



THE CATHOLIC DIOCESE OF
ARUNDEL & BRIGHTON

DECLARATION OF NULLITY OF MARRIAGE

DIOCESAN TRIBUNAL: INFORMATION FOR THE PLAINTIFF

1 What is marriage?

The Catholic Church teaches that marriage is, by God's plan, an enduring and exclusive partnership between one man and one woman for the giving and receiving of love and for the procreation and education of children. For those who have been baptised, a valid marriage is also a Sacrament.

The Catholic Church also teaches that every sacramental marriage that has been consummated is indissoluble. This is in accordance with the Gospels, the writings of St Paul and centuries of Christian tradition.

Although not every marriage is a Sacrament, every marriage, including a marriage between two non-Catholics, is always presumed to be valid.

2 How, then, is a declaration of nullity possible?

In every presumption, the opposite can also be true. If the evidence shows that a particular marriage is invalid (i.e. that from the beginning it suffered from a radical defect) the original presumption no longer holds. It bears repeating that, in order to render a marriage invalid, the radical defect must be present from the beginning, that is, at the time of the wedding ceremony. No defect that might arise during the marriage would have the power of turning a valid marriage into an invalid one. However, when it can be proved that a particular marriage was, in fact, never valid in the first place, the Church may then declare it null.

It is important to understand the meaning of a declaration of nullity. It does not deny that a real relationship existed, nor does it imply that the relationship was entered into with ill will or moral fault. Rather, it is a statement by the Church that, from the very outset, the marriage lacked one of the elements which the Church considers to be essential to Christian marriage.

3 Are there any civil implications to a declaration of nullity?

There are absolutely no civil implications in the United Kingdom to a declaration of nullity by the Church. It does not affect in any manner the legitimacy of children, property rights, inheritance rights, names, etc. It is simply a declaration from the Catholic Church that a particular union, presumably begun in good faith and thought by all to be a marriage was, in fact, an invalid union as the Church defines marriage. There is no attempt in the investigation to impute guilt or to punish persons. On the contrary, the purpose of the procedure is to help people live out their lives in peace with God and their own consciences.

4 What is the purpose of the Tribunal?

Church Law calls for the existence of a Tribunal in every diocese of the world. The Diocesan Tribunal, a staff of specially trained and experienced priests, deacons, religious and lay persons, offers assistance to persons who request that the Church study a marriage in order to determine whether or not there is any possibility of a declaration of nullity. The Tribunal then investigates the marriage and on completion of the investigation, declares whether or not nullity has been proved.

5 How does one request a declaration of nullity?

The process is begun by a person fully completing a Preliminary Enquiry Form and sending it to the Tribunal. This form is available from the Tribunal. It asks for information concerning the background of each party and for details about the courtship and married life, and the names and contact details of witnesses.

Once the Preliminary Enquiry Form is received, it is reviewed by the Judicial Vicar. If there is no indication of nullity in the marital history, the Plaintiff is so advised. If, on the other hand, the marital history gives some indication that the marriage was possibly null, a Petition is drawn up and a Court is constituted to investigate the case.

This Court consists of a Presiding Judge and two Associate Judges. The other essential member is the Defender of the Bond, who makes sure that all the necessary procedural steps have been followed, and who examines all the information gathered from the parties and their witnesses, then furnishes the Judges with Observations designed to assist them in their deliberations. The Plaintiff seeks to have the marriage declared null, whilst the Defender of the Bond highlights those elements in the case which would seem to indicate that the marriage was valid (thus defending the validity of the marriage bond).

As the process continues, the Tribunal personnel dealing with your case will be happy to give you any advice or assistance you may need and ensure that the procedures are carried out in a satisfactory manner. However, if having discussed the matter with the Judicial Vicar, you

would like an Advocate appointed to act specifically in your case, the necessary arrangements can be made.

6 What about the former spouse?

Shortly after the Petition is accepted, the former spouse, or Respondent, is contacted by the Tribunal, given an opportunity to see the Petition, and invited to give evidence and to nominate witnesses. This contact is required by the universal law of the Catholic Church. In some cases, no decision can be given without the Tribunal hearing from the Respondent; in other cases, where there is sufficient evidence to make the facts of the case clear, a decision may be given even though the Respondent has not participated in the process.

It is important, therefore, for the Tribunal to have an accurate, current address of the Respondent. If this is not available, then the Tribunal must have the last known address, together with the address of a family member through whom the Respondent may be contacted. It has been the experience of the Tribunal that in many cases the Respondent is willing to offer testimony.

7 What about witnesses?

One of the items to be completed on the Preliminary Enquiry Form is the names and contact details of witnesses, people who knew the husband and wife and how the marriage went. Key witnesses are those who knew both parties prior to and during the marriage and, in some cases, any experts, such as doctors, psychiatrists, counsellors, etc. Shortly after the evidence of the Plaintiff and Respondent has been obtained, the witnesses will be contacted and arrangements made to interview them. Contact details must include address and phone number; an email address, if available, is also useful.

8 What about confidentiality?

In view of the nature of the information it receives, the Tribunal regards all matters as confidential. However, the Respondent has a right to inspect the Petition and, when it has been gathered, such evidence as the Presiding Judge considers appropriate, bearing in mind that some of it may be of a highly sensitive nature. The Respondent also has the right to inspect the text of the final decision reached by the Tribunal. The Plaintiff does, of course, enjoy the same rights.

9 What about the Data Protection Act?

All the information gathered for the case will be used to process your application for a declaration of nullity of marriage by the Diocesan Tribunal of the Roman Catholic Diocese of Arundel and Brighton, according to the rules and procedures as laid out in the Roman

Catholic Church's Code of Canon Law, and for the purposes of informing you about the outcome of your application.

It will be updated whenever fresh information is supplied and the Acts of the case will be held for a period of seventy-five years after the date of the final decision regarding the nullity application, and will be destroyed when the information is no longer required.

You will be required to give your explicit consent to the processing of such data.

10 What about disclosures relating to children or vulnerable adults?

In conformity with our safeguarding (of children and vulnerable adults) procedures, any disclosures made concerning abuse involving children or vulnerable adults will be passed to our Safeguarding Officer who may then report the disclosure to the statutory authorities – please be aware of this.

11 What about records?

The Plaintiff will be asked to supply the Tribunal with copies of his/her Baptismal Certificate, the Marriage Certificate and the Divorce Decree Absolute at the time of application. Prior to the final decree of civil divorce, no petition for a Church declaration of nullity can be considered by the Tribunal.

12 What happens when the request is activated?

Once the Presiding Judge has accepted a Petition for investigation, the Plaintiff will be called to give evidence. After this has been taken, the Respondent is invited to testify. Then, the evidence of each witness is collected.

13 When is the case decided?

After all the evidence has been compiled, the Defender of the Bond studies the case and submits Observations in support of the validity of the marriage. The Presiding Judge then meets with the two Associate Judges to give the decision.

14 Is the Tribunal's decision final?

In most cases the Tribunal's decision is final. However, either party can lodge a formal appeal, if they have substantially new evidence not made available during the course of the case or believe that the Tribunal has not followed the Church's procedural laws, in which case a panel of Judges will review the case. (Please note: the withholding of such evidence will substantially undermine any appeal.)

If the decision was affirmative, that is, the Judges conclude that the evidence proves that the marriage in question is null a Decree of Nullity is granted. If the original decision was negative, that is, the Judges conclude that the evidence proves that the marriage was valid then the Church continues to recognise the marriage.

In certain special circumstances, both the Plaintiff and the Respondent have the right to appeal to the Holy See. If such an appeal is made, the case is usually reviewed by a panel of senior Judges in Rome. Such an appeal would be made after the decision of the Tribunal has been given.

15 Is remarriage in the Catholic Church allowed?

If the marriage is declared null, and there are no restrictions concerning remarriage, the usual procedure of preparing for marriage in the Catholic Church may be started with the local parish priest. (Please note: you should **never** begin preparations for a marriage in the Catholic Church before a Decree of Nullity has been issued by the Tribunal.)

If a marriage is declared null due to a possibly ongoing cause, a second marriage obviously cannot be permitted until it has been demonstrated that the cause which invalidated the first marriage has been resolved.

16 Is there a fee for Tribunal services?

The Tribunal asks the Plaintiff to make a contribution towards the administrative/secretarial costs involved in a declaration of nullity investigation.

If the decision of the Judges is that the validity of the marriage is upheld and an appeal against that decision is accepted the Appeal Tribunal will require a contribution, payable at the time of registration of the case with them.

However, at no time should financial considerations discourage any person from exercising the right to receive a just hearing from the Tribunal. Where there is genuine hardship, the Tribunal will waive part or all of the contribution towards costs. The ability or inability to pay in no way affects the progress or outcome of a request.

If you would like any further information, please contact:

The Tribunal Administrator

Bishop's House

The Upper Drive

Hove, East Sussex

BN3 6NB

T: 01273 859703 E: tribunaladministrator@abdiocese.org.uk

Office hours: Monday to Thursday, 8.30 am to 4.00 pm.

Diocesan Tribunal

Version: November 2020

The Arundel and Brighton Diocesan Trust is a Registered Charity No. 252878

