

Chapter 6: Guidance on answering the self-test questions

Question 1: What is the ground for divorce? How is this ground proved?

The ground for divorce is the irretrievable breakdown of marriage which is proved by one of five facts.

Question 2: If a client is within the first year of their marriage, advise them on their alternatives to issuing divorce proceedings.

Alternatives to divorce within the first year of marriage include judicial separation, nullity (if applicable), and proceedings to deal with domestic abuse or disputes concerning children.

Question 3: Which facts require no period of separation?

The facts of adultery and unreasonable behaviour do not require a period of separation.

Question 4: Sunita and Ash marry in 2004. Their marriage was happy at first but the couple separated recently when Ash admitted to an affair with a work colleague. After three months apart, the couple decides to attempt reconciliation. After two weeks of living together, Sunita decides that the marriage is at an end and she moves out. Advise Sunita on which fact she should rely upon and the effect of their attempted reconciliation.

The marriage appears to have irretrievably broken down. The facts upon which Sunita could rely to prove the ground for divorce are adultery and either of the separation facts. The adultery was less than six months ago and so although the couple have lived together since the adultery, this will be disregarded as it is less than six months.

If the couple separate for two years (with consent) or five years, the three-month reconciliation will be added to the period of time which the couples must separate.