

GUIDE TO GETTING A DIVORCE

From the 6th of April 2022, the Divorce, Dissolution and Separation Act 2022 (DDSA 2020) introduced the most radical changes to divorce law in fifty years. The DDSA also provided the same changes to dissolution of civil partnerships and judicial separation.

Under previous divorce laws, a divorcing couple had to prove that the marriage had irretrievably broken down and the reasons why the marriage had failed to be granted a divorce. Now, irretrievable breakdown of the marriage remains the sole ground for divorce but neither party must prove why the breakdown happened and who was to blame for a divorce to be granted.

Under the new laws, an application for divorce can no longer be contested by the other party. There is also opportunity for the couple to apply for a joint application for divorce.

In most cases, the entire divorce process will take at least six months. This might be longer if it takes time to reach a financial settlement.

THE DIVORCE APPLICATION

Firstly, you will need to check if you are eligible to get a divorce. You can get divorced in England or Wales if all the following are true:

- you've been married for over a year
- your relationship has irretrievably permanently broken down
- your marriage is legally recognised in the UK (including same-sex marriage)

Once you have established that you meet the criteria to get a divorce, you will need to do is send your divorce application to court either online or through the post which we will assist you with.

You will also be required to write a statement in which you will need to provide:

- Your full name and address
- Your spouse's full name and address
- You will need a copy of your original marriage certificate to upload this when submitting the petition

You also now have the option of making the divorce application jointly with your spouse. If you choose to do this, you'll both be known as joint applicants. If you apply by yourself, you'll be called the applicant and your spouse will be the respondent.

There is a court fee of £593 to apply for divorce which we will ask you to pay beforehand. You can split this cost with your spouse if you apply together.

IF YOU APPLY BY YOURSELF

If you make an application by yourself, your spouse/partner will have 14 days to return the completed form saying whether they agree to the divorce or if they intend to dispute it.

As stated above, it is no longer possible to contest a divorce, this is something of a formality. Parties can only dispute a divorce petition under very limited circumstances such as a marriage being

illegitimate or a court not having the power to grant the divorce. Your spouse cannot delay your divorce application simply because they do not want to get divorced.

Your divorce application will be processed once the court receives the completed acknowledgement of service form from the other party.

You should always submit that you will be seeking a financial order, whether you intend to or not. This will provide you with the security of being able to do so if you so wish.

IF YOU APPLY JOINTLY

When a joint divorce application is made, the parties are joint applicants. This means that there is no respondent to send an acknowledgment of service form. Instead both parties send an “acknowledgement of service” receipt to confirm that each application is being processed.

The joint application will automatically progress to the next stage of the divorce process.

This will be followed by a 20-week waiting period known as the “reflection” or “cooling off” period. This is to give both parties the opportunity to come to an agreement about how to split the care of any children involved and finances within the marriage.

Whilst it is an advantage an agreement to be made, if the parties cannot agree this will not stop the process from going to the next stage.

CONDITIONAL OFFER (formerly the Decree Nisi)

Once 20 weeks have passed, you can apply for a conditional order. If you apply for divorce online, you’ll be told how to apply for the conditional order online. Otherwise, you can apply through the post by filling out a **Form D84**.

The conditional order is the first of the two court orders that make up the divorce process, along with the final order. They have replaced the old court orders, the decree nisi and the decree absolute.

Importantly, if your divorce began before 6 April 2022, you’ll be subject to the old divorce laws. So, you’ll have to apply for a decree nisi and a decree absolute instead.

The Court will review your conditional order application and will send a “Certificate of Entitlement” to both parties if all is correct. This will tell you when the conditional order will be granted and usually takes a few weeks to arrive.

Once the court has approved the conditional order, you are still legally married. There is a further 6-week period before an application to finalise the divorce can be made. You can use this time to apply for a financial consent order. As part of the divorce process, you need to come to a financial agreement with your spouse. A financial consent order makes this agreement legally binding.

Whilst this step is not essential to obtain a divorce, we do advise that you do it to ensure that your spouse cannot make a claim against your estate in the future. Once the court grants the financial order, all financial ties to your spouse will end.

FINAL ORDER (formerly the Decree Absolute)

Six weeks and one day after the Conditional Order is granted, you can apply for the Final Order. You can do this either by post or online. The final order is the document that legally ends your marriage.

The court will review your final order application. In most cases, you'll be granted the final order within 24 hours. Once it's granted, you're officially divorced and free to remarry.

CHILDREN

There is no longer a form relating to child arrangements within divorce proceedings and therefore if you require a Child Arrangements Order in relation to Residence or Contact you will need to make a separate application to the Court. Should you require advice in relation to your children, we would be happy to discuss this in more detail to offer tailored advice.

AND FINALLY...

"A divorce is like an amputation. You survive, but there is less of you." Margaret Atwood, famed novelist.

We understand how difficult separation can be and the bewilderment that you may be feeling. We will listen to you and help you stay positive through a time when changes may come quickly, and you may need the support of your friends and family more than ever