



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 20 – THE PRACTICE OF FAMILY LAW*

Time allowed: 3 hours plus 15 minutes reading time

Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read the question paper fully.** However, you may make notes on the paper or in your answer booklet during this time if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Family Law 2012-2013, 21st edition, M Oldham, Oxford University Press, 2012.**
- Candidates must comply with the CILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ball point pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE and the LEVEL 6 DIPLOMA IN LEGAL**

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Question 1

Reference: Question relates to **Document 2** of the case study materials.

As confirmed in Amelia's memorandum, Paula Fletcher has an appointment to see you later today.

(a) Using the attached blank form (**Document A**), draft Form FL401.

Important: Write your candidate number clearly on Document A and attach it securely to your answer booklet.

(14 marks)

(b) In your **answer booklet** explain which sections of the Family Law Act 1996 enabled you to apply for the order or orders you have requested in the Form FL401.

(5 marks)

(c) Assume that you are successful in obtaining the order or orders sought. Advise Paula about the steps that the court would take to enforce any provision of the order if Neil breached it.

What penalties could be imposed for any such breach?

(7 marks)

(Total: 26 marks)

Question 2

Reference: Question relates to **Documents 3 and 4** of the case study materials.

Zainab Uddin attends an appointment with you. She has received a copy of Lowton LLP's letter setting out Yusuf's offer to settle.

(a) Explain to Zainab the effect of the Notice of Severance mentioned in **Document 4**. What further action should Yusuf's lawyers take to formalise the changes effected by the Notice? Do Zainab and Yusuf need to do anything to protect their position as a result of this Notice?

(5 marks)

(b) Applying the factors which the court will consider, advise Zainab as to the terms of her husband's offer. What counter-offer would you advise that she makes?

(20 marks)

(Total: 25 marks)

Question 3

Reference: Question relates to **Document 5** of the case study materials.

It is now one week later. Gareth Vaughan attends at the office and hands you his marriage certificate (**Document B**). He confirms that he wishes to proceed with a divorce and asks you to prepare the paperwork that he will need.

- (a) Using the attached form D8 (**Document C**) draft the divorce petition for Mr Vaughan using the fact you believe is the most appropriate for his case.

Important: Write your candidate number clearly on Document C and attach it securely to your answer booklet.

(15 marks)

- (b) Explain to Mr Vaughan which additional paperwork you will need to send to the court to start his divorce proceedings and the function of this paperwork.

(5 marks)

(Total: 20 marks)

Question 4

Gareth Vaughan's parents have made an urgent appointment to see you later that day in connection with the children.

You then receive an e-mail from them (**Document D**). You satisfy yourself that there is no conflict of interest on this particular issue as Gareth Vaughan supports his parents' wish to take the children on holiday.

- (a) Explain to Thomas and Katherine Vaughan the requirement they must fulfil before court proceedings can be issued and outline the other out of court options to them.

(5 marks)

- (b) Assume that all of these options prove unsuccessful in resolving the matter. What initial application to the court must you now make on behalf of Thomas and Katherine? Applying the factors that the court will take into account, is it likely to succeed?

(10 marks)

- (c) If Thomas and Katherine's initial application succeeds, explain which section 8 order they can apply for in relation to their wish to take the children on holiday and advise them on the factors which the court will take into account when considering their application.

(14 marks)

(Total: 29 marks)

DOCUMENT A – Form FL401 to be used with Question 1(a & b)

Application for:
a non-molestation order
an occupation order

Family Law Act 1996 (Part IV)

The court

To be completed by the court

Date issued

Case number

Please read the accompanying notes as you complete this form.

1 About you (the applicant)

State your title (Mr, Mrs etc), full name, address, telephone number and date of birth (if under 18):

State your solicitor's name, address, reference, telephone, FAX and DX numbers:

2 About the respondent

State the respondent's name, address and date of birth (if known):

3 The Order(s) for which you are applying

This application is for:

- a non-molestation order
- an occupation order
- Tick this box if you wish the court to hear your application without notice being given to the respondent. The reasons relied on for an application being heard without notice must be stated in the statement in support.

4 Your relationship to the respondent (the person to be served with this application)

Your relationship to the respondent is:

(Please tick only one of the following)

- 1 Married
- 2 Civil Partners
- 3 Were married
- 4 Former civil partners
- 5 Cohabiting
- 6 Were cohabiting
- 7 Both of you live or have lived in the same household
- 8 Relative
State how related:
- 9 Agreed to marry.
Give the date the agreement was made.
If the agreement has ended, state when.
- 10 Agreed to form a civil partnership.
Give the date the agreement was made.
If the agreement has ended, state when.
- 11 Both of you are parents of, or have parental responsibility for, a child
- 12 One of you is a parent of a child and the other has parental responsibility for that child

-
- 13 One of you is the natural parent or grandparent of a child adopted, placed or freed for adoption, and the other is:
- (i) the adoptive parent
 - or (ii) a person who has applied for an adoption order for the child
 - or (iii) a person with whom the child has been placed for adoption
 - or (iv) the child who has been adopted, placed or freed for adoption.

State whether (i), (ii), (iii) or (iv):

- 14 Both of you are the parties to the same family proceedings (see also Section 11 below).

5 Application for a non-molestation order

If you wish to apply for a non-molestation order, state briefly in this section the order you want.

Give full details in support of your application in your supporting evidence.

6 Application for an occupation order

If you do not wish to apply for an occupation order, please go to section 9 of this form.

- (A) State the address of the dwelling-house to which your application relates:
- (B) State whether it is occupied by you or the respondent now or in the past, or whether it was intended to be occupied by you or the respondent:
- (C) State whether you are entitled to occupy the dwelling-house: Yes No

If yes, explain why:

(D) State whether the respondent is entitled to occupy the dwelling-house: Yes No

If yes, explain why:

On the basis of your answers to (C) and (D) above, tick one of the boxes 1 to 6 below to show the category into which you fit

- 1 a spouse or civil partner who has home rights in the dwelling-house, or a person who is entitled to occupy it by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation.

If you tick box 1, state whether there is a dispute or pending proceedings between you and the respondent about your right to occupy the dwelling-house.

- 2 a former spouse or former civil partner with no existing right to occupy, where the respondent spouse or civil partner is so entitled.
- 3 a cohabitant or former cohabitant with no existing right to occupy, where the respondent cohabitant or former cohabitant is so entitled.
- 4 a spouse or former spouse who is not entitled to occupy, where the respondent spouse or former spouse is also not entitled.
- 5 a civil partner or former civil partner who is not entitled to occupy, where the respondent civil partner or former civil partner is also not entitled.
- 6 a cohabitant or former cohabitant who is not entitled to occupy, where the respondent cohabitant or former cohabitant is also not entitled.
-

Home Rights

If you do have home rights please:

State whether the title to the land is registered or unregistered (if known):

If registered, state the Land Registry title number (if known):

If you wish to apply for an occupation order, state briefly here the order you want. Give full details in support of your application in your supporting evidence:

7 Application for additional order(s) about the dwelling-house

If you want to apply for any of the orders listed in the notes to this section, state what order you would like the court to make:

8 Mortgage and rent

Is the dwelling-house subject to a mortgage?

Yes No

If yes, please provide the name and address of the mortgagee:

Is the dwelling-house rented?

Yes No

If yes, please provide the name and address of the landlord:

9 At the court

Will you need an interpreter at court?

Yes No

If yes, specify the language:

If you require an interpreter, you must notify the court immediately so that one can be arranged.

If you have a disability for which you require special assistance or special facilities, please state what your needs are. The court staff will get in touch with you about your requirements.

10 Other information

State the name and date of birth of any child living with or staying with, or likely to live with or stay with, you or the respondent:

State the name of any other person living in the same household as you and the respondent, and say why they live there:

11 Other Proceedings and Orders

If there are any other current family proceedings or orders in force involving you and the respondent, state the type of proceedings or orders, the court and the case number. This includes any application for an occupation order or non-molestation order against you by the respondent.

This application is to be served upon the respondent

Signed:

Date:

Application for non-molestation order or occupation order

Notes for guidance

Section 1

If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete Confidential Address Form C8. The court can give you this form.

If you are under 18, someone over 18 must help you make this application. That person, who might be one of your parents, is called a 'next friend'.

If you are under 16, you need permission to make this application. You must apply to the High Court for permission, using this form. If the High Court gives you permission to make this application, it will then either hear the application itself or transfer it to a county court.

Section 3

An urgent order made by the court before the notice of the application is served on the respondent is called an ex-parte order. In deciding whether to make an ex-parte order the court will consider all the circumstances of the case, including:

- any risk of significant harm to the applicant or a relevant child, attributable to conduct of the respondent, if the order is not made immediately
- whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately
- whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the applicant or a relevant child will be seriously prejudiced by the delay involved.

If the court makes an ex-parte order, it must give the respondent an opportunity to make representations about the order as soon as just and convenient at a full hearing.

'Harm' in relation to a person who has reached the age of 18 means ill-treatment or the impairment of health, and in relation to a child means ill-treatment or the impairment of health and development.

'Ill-treatment' includes forms of ill-treatment which are not physical and, in relation to a child, includes sexual abuse. The court will require evidence of any harm which you allege in support of your application.

Section 4

For you to be able to apply for an order you must be related to the respondent in one of the ways listed in this section of the form. If you are not related in one of these ways you should seek legal advice.

Cohabitants are two persons who, although not married to each other, nor civil partners of each other, are living together as husband and wife or civil partners. People who have cohabited, but have then married or formed a civil partnership will not fall within this category but will fall within the category of married people or people who are civil partners of each other.

Those who live or have lived in the same household do not include people who share the same household because one of them is the other's employee, tenant, lodger or boarder.

You will only be able to apply as a relative of the respondent if you are:

- (A) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson, granddaughter of the respondent or of the respondent's spouse, former spouse, civil partner or former civil partner.
- (B) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood or by marriage or by civil partnership) of the respondent or of the respondent's spouse, former spouse, civil partner or former civil partner.

This includes, in relation to a person who is living or has lived with another person as husband and wife or as civil partners, any person who would fall within (A) or (B) if the parties were married to, or civil partners of, each other (for example, your cohabitee's father or brother).

Agreements to marry: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

- evidence in writing
- or the gift of an engagement ring in contemplation of marriage
- or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.

Agreements to form a civil partnership: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

- evidence in writing
- or a gift from one party to the agreement to the other as a token of the agreement
- or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.

Parents and parental responsibility:

You will fall within this category if

- both you and the respondent are either the parents of the child or have parental responsibility for that child
- or if one of you is the parent and the other has parental responsibility.

TURN OVER

Section 4 continued

Under the Children Act 1989, parental responsibility is held automatically by a child's mother, and by the child's father if he and the mother were married to each other at the time of the child's birth or have married subsequently. Where, a child's father and mother are not married to each other at the time of the child's birth, the father may also acquire parental responsibility for that child, if he registers the birth after 1st December 2003, in accordance with section 4(1)(a) of the Children Act 1989. Where neither of these circumstances apply, the father, in accordance with the provisions of the Children Act 1989, can acquire parental responsibility.

From 30 December 2005, where a person who is not the child's parent ("the step-parent") is married to, or a civil partner of, a parent who has parental responsibility for that child, he or she may also acquire parental responsibility for the child in accordance with the provisions of the Children Act 1989.

From 1st September 2009, specific provision has been made in relation to parental responsibility in certain cases involving assisted reproduction. Parental responsibility is held automatically by a woman if—

- she and the child's mother were in a civil partnership with each other at the time of treatment unless that woman did not consent to the treatment; or
- she is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and subsequently enters into a civil partnership with the mother.

A woman who is a parent of the child by virtue of section 43 of the 2008 Act but who does not subsequently enter into a civil partnership with the mother may acquire parental responsibility in accordance with the provisions of section 4ZA of the Children Act 1989

Section 5

A non-molestation order can forbid the respondent from molesting you or a relevant child. Molestation can include, for example, violence, threats, pestering and other forms of harassment. The court can forbid particular acts of the respondent, molestation in general, or both.

Section 6

If you wish to apply for an occupation order but you are uncertain about your answer to any question in this part of the application form, you should seek legal advice.

(A) A dwelling-house includes any building or part of a building which is occupied as a dwelling; any caravan, houseboat or structure which is occupied as a dwelling; and any yard, garden, garage or outhouse belonging to it and occupied with it.

(C) & (D) The following questions give examples to help you to decide if you or the respondent, or both of you, are entitled to occupy the dwelling-house:

- Are you the sole legal owner of the dwelling-house?
- Are you and the respondent joint legal owners of the dwelling-house?
- Is the respondent the sole legal owner of the dwelling-house?
- Do you rent the dwelling-house as a sole tenant?
- Do you and the respondent rent the dwelling-house as joint tenants?
- Does the respondent rent the dwelling-house as a sole tenant?

If you answer

- **Yes to (a), (b), (d) or (e)** you are likely to be entitled to occupy the dwelling-house
- **Yes to (c) or (f)** you may not be entitled (unless, for example, you are a spouse or civil partner and have home rights – see notes under 'Home Rights' below)
- **Yes to (b), (c), (e) or (f)**, the respondent is likely to be entitled to occupy the dwelling-house
- **Yes to (a) or (d)** the respondent may not be entitled (unless, for example, he or she is a spouse or civil partner and has home rights).

Box 1 For example, if you are sole owner, joint owner or if you rent the property. If you are not a spouse, former spouse, civil partner, former civil partner, cohabitant or former cohabitant of the respondent, you will only be able to apply for an occupation order if you fall within this category.

If you answer yes to this question, it will not be possible for a magistrates' court to deal with the application, unless the court decides that it is unnecessary for it to decide this question in order to deal with the application or make the order. If the court decides that it cannot deal with the application, it will transfer the application to a county court.

Box 2 For example, if the respondent is or was married to you, or if you and the respondent are or were civil partners, and he or she is sole owner or rents the property.

Box 3 For example, if the respondent is or was cohabiting with you and is sole owner or rents the property.

Home Rights

Where one spouse or civil partner "**(A)**" is entitled to occupy the dwelling-house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation, and the other spouse or civil partner "**(B)**" is not so entitled, then **B** (who is not entitled) has home rights.

The rights are

- if **B** is in occupation, not to be evicted or excluded from the dwelling-house except with the leave of the court; and
- if **B** is not in occupation, the right, with the leave of the court, to enter into and occupy the dwelling-house.

Section 6 (continued)

Note: Home Rights do not exist if the dwelling-house has never been, and was never intended to be, the matrimonial or civil partnership home of the two spouses or civil partners. If the marriage or civil partnership has come to an end, home rights will also have ceased, unless a court order has been made during the marriage or civil partnership for the rights to continue after the end of that relationship.

Occupation Orders

The possible orders are:

If you have ticked box 1 above, an order under section 33 of the Act may:

- enforce the applicant's entitlement to remain in occupation as against the respondent
- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both parties
- if the respondent is also entitled to occupy, the order may prohibit, suspend or restrict the exercise by him, of that right
- restrict or terminate any home rights of the respondent
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house
- declare that the applicant is entitled to occupy the dwelling-house or has home rights in it
- provide that the home rights of the applicant are not brought to an end by the death of the other spouse or civil partner or termination of the marriage or civil partnership.

If you have ticked box 2 or box 3 above, an order under section 35 or 36 of the Act may:

- give the applicant the right not to be evicted or excluded from the dwelling-house or any part of it by the respondent for a specified period
- prohibit the respondent from evicting or excluding the applicant during that period
- give the applicant the right to enter and occupy the dwelling-house for a specified period
- require the respondent to permit the exercise of that right
- regulate the occupation of the dwelling-house by either or both of the parties
- prohibit, suspend or restrict the exercise by the respondent of his right to occupy
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

If you have ticked box 4 or box 5 above, an order under section 37 or 38 of the Act may:

- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both of the parties
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

You should provide any evidence which you have on the following matters in your evidence in support of this application. If necessary, further statements may be submitted after the application has been issued.

If you have ticked box 1, box 4 or box 5 above, the court will need any available evidence of the following:

- the housing needs and resources of you, the respondent and any relevant child
- the financial needs of you and the respondent
- the likely effect of any order, or any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise.

If you have ticked box 2 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the length of time that has elapsed since you and the respondent ceased to live together
- where you and the respondent were married, the length of time that has elapsed since the marriage was dissolved or annulled
- where you and the respondent were civil partners, the length of time that has elapsed since the dissolution or annulment of the civil partnership

Section 6 (continued)

- the existence of any pending proceedings between you and the respondent:
 - under section 23A of the Matrimonial Causes Act 1973 (property adjustment orders in connection with divorce proceedings etc.)
- or under Part 2 of Schedule 5 to the Civil Partnership Act 2004 (property adjustment on or after dissolution, nullity or separation)
- or under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 (orders for financial relief against parents)
- or relating to the legal or beneficial ownership of the dwelling-house.

If you have ticked box 3 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the nature of your and the respondent's relationship
- the length of time during which you have lived together as husband and wife or civil partners
- whether you and the respondent have had any children, or have both had parental responsibility for any children
- the length of time that has elapsed since you and the respondent ceased to live together
- the existence of any pending proceedings between you and the respondent under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 or relating to the legal or beneficial ownership of the dwelling-house.

Section 7

Under section 40 of the Act the court may make the following additional orders when making an occupation order:

- impose on either party obligations as to the repair and maintenance of the dwelling-house
- impose on either party obligations as to the payment of rent, mortgage or other outgoings affecting it
- order a party occupying the dwelling-house to make periodical payments to the other party in respect of the accommodation, if the other party would (but for the order) be entitled to occupy it
- grant either party possession or use of furniture or other contents

- order either party to take reasonable care of any furniture or other contents
- order either party to take reasonable steps to keep the dwelling-house and any furniture or other contents secure.

Section 8

If the dwelling-house is rented or subject to a mortgage, the landlord or mortgagee must be served with notice of the proceedings in Form FL416. He or she will then be able to make representations to the court regarding the rent or mortgage.

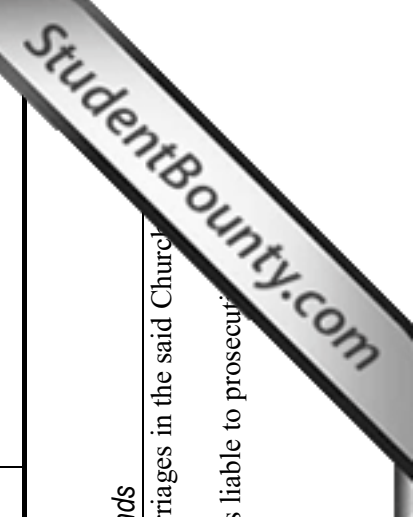
Section 10

A person living in the same household may, for example, be a member of the family or a tenant or employee of you or the respondent.

DOCUMENT B - to be used with Question 3
CERTIFIED COPY of an ENTRY OF MARRIAGE
Pursuant to the Marriage Act 1949

Registration District of Clayton		St. John's Church		in the			
Marriage solemnized at		Barnardshire					
County of		Barnardshire					
1	2	3	4	5	6	7	8
When married	Name and surname	Age	Condition	Rank or profession	Residence at the time of marriage	Father's name and surname	Rank or profession of father
25 January 2000	Gareth William Vaughan	25	Bachelor	HR Officer	25 Dawsons Drive, Clayton, Barnardshire	Thomas Vaughan	Accountant
	Eleanor Jane Rowlands	21	Spinster	Telephone sales consultant	25 Dawsons Drive, Clayton, Barnardshire	Peter Rowlands	Sales Executive

married in the *Parish Church* according to the rites and ceremonies of the *Church of England* after Banns by me
: marriage *Gareth William Vaughan* in the presence *T. Vaughan*
: solemnized between us *Eleanor Jane Rowlands* of us *P. Rowlands*
in Bartholemew Vicar of St John's Church Clayton do hereby certify that this is a true copy of entry No. 3 in the Register Book of Marriages in the said Church
I/NESS MY HAND this 25th day of January 2000
ATTENTION: Any person who (i) falsifies any of the particulars on this certificate or (ii) uses a falsified certificate knowing it to be false is liable to prosecution.



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DOCUMENT C – Form D8 to be used with Question 3**Divorce/dissolution/
(judicial) separation petition**

To be completed by the Court	
Name of court	
Case No.	
Date received by the court	
Date issued	
Time issued	

Notes to Petitioners

- This form should be used if you are making an application to the court for divorce/dissolution to end your marriage or civil partnership or (judicial) separation from your spouse or civil partner.
- Before completing this form, please read the supporting notes for guidance on completing the form.
- Please answer all questions. If you are unsure of the answer to any question, or you do not think that it applies to you, please indicate this on the form.
- If there is not enough room on the form, you may continue on a separate sheet. Please put your name, the Respondent's (your spouse/civil partner) name, and the number of the Part the information relates to, at the top of your continuation sheet.
- If completing this form by hand, please use **black ink and BLOCK CAPITAL LETTERS** and tick the boxes that apply.

See the supporting notes for guidance

I, (please state your full name)

apply for a divorce
 dissolution
 (judicial) separation
 in respect of my marriage
 civil partnership

and give the following details in support of my application.

continued over the page ⇨

Turn over

Part 1 About you (the Petitioner) and the Respondent (your spouse/partner)

See the supporting notes for guidance

Petitioner

My current name is

First name(s) (in full)

Last name

My address is (including postcode)

 Postcode

My date of birth is

/ /

My occupation is

I am

male female

Respondent

The Respondent's current name is

First name(s) (in full)

Last name

The Respondent's address is (including postcode)

 Postcode

The Respondent's date of birth is

/ /

The Respondent's occupation is

The Respondent is

male female

Part 2 Details of marriage or civil partnership

See the supporting notes for guidance

On the _____ day of _____ [19] [20]

(insert your name exactly as it appears on your marriage/civil partnership certificate)

married formed a civil partnership with

(insert the name of the Respondent exactly as it appears on your marriage/civil partnership certificate)

at

(insert the place where the marriage/civil partnership was formed, exactly as it appears on your marriage/civil partnership certificate)

A certified copy of your marriage/civil partnership certificate must be sent to the court with this completed petition (see supporting notes for guidance).

Part 3 Jurisdiction

See the supporting notes for guidance

The Respondent and I last lived together as husband and wife civil partners
at

Address

The court has jurisdiction to hear this case under

- Article 3(1) of the Council Regulation (EC) No 2201/2003 of 27 November 2003
or
 the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations 2005

on the following grounds

- The Petitioner and Respondent are both habitually resident in England and Wales and/or
 Other (please state any other connection(s) on which you wish to rely)

or

- The court has jurisdiction other than under the Council Regulation on the basis that no court of a Contracting State has jurisdiction under the Council Regulation and the Petitioner Respondent is domiciled in England and Wales on the date when this application is issued

or

- The court has jurisdiction other than under the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations on the basis that no court has, or is recognised as having jurisdiction as set out in the Regulations, and

either:

- the Petitioner and/or the Respondent is domiciled in England or Wales

or

- the Petitioner and Respondent registered as civil partners of each other in England or Wales and it would be in the interests of justice for the court to assume jurisdiction in this case.

continued over the page ⇨

Turn over

Part 4 Other proceedings or arrangements

See the supporting notes for guidance

- There are and/or have been
- proceedings in any court in England and Wales or elsewhere with reference to the
 - marriage
 - civil partnership
 - or to any child of the family
 - or between the Petitioner and Respondent with reference to any property of either or both of them
(please enter details below)

or

- no other proceedings in any court in England and Wales or elsewhere.
- This is an application based on five years' separation and
- agreement has been made or is proposed to be made between the parties for the support of
 - the Petitioner
 - the Respondent
 - and any child of the family
(please enter details below)

or

- no agreement has been made or is proposed to be made.

Part 5 The fact(s)

See the supporting notes for guidance

I apply for a

- divorce on the ground that the marriage has broken down irretrievably, or
- dissolution on the ground that the civil partnership has broken down irretrievably, or
- (judicial) separation

and

I rely on the following fact(s) in support of my application:

- The Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent (this fact is not applicable in relation to a civil partnership)
- The Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent
- The Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of this petition
- The parties to the marriage/civil partnership have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent consents to a decree/order being granted
- The parties to the marriage/civil partnership have lived apart for a continuous period of at least five years immediately preceding the presentation of the petition.

Part 6 Statement of case

See the supporting notes for guidance

(in all cases, please state briefly any relevant details about the fact(s) on which you rely)

Part 7 Details of the children

See the supporting notes for guidance

Children of the family

Full names of the children of the family	Gender		Date of birth (or state if over 18)	Over 16 but under 18 and in education, training or working full time	(a) Child of both parties	(b) Other child of the family																				
	male	female																								
	<input type="checkbox"/>	<input type="checkbox"/>	<table border="1"> <tr> <td>D</td><td>D</td><td>/</td><td>M</td><td>M</td><td>/</td><td>Y</td><td>Y</td><td>Y</td><td>Y</td> </tr> <tr> <td colspan="10"> </td> </tr> </table>	D	D	/	M	M	/	Y	Y	Y	Y											<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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D	D	/	M	M	/	Y	Y	Y	Y																	

Statement of arrangements for children

See the supporting notes for guidance

- I attach a completed statement of arrangements in respect of those children of the family who are either aged under 16, or aged under 18 and at school, college, or in training for a trade, profession or vocation
- or
- No statement of arrangements is attached, because there are no children of the family, or no children of the family are either aged under 16 or aged under 18 and at school, college, or in training for a trade, profession or vocation.

Children of either party who are not children of the family

Full names of the children of either party who are not children of the family	Gender		Date of birth (or state if over 18)	Born to or adopted by Petitioner	Born to or adopted by Respondent																				
	male	female																							
	<input type="checkbox"/>	<input type="checkbox"/>	<table border="1"> <tr> <td>D</td><td>D</td><td>/</td><td>M</td><td>M</td><td>/</td><td>Y</td><td>Y</td><td>Y</td><td>Y</td> </tr> <tr> <td colspan="10"> </td> </tr> </table>	D	D	/	M	M	/	Y	Y	Y	Y											<input type="checkbox"/>	<input type="checkbox"/>
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D	D	/	M	M	/	Y	Y	Y	Y																

Part 8 Special assistance or facilities if you attend court

See the supporting notes for guidance

If you are required to attend court during these proceedings will you need any special assistance or facilities?

Yes (please supply details below) No

continued over the page ➡

Part 9 Service details

See the supporting notes for guidance

- I am not represented by a solicitor in these proceedings
- I am not represented by a solicitor in these proceedings but am receiving advice from a solicitor
- I am represented by a solicitor in these proceedings, who has signed Part 10, and all documents for my attention should be sent to my solicitor whose details are as follows:

Box 1 Solicitor's details

Name of solicitor			
Name of firm			
Address to which all documents should be sent for service Postcode <input type="text"/> <input type="text"/>	Telephone no.		
	Fax no.		
	DX no.		
	Your ref.		
E-mail			

Box 2 Petitioner's address for service

Address (including postcode) Postcode <input type="text"/> <input type="text"/>
--

Box 3 Respondent's address for service

Address (including postcode) Postcode <input type="text"/> <input type="text"/>
--

Box 4 Co-Respondent's details, if any

- There is no Co-Respondent
- There is a Co-Respondent whose details are as follows:

First Name	
Last Name	
Address (including postcode) Postcode <input type="text"/> <input type="text"/>	

Turn over

Part 10

See the supporting notes for guidance

Prayer

The Petitioner therefore prays

(1) The application

- That the marriage civil partnership be dissolved
or
 That the Petitioner be (judicially) separated from the Respondent.

(2) Costs (if you wish to claim costs from the Respondent or Co-Respondent)

- That the Respondent Co-Respondent shall be ordered to pay the costs of this application

(3) Financial Order (if you wish to make an application for a Financial Order)

- (a) That the Petitioner may be granted the following Financial Order(s):
- an order for maintenance pending suit/outcome
 - periodical payments order
 - secured provision order
 - lump sum order
 - property adjustment order
 - order under section 24B, 25B or 25C of the Act of 1973/paragraph 15, 25 or 26 of Schedule 5 to the Act of 2004 (Pension Sharing/Attachment Order)
- (b) **For the children**
- a periodical payments order
 - a secured provision order
 - a lump sum order
 - a property adjustment order

Signed

Petitioner [s Solicitor]

Dated / /

DOCUMENT D
(To be used with Question 4)
(Email from Thomas Vaughan)

Dear Sir/Madam,

I have made an appointment to see you as my wife Katherine and I would like some urgent advice concerning our grandchildren Barney and Daisy Vaughan. I'm aware that you are, of course, already acting for my son Gareth in connection with his divorce from his wife (and the children's mother), Eleanor.

My wife and I have always had a close relationship with Barney and Daisy, we live in the same area as my son so have always been on hand to help out with babysitting and to see the children. We have had the children to stay at our own home since they were both very young and we have also taken them away to our caravan for the occasional weekend break.

As a treat we have booked a trip to take Barney and Daisy to Disneyland Paris in the children's half-term holiday in February 2013. We would be away for a long weekend (Saturday to Monday). We made the booking on a bit of an impulse as we saw a great deal on the internet. We never dreamt that there would be any issues with taking the children away, but to our horror when we discussed the trip with Eleanor she refused to agree to it and said that she was not happy with us taking the children abroad.

We have tried to discuss it with her but we can't seem to make any progress and she is refusing to let us have the children's passports. It will be the first time that we have taken the children abroad, but it is only a short trip and as I have mentioned we have had the children to stay with us on numerous occasions before and there have never been any problems with the children becoming upset. As you may know, we looked after Barney and Daisy when Gareth and Eleanor went to Rome two years ago and they were fine.

We suspect this is all due to the sad breakdown of Gareth and Eleanor's relationship and we understand that it is a difficult time for both our son and daughter-in-law, but we don't want our grandchildren to suffer as a result of this. We told them about the trip as soon as we booked it and they are both hugely excited about it and Daisy is already counting down the number of "sleeps" before we go! We have also checked the terms of the booking and if we cancel then we don't get any refund whatsoever so would lose all of the money we have paid for the booking.

We do hope that you can help us to find a solution and if necessary we are willing to refer this matter to the court.

Regards,

Thomas Vaughan

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