

Jewish Divorce

Family

Orthodox Jewish Marriage & Divorce

When a Jewish couple gets married in the UK, there are two parts of the ceremony: the religious part, performed by a Rabbi under the *Chuppah* (wedding canopy), and the civil ceremony, performed by a registrar. Similarly, there are two parts to a Jewish divorce. Even if a Jewish couple go through a civil divorce in the UK, and a Decree Absolute divorce certificate is granted, the couple remain married under Orthodox Jewish Law.

If the parties wish to end the religious marriage in the eyes of Jewish Law, it is necessary to complete another process. The key to an Orthodox Jewish divorce is the *Get*. This is a document customarily written in Aramaic which must be provided by the husband to the wife in a ceremony before the *Beth Din* (religious court made up of senior rabbis).

The *Get* and Ceremony

In order to begin the *Get* process, one of the parties must contact the *Beth Din*. For Orthodox Jewish couples in the UK, the United Synagogue provides this service. The *Beth Din* asks both parties to attend interviews where the *Dayan* (rabbinic judge) will take their details, including their Hebrew names, and will make sure that both parties consent to the divorce.

If both parties agree to the divorce, the husband must attend the *Beth Din* to take part in the *Get* ceremony. Under the husband's instruction, a *Sofer* (scribe) will write the *Get* document, the essence of which states to the wife: 'You are hereby permitted to all men' and allows her to remarry.

In the civil divorce procedure, it is the court that grants the Decree Absolute to finalise the divorce at the parties' request. However, the *Beth Din* merely supervises the parties taking part in the *Get* ceremony to ensure that it takes place in compliance with Jewish Law.

The focus is on the intention of the husband to provide the *Get* to the wife, and her intention to accept it. The husband must instruct the *Sofer* to write the *Get* document on his behalf, and it must be created with the intention that it is to be used by that husband for that wife. The *Get* cannot be written before the ceremony with the blanks filled in afterwards. Once the husband gives his instruction, the *Sofer* writes the *Get* in the presence of two witnesses. When the document is complete, it is checked by the *Dayan* and is ready to be presented to the wife.

The wife stands before the *Beth Din* and is asked if she is willing to receive the *Get*. If she is, the husband (or his representative if he does not wish to attend) recites a form of words in front of the rabbinic court to confirm that on handing over the *Get* the wife is free of the marriage. He then delivers the *Get* into the wife's hands. She lifts it above her head to show that it is hers. The wife's physical acceptance of the *Get* is required to complete and validate the divorce process. The wife then tucks the *Get* under one arm, turns from her husband and walks away, signifying her independence from her husband.

The *Get* is then handed back to the *Beth Din* rabbi so that the witnesses to the procedure can check it. Both parties are then free to remarry under Jewish law. The *Beth Din* keeps a record of the *Get*.

What if a husband will not provide the Get?

Orthodox Jewish Law only provides for a divorce initiated by the husband. Therefore, problems may arise where a husband refuses to give his wife a *Get*. Whilst a civil divorce can be granted by a judge without one party's consent, the *Get* must be provided by the husband of his free will. A wife whose husband refuses to give her a *Get* has the status of an *Agunah* – a chained woman, who is not free to remarry, and any children she has from subsequent relationships will be subject to stigma in the community.

The *Beth Din* may use various methods to put pressure on the husband to grant his wife a *Get*, but they cannot force him. This sometimes leads to a situation in which the husband attempts to demand a monetary settlement or other benefits, such as child custody, in exchange for the *Get*.

The United Synagogue, which officiates over most Orthodox Jewish weddings in the UK, now encourages couples to sign a pre-marital contract in which they agree to attend a meeting at the *Beth Din* if the marriage is failing to discuss the possibility of *Get* proceedings. This attempts to address the issue of either party withholding their consent to the *Get* process.

The Divorce (Religious Marriages) Act 2002 introduced provisions to assist where a *Get* is withheld. Where a Jewish couple are going through the civil divorce process, the Act allows a party to apply to the court for an order preventing the divorce from being finalised by Decree Absolute until the Jewish divorce is also concluded.

If that order is granted, the court will require both parties to make a declaration showing that they have both taken all steps required to dissolve the marriage under Jewish law. The court may ask to receive confirmation from the *Beth Din* that the religious divorce has taken place before proceeding with granting the Decree Absolute.

Important Considerations

In every case involving religious marriage, it is important to understand any religious processes that will need to take place for the parties to conclude the religious marriage alongside the civil procedure. It may not be necessary to apply to the court to ensure compliance with religious processes, but this is something which a family solicitor should consider in the circumstances.

Our Family Law team has experience in dealing with Jewish divorces, and our solicitors can advise and make provision for religious processes in their advice.