



DECLARATION OF NULLITY OF MARRIAGE

DIOCESAN TRIBUNAL: INFORMATION FOR THE RESPONDENT

1. General Information

Your former spouse has used their right in Church law to have your previous marriage investigated with a view to a possible declaration of nullity. The outcome of this procedure is never a forgone conclusion – a decision declaring a nullity of marriage will only be granted if it can be proven to the judges that the marriage was null according to Church law. If this cannot be demonstrated with moral certitude, then, since marriage enjoys the favour of the law, it will remain valid in the eyes of the Church.

In this process your former spouse is known as the 'Plaintiff' and you are known as the 'Respondent'.

Throughout the process you enjoy exactly the same rights as your former spouse, the Plaintiff: the right to be heard in the formulation of the grounds of nullity; to know the grounds on which the case will be investigated; to nominate witnesses; to know and rebut evidence gathered and the comments of the officials of the Tribunal; to know the decision of the Tribunal; and to be able to challenge the Tribunal's decision.

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.) Plaintiffs and Respondents are always free to appeal to the Holy Roman Rota if they wish.

In general, the Plaintiff is responsible for costs; however, if the Respondent makes an appeal, then the Respondent will usually be required to bear the costs of this.

2. Specific Information

Although you may decide not to take part by participating in an interview, you do have certain rights in this procedure:

- o The right to know the content of the Petition (unless the judge considers the Petition should not be communicated before your evidence has been collected) [c.1508§2].
- o The right to know the grounds upon which the case is being considered and have these explained to you should you so wish [c.1677§3].
- o The right to appoint an Advocate (to give advice and look after your interests in Church Law) and/or Procurator (to act in your place in proceedings) [cc.1481; 1482; 1490].
- o The right to nominate your own witnesses in the case [cc.1547; 1620 7°].

- The right to know the names (not addresses) of any other witnesses in the case [c.1554].
- The right to submit objections to a witness being called [c.1555].
- The right to inspect (at the Tribunal Office) the final evidence and to make submit comments [c.1603].
- The right to receive a copy of the Sentence [c.1615].
- The right to appeal the decision of the judges [c.1628].

Enclosed is the formal petition for the nullity of marriage process. It contains only an outline of the facts as presented by the Plaintiff, as well as the grounds on which it is proposed that this plea of nullity will be considered (if you would like the grounds to be explained further, please do contact the Tribunal Office).

Before the grounds are finalised, if you wish to discuss the process or have a greater explanation of it, the petition itself or the proposed grounds, please contact the Tribunal Office in the next fifteen days. Thereafter, the grounds will be finalised, having taken account of any views you or the Plaintiff may have expressed. If the finalised grounds are different from the proposed grounds, you will be informed again.

A list of names of those who judge marriage nullity cases is available for inspection.

Even if you have chosen not to take part in an interview, you are free to nominate witnesses that you would like the Tribunal to interview on your behalf concerning the plea of nullity being presented. All such witnesses **must be willing** to be interviewed and you **must check** this before nominating them. You should make any witnesses aware that all the evidence will be open for inspection by the Plaintiff and yourself before the case is judged.

When all the evidence has been gathered and the comments of the officials of the Tribunal added, they will be open for inspection, at the Tribunal offices, by yourself and the Plaintiff. The Tribunal will write to you when this time arrives, to inform you and give you a date by which you will need to have responded.

After the case has been judged, you will be informed of the decision and the sentence will be made available for inspection.

If you wish to appeal and have new and serious proofs or arguments, which have not been withheld, you may appeal to the Southwark Interdiocesan Tribunal of Second Instance. You may appeal, if you prefer, to the Holy Roman Rota in Rome. All appeals must be lodged within fifteen days of notification.

You are kindly asked to advise us of any change of address so that we may keep in contact with you.

3. Declaration of Nullity of Marriage – some explanatory notes

What is Marriage?

The Catholic Church teaches that marriage is, by God's plan, an enduring and exclusive partnership between a man and a 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 presumed to be valid.

How, then, is a declaration of nullity possible?

In every presumption, the opposite may be true. If the evidence shows that a particular marriage is invalid, ie that from the beginning it suffered from some radical defect, the original presumption no longer holds. It bears repeating that, in order to render a marriage invalid, the radical defect must have been present at the time of the marriage 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, then the Church may 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 Catholic Church that, from the very outset, the relationship lacked one or more of the elements that the Church considers to be essential to Christian marriage.

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 Catholic 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.

What is the purpose of the Tribunal?

Church Law calls for the existence of a Tribunal in every diocese of the world. The Arundel and Brighton Tribunal is staffed by specially trained and experienced priests, deacons, religious and laypersons, and 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 the nullity has been proved.

What about witnesses?

You are invited to offer the names of persons as witnesses, who knew you both and how your 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 (if taking part) has been obtained, the witnesses will be contacted and arrangements made to interview them.

What about confidentiality?

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

Data Protection Act

All the information gathered for the case will be used to process the 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 the application.

It will be updated whenever fresh information is supplied and will be held for a period of seventy-five years after the date of the final decision regarding the nullity application.

It will be destroyed when the information is no longer required.

You are asked to sign giving your explicit consent to the processing of such data on the reverse of the reply sheet enclosed.

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.

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 two Associate Judges to give the decision.

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.

If the marriage is declared null due to a possible ongoing cause, a second marriage obviously cannot be permitted until it has been demonstrated that the cause that invalidated the first marriage no longer exists.

No new marriage may be scheduled in any Catholic church until the whole procedure has been completed.

These notes should be kept carefully and read in conjunction with any other letters you may receive from the tribunal.

If you would like any further information, please contact the Tribunal:

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

Office Hours: Monday to Thursday 8.30 am to 4.00 pm

Postal Address:

The Tribunal Administrator
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The Upper Drive
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