

The Process for Declaration of Nullity of a Marriage



The Tribunal of the Catholic Church for New Zealand

Divorce is one of those life events which one can never be prepared for. Ending the marriage and the union that you had hoped would last the rest of your life is usually a traumatic experience for all concerned. The time of separation and divorce is a time of upheaval and at all levels it can result in strained friendships and feeling of alienation and guilt.

The Church cares: We acknowledge the reality of separation and divorce. Our Church is aware of the stresses in our modern world associated with the end of a marriage. Added to the pain of the legal and relational process are the questions that the divorced Catholics may have about their status within the Church. They may wonder if and when they are required to seek a Church Declaration of Nullity. Whilst upholding the permanence of sacramental marriage, the Church does reach out in support of those whose marriages have broken down. These aspects of the Church are especially evident in the sensitive work of the Tribunals of the Catholic Church.

Any divorced person has the right to ask for an

investigation of a previous marriage by the Tribunal of the Church. The Tribunal decides if it was a binding marriage for life according to the criteria of the Catholic Church. The main work of our Tribunal is to assist with the pastoral care of the divorced person who has remarried or is intending another marriage in the Catholic Church. It may also assist a divorced Catholic who is seeking clarification of his/her position for peace of conscience or for reassurance in developing relationships in the future. Sometimes a person wishes to be baptised in the Catholic Church or to be received into it, and they need to regularise their present marriage. Whatever the person's life circumstances, the tribunal process is a journey of discovery. Those who embark on it are accompanied by compassionate staff and volunteers who are committed to confidentiality.

The following are some commonly asked questions about the process of seeking a Declaration of Nullity:

What is a Declaration of Nullity (Decree of Nullity)?

A Declaration of Nullity is not a Catholic word for divorce. A Decree of Nullity is a declaration by the Church that a particular marriage is not binding for life according to criteria of the Catholic Church. It does not deny that there had ever been any kind of bond between the couple or erase the relationship that existed. Nor does it assign blame for the breakup of the marriage. The Church recognises that there was a real civil marriage, a real relationship and the children are and always will be legitimate even if a Declaration of Nullity is granted.

Does a Declaration of Nullity make the children illegitimate?

No! Church law states that the children of a marriage that is declared null are considered legitimate. A Declaration of Nullity affects only the marital status of the parties according to the law of the Catholic Church.

How to begin the process?

The Tribunal will only accept a case if the relationship is proven to be irretrievably broken down, i.e. in the case of New Zealand, cases are processed only after a civil dissolution and settlement are finalised. The process begins when an applicant (known as the Petitioner) completes a 'Preliminary Submission' and a 'Fact Sheet' and sends them to the Tribunal. The form is available from the Tribunal upon request. The form asks for information about the background of each party and for details of the courtship and married life. Following this a preliminary assessment is made, after which the Petitioner is advised whether the case is considered worthy of further investigation. If the case is accepted for hearing, there will be a further formal interview with the Petitioner who signs a petition making an official application for a declaration of nullity. Please note that continuation of the process does not guarantee a declaration of nullity.

Is the former spouse contacted?

It is a requirement of canon law that the other spouse (known as the Respondent) be informed of the investigation and given the opportunity to participate in the investigation in the same manner as the applicant.

The Tribunal must be provided with the Respondent's current address or contact details. It is not necessary for the Petitioner to contact the Respondent; the Tribunal can do this. But it is often better if the

Petitioner informs the Respondent that he or she has approached the Tribunal so that they don't feel blindsided when we contact them. The testimonies of the Petitioner and the Respondent will be obtained separately. The Tribunal finds that in most cases, the Respondent is willing to testify, however, if a Respondent once contacted, declines to participate, the case can still proceed.

What about witnesses?

Both the Petitioner and the Respondent may nominate witnesses. Key witnesses are those who knew the couple before the wedding and at the time they got married. The person who names the witnesses is responsible for getting them to agree to give evidence, but the Tribunal will contact them to arrange for the evidence to be given.

Is there a need to produce any documents?

Yes. The Petitioner will be asked to supply the Tribunal with Marriage and Divorce Certificates and also Records of Baptisms (where applicable).

What about confidentiality?

All evidence gathered is confidential. The Tribunal must also observe relevant reporting and privacy laws of New Zealand. The parties to the marriage have the opportunity to know the decision and the basis on which it was made.

How long does all this take?

Due to the number of applications and the varying factors involved in different cases, no time can be specified, but most cases are completed within a year.

Petitioners cannot book a wedding in any parish until the Tribunal decision is finalised. Setting a date for a wedding before the final decision is known places the Petitioner, their proposed spouse and Tribunal staff, under unreasonable and unnecessary pressure.

Is it all worthwhile?

For many, seeking a Decree of Nullity has some very painful and anxious moments. However, it can be a pastoral and therapeutic process as well as a legal procedure. Many applicants find that the process itself, and the sensitive approach of the Tribunal staff, can be an experience of healing and an opportunity to face up to debilitating memories of the past.

If an application for a Declaration of Nullity has little or no hope of success, the Tribunal will advise the applicant of this.

What are the fees for the Declaration of Nullity process?

The applications for Declaration of Nullity are free of charge. The tribunal is supported by the New Zealand Catholic Bishops' Conference.

Who to contact?

As every relationship is unique, the above explanation may still leave you with some unanswered questions. Please contact us at the Tribunal office and we will guide you through the process:

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*“Let the Church always be
a place of mercy and hope,
Where everyone is welcomed,
loved and forgiven.”*

Pope Francis