

Question 1 – Do you agree that both the ‘simplified procedure for divorce’ and the ‘simplified procedure for dissolution’ should be extended to parties who are able to agree suitable arrangements for the upbringing of any children still under the age of 16? If not, why not?

We agree that the ‘simplified procedure for divorce’ and the ‘simplified procedure for dissolution’ should be extended to parties who are able to agree suitable arrangements for the upbringing of any children still under the age of 16.

Where arrangements for the children are already agreed and neither party is contesting the application, the process should be more straightforward, with minimal court/legal intervention. That affords individuals more control over their personal affairs.

Parties need to pay significantly more for ordinary divorce Actions than they do for simplified Actions. This is because the process takes considerably longer as the preparation of Affidavits must be taken into account. By this stage, many couples will have reached agreement, and the convoluted nature of the ordinary divorce Actions can be jarring and laborious.

Of the policy objectives sought, reduced costs and a more efficient process are likely to encourage negotiation and reduce conflict. By way of an example, a member of the team was told by Sheriff Clerks at a big court in mid January that they were still working through divorce applications from November. As parties may have struggled already needing to wait a year post separation to apply for divorce, further delays are not desirable.

Making the simplified procedure rules “easy to understand” would be a further positive of the proposed rule changes by improving accessibility to the divorce process for people to proceed without direct legal input.

Question 2 – Do you think the 4 new forms added (F33B / CP30A / 49.73-D / 49.80B) on the arrangements made for children will gather sufficient information for the court to consider the welfare of the children of a marriage or civil partnership? If not, why not?

Without access to the 4 new forms it is difficult to say if they will gather sufficient information. In our view, the form can ask 1) for a brief summary of the care arrangement and 2) whether it is working.

Question 3 – Do you agree that for OCR rule 33.73 (1) and 33A.66 the term “mental disorder” should be replaced with a reference to “mental capacity”? If not, why not?

We agree that the term “mental disorder” should be replaced with “mental capacity”. There are mental disorders that people live with and function in society. The term “disorder” could also appear derogatory. Having a “mental disorder” should not act as a barrier to reduced legal costs and more efficient service. “Mental capacity” is more fluid and could therefore be assessed on a case by case basis.

Question 4 – Are there any additional changes that you would suggest regarding the procedures for a simplified divorce or simplified dissolution?

No