

Procedural Guide to Divorce

We set out below the process for obtaining a divorce. Please note this does not deal with arrangements for children, or financial matters - these are dealt with separately. It is important to take legal advice to check that everything is dealt with properly. More information about how to deal with arrangement for children can be found [here](#), and arrangements for finances [here](#).

We can deal with the following process as well as advising about financial matters, arrangements for children and we tailor our advice to meet your specific needs and budget.

1. To obtain a divorce, one person starts the process, and they are known as the Petitioner. The other person is the Respondent.
2. There is only one ground for divorce - that your marriage has irretrievably broken down. To prove this you must rely on one of the following five facts:
 - The Respondent's adultery. The Petitioner must also confirm they find it intolerable to live with the Respondent. The Petition should include details of when and where the adultery took place. If the Respondent does not admit adultery, it can be difficult to prove, in which case it may be easier to use a different ground such as unreasonable behaviour. It is possible to name the person who the Respondent committed adultery with, but this is discouraged by the Family Proceedings Rules. If they are named they become a party to the proceedings and receive copies of the paperwork.
 - The Respondent's unreasonable behaviour. You are required to give a few "particulars" or examples in the petition.
 - 2 years separation (which needs the consent of the Respondent).
 - The Respondent has deserted you, for at least 2 years.
 - 5 years separation (which does not need the consent of the Respondent).
3. The Petitioner completes a divorce petition and sends two copies to court (three copies if there is a co-respondent).
4. You pay a court fee (currently £410), or complete form EX150 if you are exempt from paying court fees.
5. You also need to send the court a certified copy of your marriage certificate (which usually means the original yellow and green copy).
6. The court sends the divorce papers to the Respondent.
7. The Respondent has to complete a form called the acknowledgement of service, which they post back to the court. This confirms that they have read the petition and statement of arrangements, whether they agree with what is said, and whether they oppose the divorce.
8. Defending a divorce is complicated and is outside the scope of this guide. The vast majority of divorces are undefended.
9. The court sends the completed acknowledgement of service to the Petitioner, who needs to complete an application for decree nisi, and a statement in support.
10. A judge will then read the file and if everything is in order, they will fix a date for decree nisi to be pronounced. Usually there is no need for anyone to attend court. You are still married after the decree nisi – it is simply confirmation that the court accepts that a divorce should take place.

11. If you cannot agree who should pay the costs of the divorce, there will be a short hearing to resolve this when the decree nisi is pronounced and you should both attend court. You need to give notice beforehand (to both the court and the Respondent) if you wish to pursue costs.
12. Six weeks and one day after the date of decree nisi, the petitioner can apply to make the divorce final, and obtain the decree absolute. This is when you are actually divorced. The Petitioner makes the application. It is usual to delay applying until the terms of the financial settlement have been resolved. Once your decree absolute has been made, the divorce is final and you are no longer married. It is usually important to resolve financial matters before re-marrying.
13. If the Petitioner fails to apply for decree absolute, the Respondent can apply (although the procedure is more complicated, and they have to wait for a further three months after the date when the Petitioner can first apply).

The procedure for applying for dissolution of a civil partnership is almost identical, apart from some of the terms are different (instead of divorce, you apply for a dissolution, and instead of a decree nisi you apply for a conditional order, and instead of a decree absolute you apply for a final order). One other difference is that you cannot apply for dissolution on the basis of adultery – otherwise, the same ground and facts apply.