

DIVORCE PROCEDURE GUIDANCE SHEET

To obtain a divorce, you have to show that your marriage has “irretrievably broken down” and this can be proved in one of five ways:-

1. Your spouse has committed adultery and you find it intolerable to continue to live with him or her;
2. Your spouse has behaved in such a way that it is unreasonable to expect you to continue to live with him or her;
3. You have been separated from your spouse for 2 years and your spouse consents to the divorce;
4. You have been separated from your spouse for 5 years (whether or not your spouse consents to a divorce);
5. Your spouse has deserted you for a period of 2 years.

What do I have to do to start the Divorce Process?

If you want to get a divorce, your Solicitor will need to file a Divorce Petition at your local County Court on your behalf. As the person who has started the proceedings, you will be called the “Petitioner” and your spouse will be called the “Respondent”.

Your Solicitor will draw up the necessary documents for starting divorce proceedings. The main document is the Divorce Petition which sets out the reasons you want a divorce, using one of the five facts mentioned above.

Your Solicitor will need your Marriage Certificate in order to draft the Divorce Petition.

Once the divorce documents have been drafted your Solicitor will send them to you for your approval or alternatively arrange an appointment for you to come in and go through the documents. These documents can then be signed by you.

The Divorce Petition will then be filed at the Court together with your Marriage Certificate and the appropriate fee, which is currently £550.00.

The next step is for your spouse to complete a form called the Acknowledgement of Service of the Divorce Petition and return it to the Court.

If your spouse fails to return the Acknowledgement of Service to the Court, your Solicitor will either have to instruct the Court Bailiffs to serve the Petition personally or, alternatively will arrange for a process server to serve the Petition.

Once your spouse has returned the Acknowledgement of Service of the Divorce Petition to the Court indicating that he/she will not be defending the divorce, the Court will send a copy to your Solicitor.

Your Solicitor will then prepare your Affidavit in support of the Petition. This is sworn statement confirming that the information you have given in the Divorce Petition is true.

The Affidavit is sent to the Court together with the request for the case to be considered.

All of the paperwork then goes before a District Judge to consider whether a divorce should be granted.

The District Judge will then issue a Certificate and the case will be listed for the Decree Nisi.

The Decree Nisi is the provisional Divorce Order. You will remain married until the Decree Nisi has been made "absolute".

The hearing for the Decree Nisi is usually listed for about three to four weeks after the Affidavit is returned to the Court, depending on how busy the Court is at the time. At this point, the Court will also indicate whether it is satisfied with the arrangements for the children.

You do not need to attend the Decree Nisi Hearing unless the Court has indicated that you should do so because there is a dispute over who should pay the costs of the divorce.

When do I get the Decree Absolute?

Once the Decree Nisi has been pronounced your Solicitor will send to you a copy of the Decree Nisi Certificate. This is the first part of the divorce.

Once you have received the Decree Nisi, you must wait six weeks before applying for the Decree Absolute by sending another application form to the Court together with a further court fee.

The Decree Absolute is the final part of the divorce. It is important that you retain the Decree Absolute Certificate as you will need it if you ever wish to prove in the future that you are no longer married.

Sometimes it is advisable not to apply for the Decree Absolute straight away. There may be reasons why it is better to wait for the Decree Absolute until the financial disputes in the divorce have been resolved. Your Solicitor will advise you about this further at the appropriate time.

It usually takes about four to five months to obtain a straight forward divorce i.e. where the divorce is not defended by your spouse and the facts are clear cut and even then this depends on how quickly each party returns the various forms to Court and on how busy the Court is. If financial matters cannot be agreed by consent then the divorce could take considerably longer. Please see Ancillary Relief Guidance Sheet.

Court Fees on Divorce and Civil Partnership Proceedings

Proceedings type	Fee
Filing an application for divorce, nullity or civil partnership dissolution	£550
Filing an application for judicial separation	£365
Filing an application for a second or subsequent matrimonial or civil partnership order with permission granted under <u>Family Procedure Rules 2010 rule 7.7 (1)(b)</u> .	£95
Filing an answer to an application for a matrimonial or civil partnership order	£245
Filing an amended application for a matrimonial or civil partnership order	£95
Filing an application to start proceedings where no other fee is specified	£245

Filing an application to make a decree nisi, absolute (divorce), or a conditional order, final (dissolution) - only if the original application for divorce, nullity or civil partnership dissolution was filed before 1 July 2013	£50
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Financial Orders

Application type	Fee
Application for a financial order, other than by consent	£255
Application by consent for a financial order	£50

For further information:

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