



Family Department

Divorce and Dissolution

This Client Guide deals with the basic formalities of obtaining a divorce or a dissolution. If you are getting divorced this is likely to be a distressing and anxious time for you. We provide sympathetic, straightforward legal advice and guide you through the court procedures. We will try to make the process as smooth as possible and we will always try to avoid unnecessary confrontation with your spouse.

Most people going through a divorce or dissolution will require legal advice on important ancillary matters such as maintenance and other financial provision (which are covered in a separate Client Guide). We can also advise on children issues where necessary.

Who can start Divorce/Dissolution proceedings?

Anyone who has been married for over a year provided the relevant criteria on your residence (in England and Wales) are met. This will also include your domicile, which can be complicated and we will discuss with you in full, before issuing any petition for divorce.

On what grounds can the Divorce/Dissolution Petition be started?

A divorce will be granted if the marriage has irretrievably broken down, and one of the following five reasons is established;

1. Your spouse has committed adultery and you find it intolerable to continue living together (this is only available for divorce)
2. Your spouse has behaved in such a way that it would be unreasonable to expect you to continue living together
3. Your spouse has deserted you for a continuous period of 2 years or more
4. You and your spouse have been living separately for 2 years or more, and your spouse agrees to the divorce.
5. You and your spouse have been living separately for 5 years or more, whether or not your spouse agrees to the divorce.

If your marriage or civil partnership has irretrievably broken down, and one of the five reasons applies, what happens next?

If you decide to start divorce/dissolution proceedings the first stage is to issue a divorce/dissolution petition. It is generally sensible to try to obtain your spouse's consent to the petition and agree its contents in advance.

What information is included in the Divorce/Dissolution Petition?

The Petition contains basic information such as the parties' names, addresses, ages of children and a statement that the marriage has irretrievably broken down. It will also state the reasons for the divorce and include a request for the Divorce or dissolution to be granted. It may also include a request for an order relating to any children, a claim regarding costs of the divorce and an order for financial provision.

Will information on my Divorce/Dissolution be made public?

Court proceedings for Divorce/Dissolution are usually private, which means the public and press are not allowed access to the Court papers.

How long will it take?

This is a very difficult question to answer as so much depends on the circumstances and the individuals involved. Some stages of the divorce/dissolution procedure do have strict timetables, whilst other stages do not. Some general guidance on timescales is provided in the section below. Once we have more information about your specific circumstances and the approach likely to be taken by your spouse we can usually provide a better estimate.

The Process

If you instruct us to act for you in obtaining a divorce we will go through the following process on your behalf. The person who starts the divorce is the “**Petitioner**” and the other party to the divorce is called the “**Respondent**”. If you are the Respondent we can provide you with the appropriate advice and assistance at the relevant stages indicated below.

- We will meet with you to obtain the relevant information from you and advise you on the most appropriate grounds for the divorce, the costs involved and likely timescale.
- The Divorce/Dissolution Petition will be completed and sent to the Court with your original Marriage Certificate and the Court Fee. The original certificate is sent to the court and will not be returned.
- Within one or two weeks, the Court will send a copy of the Petition to the Respondent. A copy of the Petition is also sent to any co-respondent named in any Adultery Petition. The Court will notify us of this.
- Within 14 days of receipt of the Petition the Respondent should send to Court a form called an “**Acknowledgment of Service**”. The form asks the Respondent to confirm whether they intend to defend the Petition, whether any claim for costs is disputed and whether any order affecting any children is sought.
- Within 28 days of receipt of the Petition (or longer if the Petition has to be served abroad) the Respondent must, if they intend to defend the Petition, file a Defence. The Petition then becomes defended and the procedure outlined below does not apply. Defended Divorce/dissolution proceedings resulting in a full contested hearing are very rare, but will inevitably cause a delay in proceedings.
- If the Respondent does not return the Acknowledgment of Service proof that the Respondent (and any co-respondent) has received the Petition will have to be obtained, before any further steps can be taken. This might require personal delivery of the Petition on the Respondent or, in rare cases, obtaining a Court Order that such proof is not needed. Where the divorce petition is based on 2 years separation, no further progress can be made until the Respondent returns the Acknowledgment of Service consenting to the divorce.
- Once the Respondent sends the Acknowledgment of Service to the Court it will send a copy to the Petitioner. If the Respondent is not defending the Petition, the Petitioner can apply for a Certificate of Entitlement to a Decree.
- We will prepare a statement confirming that the contents of the Petition are true. It will also state whether the circumstances have changed since the filing of the Petition. We will send the Affidavit to the Court with a request for a date for the first decree of Divorce (**Decree Nisi**) to be pronounced. This called a conditional order in dissolution proceedings.
- The District Judge checks the papers and, if they are in order, will give a Certificate for the Decree Nisi to be pronounced. Both the Petitioner and the Respondent are then advised of the date fixed for the Decree Nisi. Depending on the Court diary, the date is likely to be a few weeks after the Affidavit is lodged. There is usually no need for either party to attend the Court.
- The Petitioner may apply for the Final Decree (**Decree Absolute**) 6 weeks and 1 day after the date of Decree Nisi, by sending the appropriate form to the Court. This step is not automatic and the appropriate application must be made to obtain the Decree Absolute. If the Petitioner has not already done so the Respondent can apply for Decree Absolute once more than 3 months from the date on which the Petitioner could first have applied for Decree Absolute have elapsed. This called a final order in dissolution proceedings.

This Guide is not intended to be comprehensive. It highlights and explains the common legal issues relevant to this topic. It should also help you to understand any steps we take on your behalf and the terms we and other professionals involved in your matter may use. Please read this Guide carefully and contact the lawyer dealing with your matter if you do not understand anything in it. We will not repeat the advice or information provided in this Guide when we meet you or write to you unless we need your specific instructions on some aspect of it.