

# Guidance when considering a divorce



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## Guidance when considering a divorce

Everyone deals with the breakdown of a relationship in different ways. It can be a very emotional and stressful time for those involved and a time when it may be hard to see a way forward.

If you and your spouse have reached the stage where you feel the only solution is to petition for divorce, then the following information may give you a better idea of what you are about to enter into.

### **Some facts and the process you will go through, when proceeding with a divorce**

#### **1) The divorce application**

Firstly you should make a request to the Court to start divorce proceedings. The application (the petition) will contain the details of both parties and the reason for seeking a divorce. The marriage must have broken down "irretrievably" and you have to establish 1 of 5 specified grounds to prove this:

- Adultery
- Unreasonable behaviour
- Desertion for more than 2 years
- Living apart for more than 2 years (both parties in agreement)
- Living apart for more than 5 years

You should apply the ground which most resembles your circumstances. The person applying for the divorce is referred to as the 'Petitioner'. The other party is referred to as the 'Respondent'.

Send your petition, together with your marriage certificate and a fee of £550 to the Court to start divorce proceedings.

#### **2) Service of the application**

The Court will check the documentation received and if satisfied it complies with legal requirements, they will officially issue the divorce application and post it to the Respondent (your spouse), along with a form for them to complete and return to the Court. This form is known as the 'Acknowledgement of Service'.

### 3) Acknowledging service of the application

The Respondent is required to return the completed form to the Court within 7 days, indicating whether or not they wish to contest the proceedings. If your spouse does wish to contest the divorce they will need to complete another form called an 'Answer' within 28 days of receiving the 'Application'. Fully contested divorce proceedings are extremely rare. In this case you will have to seek legal advice. During this time you may need to consider resolving any financial issues, and if children are involved make necessary decisions about arrangements for the children. This may require further involvement from the Court.

### 4) Confirming the facts in your application

The Court will send a copy of the 'Acknowledgement of Service' form to the Petitioner. They must then sign a statement confirming the facts of the petition and apply for the Decree Nisi (a document from the Court indicating that you are entitled to a divorce). The statement should then be sent to the Court together with the signed Acknowledgement of Service.

### 5) Pronouncement of Decree Nisi

When the Court has received the correct documentation and a judge has checked it, they will set a date for the Decree Nisi. Once received, you have to wait for six weeks and one day to allow time for anyone who objects to the divorce to come forward before you can apply for a Decree Absolute. It is not necessary for the parties to appear in Court.

### 6) Application for Decree Absolute

Six weeks and one day after the Decree Nisi is pronounced the Petitioner can apply for the Decree Absolute, thereby dissolving the marriage.

A standard application form should be completed and filed with the Court. If for some reason, you do not apply for the Decree Absolute, your soon to be ex-spouse can go ahead and apply for it themselves, three months later.

## 6) Receipt of the Decree Absolute

Only once the Decree Absolute has been granted and sealed by the Court are the parties officially divorced. The Decree Absolute is an important document and should be kept in a safe place.

### How long does a divorce usually take?

If both parties agree the grounds for divorce and complete and return the paperwork in a timely manner, a case can take around six months. However, if the parties cannot agree or the paperwork filed with the Court is delayed for any reason, it will extend the time taken to complete the divorce.

### Need further advice?

If you would like to discuss your particular circumstances with one of our specialist family lawyers we are an experienced and committed team. We understand that this is a difficult time for most of our clients and we can guide you through each step of the way. We provide sensitive but objective and realistic advice that takes into account the emotional as well as the financial aspects of a separation and (if appropriate) divorce.

We offer a free 30-minute initial consultation, where you can have an informal chat with one of our expert family lawyers about your problem, your rights and your options. To book an appointment, please call us at one of our six office locations detailed below.



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