy-President has described its introduction as “common sense”<sup>49</sup> and the President of the Family Division and Head of Family Justice has gone further to suggest not only the inclusion of a no fault option, but that all forms of fault should be removed.<sup>50</sup> The Family Mediation Task Force found the “charade” of fault-based divorce drove some people away from services that could help them access resolution.<sup>51</sup>

There are several models for introducing no fault divorce, with different waiting times.<sup>52</sup> Our research indicates that a 6 month waiting period gives couples

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<sup>46</sup> Scottish Government, [Divorce & Dissolution Supplementary Tables](#), 2014-2015.

<sup>47</sup> Australia has had no fault divorce since 1975 and Canada since 1982.

<sup>48</sup> Family Law, [News](#), 30 November 2016.

<sup>49</sup> Family Law, [Baroness Hale of Richmond calls for no-blame divorces](#), 9 April 2015.

<sup>50</sup> The Family Justice Reforms, [Speech by President of the Family Division](#), April 2014.

<sup>51</sup> Family Mediation Task Force, [Report](#), June 2014.

<sup>52</sup> No Fault Divorce Bill 2015-2016.



enough time to think about whether divorce is the right option for them (where both people agree to divorce).



“I mean, for someone like me, that had to wait two years, it shouldn’t have to be like that... It should be simplistic, in that we don’t love each other anymore, it’s time to move on, and a maximum of six months’ separation. Then it gives everybody time to cool off, think about it, because within six months, you’re either going to get back together, or you’re not... I’d started my life again, with someone else, yet it was still on hold, and that put pressure on us, because, you know, we wanted to move on with our life.”

On average, it currently takes 11 months from a couple submitting a divorce petition to that divorce being finalised.<sup>53</sup> For those couples who wish to divorce without blaming one another, this 11 month wait is in addition to the 2 years they have already waited to submit their petition. An improved no fault option would allow couples to begin the process of divorce without this delay. In order to ensure people are able to sense-check their decisions after a period of reflection, they should then be required to actively choose to proceed after a period of 6 months.<sup>54</sup>

### **Recommendation 9: Regulators should issue guidance, training and tools for family law professionals aimed at promoting positive relationships within separating couples.**

Poor quality relationships not only prevent separating families from working together constructively, but also incur substantial costs to the state because of their impact on wellbeing, quality of life and children’s educational attainments.<sup>55</sup>

The SRA Code of Conduct states that solicitors should protect the interests of their clients in a way that takes into account their needs, circumstances and best interests. It also contains principles of fair treatment of third parties involved in the litigation.<sup>56</sup> More specifically, the Law Society Family Law Protocol states that acting in clients’ best interests includes promoting the welfare of any children

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<sup>53</sup> Ministry of Justice, [Family Court Statistics Quarterly - July to September 2016](#).

<sup>54</sup> Resolution, [Manifesto for Family Law](#), 2014. This is the approach under the Canadian legal system.

<sup>55</sup> Relate, [All Together Now](#), February 2016.

<sup>56</sup> Solicitors Regulation Authority, [Code of Conduct](#), 2011.

involved and signposting to extra-legal support organisations.<sup>57</sup> These resources help to promote positive relationships.

While many legal professionals abide by the existing rules and do their best not to damage friendly relations, regulators and membership bodies should explore what guidance and tools can help legal professionals (including solicitors and barristers) refine their skills. To ensure the divorce process runs smoothly and does not cause unnecessary tensions, it is important that lawyers:

- Avoid conflict and confrontation as far as possible
- Encourage clients to consider the best interests of their families and the practical, long-term consequences of their decisions
- Give practical advice about other changes happening in clients' lives and signpost them to relevant services where appropriate
- Inform clients of alternative methods of dispute resolution
- Keep clients informed of developments regularly so as to avoid stress and uncertainty.<sup>58</sup>

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<sup>57</sup> The Law Society, [Family Law Protocol](#).

<sup>58</sup> More examples of good practice are provided by Resolution's [Code of Practice](#).

## 4. Simplify language and processes

Divorce processes create unnecessary complexity for people when they should instead be supporting people through divorce at this difficult stage of their life. Two points of complexity in the divorce process came out of our research: forms and the decree absolute.

Forms were an issue for the people we spoke to and our advisers see the same issue. Only a small minority (8%) of our frontline advisers who have supported people with divorce and separation issues believe people understand the forms and paperwork they have to complete.

Some of our respondents found forms fairly straight-forward and quicker to get through than expected. However, many struggled with the “antiquated and old-fashioned” wording. The way forms look also put some people off. One of our interviewees worked in the advice sector, so thought of herself as being “used to looking at complicated forms and court forms”. But she said this did not make the divorce forms any easier:



“I thought the forms were a pain... when you get into them, they’re not that bad if you are willing to, like, stop and think about what everything means, but they just genuinely look quite frightening... I don’t know what it would be like if you weren’t used to looking at forms and dealing with them, because they look like the form version of a judge with a wig.”

The guidance was also deemed by many to be too long and unclear. Many respondents had to turn to advice from others, including solicitors, other professionals or friends and family. One interviewee happened to visit a website where he found copies of other people’s divorce forms that he was able to replicate, changing details where appropriate.

Some of those without access to guidance or support put off completing the forms because they were worried about making mistakes.



“I am a procrastinator and I avoid things that are unpleasant... I thought about it a lot, and then I would do the typical procrastinator thing of being like, ‘I’m just not even going to think about that now,’ and then repeat the cycle over and over again. So, I’d say it did cause me quite a lot of anxiety, despite the fact it should have been fairly easy.”

When mistakes were made, even if small, forms were returned to some of our interviewees without any indication of what the mistake was and how to fill out the form correctly. Around a fifth (19%) of divorce petitions are returned for correction.<sup>59</sup> As there are no checks throughout, this can draw out the process, increase expenses and inefficiencies and exacerbate anxiety. Where online support such as CourtNav is used, this can speed up the form submission process.

### **CourtNav**

CourtNav is an online tool available across England and Wales. It was developed by RCJ Advice (a member of the Citizens Advice network) in partnership with Freshfields Bruckhaus Deringer LLP to help people complete divorce petitions. It asks users a series of questions and uses the answers to complete the relevant court form. People also have the online support of a lawyer throughout the process, and RCJ Advice reports that all users require the solicitor to amend or check the content of the forms. Users can upload copies of relevant documents which the solicitor can check. Once the solicitor has checked that all the information is correct, it is authorised to print the forms and lodge them with the court. No CourtNav forms have been returned for correction.

Whole aspects of the divorce process are also seen to be unnecessary. The decree absolute was felt by many to be outdated. The decree absolute is the legal document that officially ends a marriage. Couples can apply for their decree absolute 6 weeks after the date of their decree nisi.<sup>60</sup> The current 6 week delay is intended to allow the Queen’s Proctor to put forward objections to the divorce. In practice, this would involve the Government Legal Department bringing the matter to court to raise an issue with the divorce petition. These interventions are extremely rare. Nevertheless, separating couples are still

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<sup>59</sup> The Law Society Gazette, [Biggest divorce hub returns one in five petitions](#), 6 October 2015.

<sup>60</sup> The decree nisi is the document that says that the court sees no reason why the divorce should not proceed. The decree absolute is the legal document that officially ends the marriage.

required to comply with the waiting period and then apply for a final confirmation of their divorce.

For many of our interviewees, submitting this application was “just paperwork” without any real value in itself. Some instructed their solicitors to automatically apply after the 6 week deadline, while others said they had “almost forgotten about it” by the time their decree was issued.

Other respondents actively complained about the decree absolute. Two described this part of the process as useless administration that unnecessarily prolongs a difficult time in people’s lives.

The decree nisi and absolute were felt to be yet another example of confusing legal language:



“I mean, I’d heard the words decree nisi, decree absolute before, but even now I don’t really know what they are. So I just think the whole thing is shrouded in mystery.”

### **Recommendation 10: The MoJ and HMCTS should create smart online forms for in-court and out-of-court divorce processes.**

Many of our interviewees expressed confusion as to why divorce forms weren’t as easy to use as forms elsewhere. To help people fill them out, forms should include prompts, pop-up explanations (including how things should not be done), diagnostic questions and auto-filling. Help for people claiming the carer’s allowance is an example of this being done well. As people getting a divorce are under particular stress, user-friendly guidance and templates could help people complete processes quickly and easily.<sup>61</sup>

### **Recommendation 11: Make the decree absolute an opt-out, rather than opt-in, removing the need for people to submit an additional form.**

Couples should not be required to submit an additional form to obtain their decree absolute. This should automatically be granted after 6 weeks unless either party notifies the court that they have changed their mind. Additionally,

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<sup>61</sup> Citizens Advice, [Help Filling in your PIP Form](#) and [Weekly Diary Template](#).

the opportunity should be taken to rename the decrees nisi and absolute to simpler, more everyday language that people can understand.

## 5. Design legal processes that reflect life changes

Serious problems can often come along at the same time as each other. Sometimes it's bad luck. But more often, it's because one problem will cause or be exacerbated by another.<sup>62</sup> For those going through a divorce, separation is linked to changes to finances, housing, work, family and caring responsibilities and health. This is the case for other legal problems, too.<sup>63</sup> 93% of people going through divorce or dissolution of marriage or civil partnership face more than one legal problem.<sup>64</sup> All these problems may be harder to resolve because they happen at a time when many are experiencing depression and anxiety. At present, divorce processes rarely serve to help people with their wider issues.



“I was having to deal with all the emotional upheaval with getting divorced, but... I was having to cope with the [children's] upset, as well as having to look after the house and do things basically all by myself. I just felt this massive weight on my shoulders all the time.”

Almost 2 in 3 (64%) of our advisors say clients going through the divorce process tend to struggle to manage other aspects of their lives as a result.<sup>65</sup> Over half (55%) of the people who came to Citizens Advice in 2016 with issues related to divorce or separation were also advised on another topic. The most popular clustered issues were problems with benefits and tax credits and other relationship or family issues.

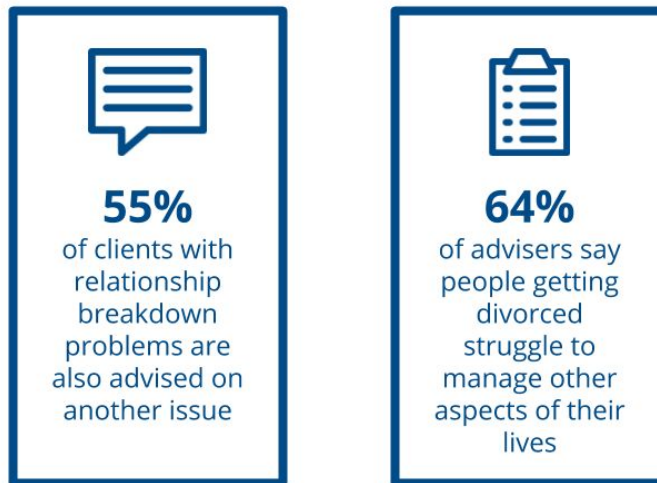
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<sup>62</sup> Relate, [Breaking Up is Hard To Do](#), November 2015.

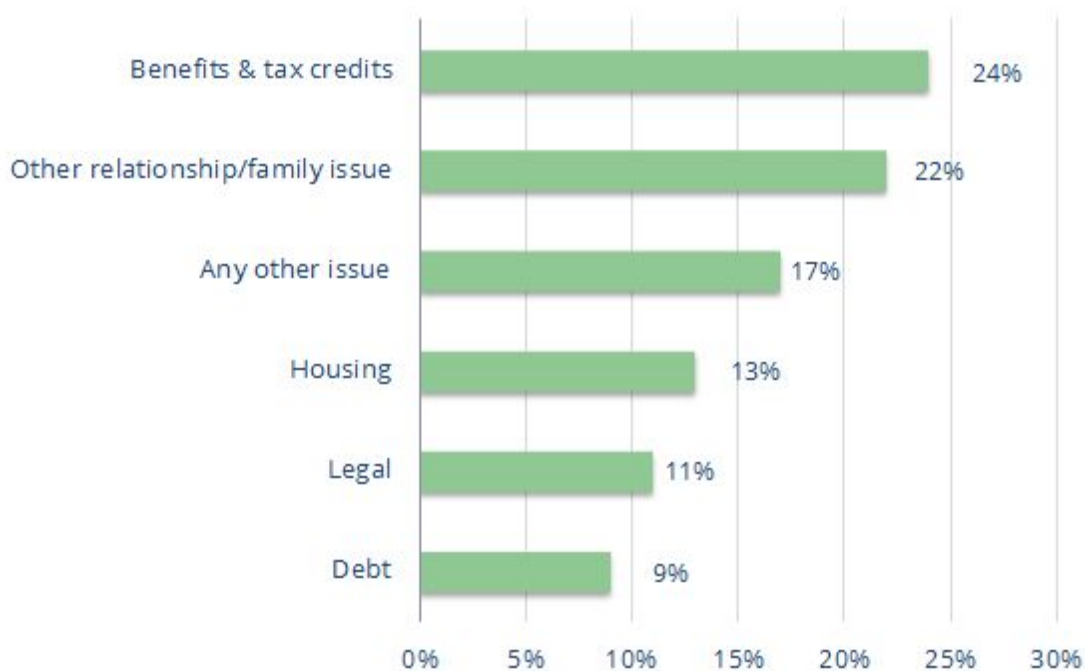
<sup>63</sup> Ministry of Justice, [Legal Problems and Resolution Survey 2014-2015](#). This found that half of adults who experienced at least one problem had experienced more than one problem during an 18 month period.

<sup>64</sup> Law Society, [Online Survey of Individuals' Handling of Legal Issues in England and Wales 2015](#), May 2016.

<sup>65</sup> Cluster analysis of our clients advised face-to-face in 2016.



**Figure 4. Percentage of people who came to Citizens Advice in 2016 who also had another issue**



Source: Cluster analysis of our clients advised face-to-face in 2016

Of the 66,692 people who came to Citizens Advice for help with divorce or separation in 2016:

- 11% also had an issue relating to children
- 9% had an issue with working and child tax credits
- 7% had an issue with housing benefit
- 4% had an issue with domestic abuse



- 4% had an issue with threatened or actual homelessness.

More than half of Citizens Advice advisers (62%) believe that having a clear route to advice, information and support for issues that occur at the same time as divorce would significantly reduce the harm suffered by our clients.

## Children

For some separating couples, divorce is unavoidably linked to issues affecting their children. 7% of clients advised on divorce, separation or dissolution also had child maintenance issues, and 6% had problems about contact with the other parent and other relatives. While new MoJ digital tools will make it easier for couples to make child arrangements out-of-court, these issues never arise in isolation. Of clients who came to Citizens Advice with child maintenance issues, 23% were also advised on working and child tax credits, 16% on debt and 10% on housing.

Among the people we interviewed, some people felt like there was not enough support available for children despite the fact that they are likely to be seriously affected by their parents separating. One interviewee explained that she was not signposted to this kind of support, and had she not been personally aware of it, her child would not have accessed the support.



“[The children] haven’t had any support, other than from us. They don’t automatically get offered counselling... to unpick their feelings. My youngest I did refer to Time For You in the end, about two years ago, because he was struggling. Time For You is a local thing in Coventry. It’s counselling for children... He also got referred to CAMHS, which is the Child and Adolescent Mental Health Services, so I did try to help him. Thankfully, he’s nearly nineteen now, and has got through that, but it took me referring him. That’s only because I know these things... and there are lots of families out there who haven’t got a clue, and they wouldn’t know what to do.”

## Benefits

Some of our respondents explained that their divorce was the first time they had needed to access benefits. This meant they were unsure of what they were

entitled to, occasionally finding out about possibilities well into the process and only from family or friends.

Evidence requirements can fail to take into account the complexity of the separation, leaving people who are eligible for support unable to access it. Separating couples can be caught in a catch 22-type situation, whereby they are unable to prove they have separated to access certain benefits while simultaneously being unable to separate without access to this support. One respondent was not able to access tax credits in order to move out because she still had financial links to her husband - they both lived in the same property and had both their names on the mortgage.

## Housing

Housing issues were significant in almost all of our case studies. Many found the process of moving out of the family home and finding somewhere else to live extremely stressful. Those going through a separation, even with a comfortable independent income, struggled with limited choice and the requirements to stay close, keen to maintain child contact. Some ended up in temporary housing arrangements, such as staying with family and friends. One of our respondents became homeless as a result of his separation and was frustrated by his inability to provide an appropriate place for his children to stay.



“I was helping her pay the rent to keep a roof over the kids’ heads and I couldn’t afford to go and get somewhere else to live... I was living in a caravan in my friend’s garden, basically homeless... I was able to get a flat with the Housing Association... [But the place I had moved to had] people who lived downstairs... selling drugs and people banging on their door at 2 o’clock in the morning and their garden was in disrepair... I’ve literally see them turn up in a taxi with, kind of, crates of beer and start a party... There’s me going to work and trying to keep my kids, like, asleep, absolutely banging my head against the wall for feeling like the Housing Association weren’t helping me at that point.”

## Employment

Finally, going through the divorce process also had a knock on effect on people’s work. For some of our interviewees, starting a new job was necessary because of new living and childcare arrangements. For others, their employer’s behaviour

had a significant impact on their ability to manage other aspects of their lives. Depending on their employer's approach, the emotional repercussions of separating from a partner caused some respondents to take time off work or to lose their job altogether. In one of our case studies, the impact on employment was a combination of the two.



"I started a new job, and because everything was turned upside down, it didn't last very long... Well, obviously right back at the start when I'd just started a new job and trying to learn a new job and keep your head together over a relationship breakup is really hard. I didn't, you know, I've never been sacked before but they asked me politely if I would leave because it wasn't working out... Then obviously knowing my situation at that point, knowing that I needed to have weekends off with the kids and things... I could no longer work weekends because I would need to see my kids at the weekend. So I temped in offices for a year."

Separation inevitably raises huge challenges, especially but not limited to those couples with children. While a more in-depth look at these challenges is beyond the scope of this report, there are ways in which the MoJ and support agencies can improve the support people get.

### **Recommendation 12: People going through divorce should be better signposted to available support.**

Divorce processes and legal professionals come into people's lives at a time when they need a wide variety of support. Good practice exists: some advisers, mediators, lawyers and online tools already signpost and refer users to available appropriate services. This should be standard practice. Localised referral pathways and partnerships should be encouraged across the board of divorce-related services. This is necessary in order to ensure a more seamless support offer for the full range of connected advice and support separating couples need.

Support services, however, are not equally available in all regions of England and Wales. Demand for support during divorce also varies depending on location. Because of the patchy availability of support services, it can be difficult for

providers in some areas to establish stable local networks.<sup>66</sup> In those places where supply is scarce, service providers and the MoJ should explore other ways of ensuring integrated support (such as co-location and, where appropriate, online advice). Online tools outlined previously in this report will be one step in helping people access the support that is available to them.

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<sup>66</sup> Resolution, [Guiding Parents Through Separation](#), 2015.

## 6. Create a system that works for everyone

Justice is going through a period of major reform. Moving processes online and reducing reliance on lawyers creates a lot of opportunities for financial savings, for empowering people and for making services more accessible. However, there is real risk attached to these changes. It is vital that those people who need additional support are not left behind as online tools and alternatives to court become more commonplace.

In many cases, people instinctively turned to online resources to learn about divorce and their options and most were comfortable sourcing forms online. However, we know that those with low digital capability need practical help to complete digital tasks necessary to access services.<sup>67</sup>

In the UK, 1 in 10 (11%) households do not have internet access,<sup>68</sup> 1 in 10 adults have never used the internet,<sup>69</sup> and 1 in 5 lack basic digital skills.<sup>70</sup> Among the clients we see face to face, only 61% have access to the internet and almost half (46%) cannot complete basic digital tasks.<sup>71</sup> The proportion of face to face clients with basic digital skills decreases with each age category,<sup>72</sup> and the same is true for the overall UK population.<sup>73</sup> This is particularly relevant in light of the increasing rate of divorce among people over 45.<sup>74</sup>

It is not only the people with poor digital skills that may struggle to use online resources. Divorce can be a difficult time in many people's lives. Tools that are simple and intuitive are valuable not only to those with limited digital skills, but to everyone.

Victims of domestic abuse should not be left behind in the wider changes to family justice. Almost 2 million people reported experiencing some type of

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<sup>67</sup> Citizens Advice, [Digital Capability Report](#), August 2016.

<sup>68</sup> Office for National Statistics, [Internet Access - Households and Individuals](#), August 2016.

<sup>69</sup> Office for National Statistics, [Internet Users in the UK](#), May 2016.

<sup>70</sup> Go ON UK and Ipsos Mori, [Basic Digital Skills UK Report](#), 2015.

<sup>71</sup> Citizens Advice, [Digital Capability Report](#), August 2016.

<sup>72</sup> Citizens Advice, [Digital Capability Report](#), August 2016.

<sup>73</sup> Go ON UK and Ipsos Mori, [Basic Digital Skills UK Report](#), 2015.

<sup>74</sup> See Appendix B. Office for National Statistics, [Divorce in England and Wales](#), November 2015.

domestic abuse in 2015 and it is critically relevant to people's needs and to the decisions made during a divorce.<sup>75</sup>

In our qualitative sample of 10 people, 4 were victims of some form of domestic abuse. All four were unable to access legal aid during their divorce. Our previous research on domestic abuse highlighted how social stigma, implications for children and other factors can mean that victims are reluctant to report the abuse or seek help.<sup>76</sup> We also found that some victims of domestic abuse faced barriers to accessing legal support and struggled to address the practicalities of leaving a relationship. Legal aid restrictions - both in terms of evidence requirements and income/asset thresholds - can lead to large numbers of victims staying in abusive relationships and giving up on their rights to justice.<sup>77</sup>

One interviewee who had experienced coercive and controlling behaviour was not able to provide evidence of it, and was therefore unable to apply for legal aid. Another respondent could not claim legal aid because she had not reported the abuse to the police at the time. Finally, the other two were denied legal aid because of the way that eligibility is calculated:



"So I got in touch with the legal aid people, and I wasn't entitled to anything. Apparently the way that they work it out, because I actually owned part of the house, that meant that I wasn't entitled to anything, even though I was only on-, well I'm only on part-time wage..."



"For mediation, I did get legal aid because they had different criteria. In mediation, the assets in question under dispute are not considered. At the time, everything was under dispute, and given that I wasn't working at the time, I had legal aid for mediation, but I was told by the mediator that, for the representation bit, the lawyer bit, I wouldn't be eligible because they had different rules."

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<sup>75</sup> Office for National Statistics, [Intimate Personal Violence and Partner Abuse](#), February 2016.

<sup>76</sup> Citizens Advice, [A Link in the Chain](#), August 2015.

<sup>77</sup> Citizens Advice, [Victims of Domestic Abuse: Struggling for Support?](#), February 2015.

**Recommendation 13: The MoJ should ensure online services are simple and intuitive, and have a plan in place for those who need extra support with digital services.**

The MoJ should take a broad view of vulnerability when it comes to digital divorce services to ensure services are simple and intuitive for everyone. Even those who have the required skills to benefit from digital tools can benefit from simpler services and extra guidance.

People going through a divorce with low digital capability need practical assistance offline, including help completing online forms, to engage with a justice system that is increasingly located online. This help should include both support to further develop digital confidence and ongoing assistance for those who face ongoing barriers.

**Recommendation 14: the MoJ should review evidence requirements and financial contributions for legal aid.**

Many domestic abuse survivors are prevented from accessing legal aid because these evidence requirements and conditions for financial eligibility are overly strict and narrow. The MoJ's decision to remove the 5 year limit for acceptable evidence and to widen the list of professionals who can provide this evidence is a welcome first step in ensuring that survivors are able to claim legal aid. However, the MoJ's current review of legal aid evidence requirements should make further strides in ensuring that domestic abuse survivors are not locked out of legal aid.<sup>78</sup> This includes ensuring that victims are not charged to access the evidence they need, such as by a GP.

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<sup>78</sup> The Law Society, [News Stories](#), 15 June 2016.

# Conclusion

Divorce can be a very difficult time in people's lives. Couples should be given the support they need to preserve their relationship where possible. However, those who are not able to stay together have to face the emotional upheaval of relationship breakdown and other life changes that are directly and indirectly linked to the divorce. Support is necessary to enable couples and families to cope with these challenges and work constructively with each other.

In a time of fast-paced reforms to the civil and family justice system, the 6 steps outlined in this report are necessary to meet the needs of separating couples and families:

1. Give people an idea of what lies ahead
2. Enable people to make informed decisions about the services available to them
3. Encourage constructive relationships within separating couples and families
4. Simplify the language and processes
5. Design legal processes that reflect life changes that come alongside divorce
6. Create a system that works for everyone, including the most vulnerable.



# Appendix A - the people we spoke to

Beth is 53 years old and has two children. At the time of her divorce in 2014 she owned a house jointly with her husband and earned less than £1,000 per month. She separated from her husband amicably, settling most matters before even submitting the divorce petition.

Zoe is 48 and has three children. Her divorce was long and disputed. She had to rely on both solicitors and barristers, go to court several times and occasionally deal with social services and the police. She is a victim of domestic abuse.

Maria is a also domestic abuse survivor. She is 48 years old and at the time of her divorce she earned £700 per month. Her ex-husband - with whom she has 4 children - earned £150,000. Legal disputes with her ex-husband meant she had to go to court several times.

Dean has two children and got divorced in 2015. He is 38 years old. He reached an amicable agreement with his ex-wife on most matters that had to be settled. He still, however, relied on legal representation.

Ailsa is 42 years old and had been divorced once before. At the time of her second divorce in 2015, she was the sole owner of her family home, was not working and relied on income support. Her ex-husband refused to cooperate in the divorce so she had to seek help from a solicitor. She is a victim of domestic violence.

Rebecca is a 58 year old woman who got divorced in 2013 after separating from her ex-husband two years before. She organised all of the divorce herself, without seeking legal advice or any other type of professional support. While she was getting divorced she also faced financial troubles and had to file for insolvency.

Nayla is 28. She doesn't have any children and she got divorced in 2013. She told us her relationship with her ex-husband is better than most people's, and that they didn't really argue over anything divorce-related. She received pro bono legal advice and instructed a solicitor to attend a court hearing on her behalf.

Max is a 40 year old man with three children. He and his ex-wife were renting at the time of their divorce in 2015. He was the respondent in a divorce initiated and led by his ex-wife. During the process he changed jobs once and moved home twice.

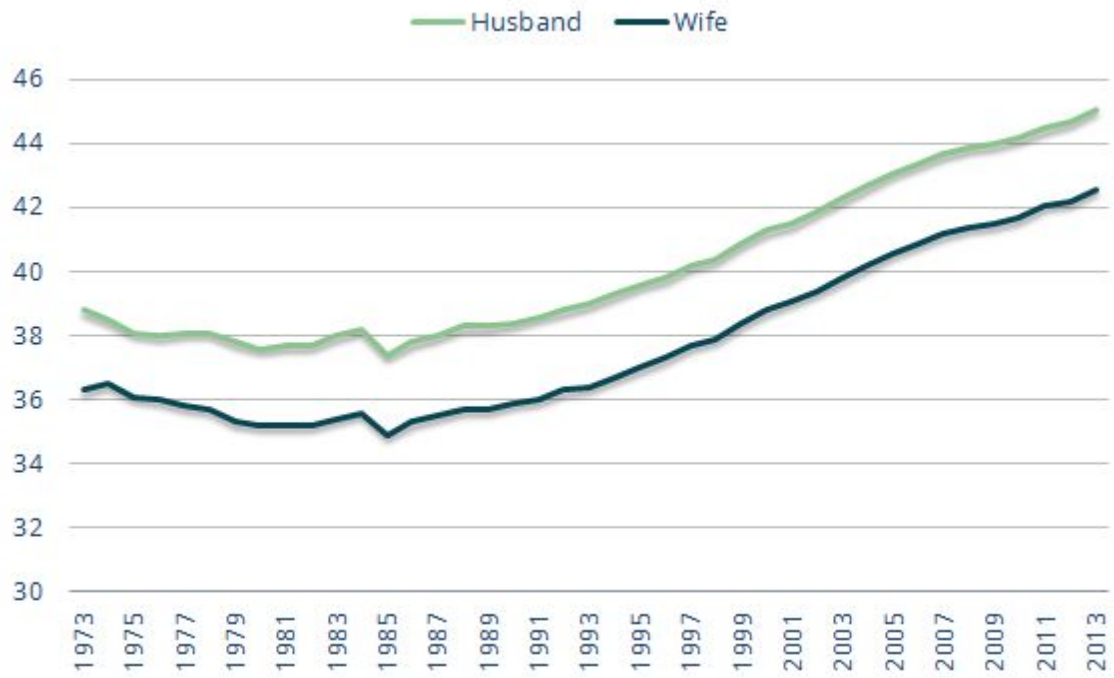
Mano is 39 years old. At the time of her divorce in 2014 she owned her family home jointly with her ex-husband and earned less than £1,000 per month. Her ex-husband contested the divorce. She is a domestic abuse survivor.

Hannah is a 50 year old woman. At the time of her divorce, she didn't have any children living at home and earned between £2,001 and £3000 per month. She told us she had a pretty amicable divorce and that she gets on well with her ex-husband.

Toby is a 54 year old man with one child. He got divorced for a second time in 2015. In his case, the divorce process was completed without addressing issues of financial support and child contact. He is yet to reach an agreement with his ex-wife on these issues.

# Appendix B - age at divorce

Figure 6. Average men's and women's age at divorce



Source: Office for National Statistics, [Divorce in England and Wales](#), December 2016

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