



DIVORCE

This guide outlines the process of getting divorced in England and Wales.

Divorce is to legally end a marriage. A divorce does not end your financial relationship to each other. You will need to make separate arrangements for the assets, pension and income and we recommend that you take legal advice to be certain that it is all handled correctly. We also have a guide to outline that process.

At all stages, we recommend that you take legal advice about the process, the forms and the consequences of the application and response.

In April 2022, the process changed to a no-fault based system which means that there is no need to provide a reason for the breakdown of your marriage. You simply need to confirm that your marriage has broken down irretrievably with neither party assigning blame.

Are you sure your marriage can't be saved? If so, you can apply for divorce under this process.

You need to have been married for at least a year before you can start divorce proceedings. At least one of you needs to be living in England and Wales but it doesn't matter where you got married.

**A Picasso
Legal Guide
Answering your
questions**

The application

To kick things off, you need to submit your application. It isn't called a petition any longer. This is usually done online via a court portal (though you can still use a paper application). In your application, you'll make your declaration that the marriage has irretrievably broken down. You don't need to cite adultery, or behaviour or have been separated.

You'll need to upload a copy of your marriage certificate and there is a fee of £593 which can be reduced or waived for some applicants on low income.

This application can be made by just you (the sole applicant) or together with your spouse (as joint applicants).

If you receive a divorce sole application from your spouse, you are known as the respondent.

Sole applicants

When the court receives your application, a copy will be sent to your spouse by email and by post.

Your spouse then has 14 days to respond to the application. They do this by completing an Acknowledgement of Service form which is provided by the court.

If they don't return the Acknowledgement of Service, it will be necessary to prove that the petition was received. We can arrange for a process server to deliver the documentation to your spouse personally. The process server will provide a statement that replaces the Acknowledgement of Service.

Joint applicants

Since April 2022, it is now possible for both spouses to apply for a divorce jointly. You'll be known as Applicant 1 and Applicant 2 (we don't think a lot of time was spent thinking of these names!).

Applicant 1 is the person that completes most of the form and, importantly, pays the court fee. If you're applying to have the fee reduced or waived, you must both apply. If one of you isn't eligible, then the full fee will need to be paid.

There's a bit of to-ing and fro-ing. Applicant 1 submits the application which is sent to Applicant 2 to check and add a few more details. Then it is sent back to Applicant 1 to check and approve. Then it finally gets issued.

Both of you will need to submit an Acknowledgement of Service.

Responding

If your spouse made a sole application

The court will send you a copy of the application by email and by post with details of how to access the online court portal.

Usually you'll get it within 28 days of it being issued but the applicant can request permission to delay service.

You need to complete and return the Acknowledgement of Service within 14 days of receiving it.

It is possible to dispute the application for divorce but only in *very* limited circumstances. For example, you can raise a dispute if there is query about the validity of the marriage, or whether the courts of England & Wales should even be dealing with it.

Sometimes it may be necessary to request that the divorce process is delayed until financial issues have been resolved.



Cooling off period

Once the court has issued the application, there is a “cooling off” period of 20 weeks before you can apply for a conditional order.

If you’ve applied for the divorce as joint applicants, you should also both apply together for the conditional order. If one of you feels that the other is delaying the process unreasonably, you can apply for the conditional order on your own. If you do this, the process will no longer be a joint application and will have converted to a sole application.

The conditional order confirms that the court accepts you are entitled to a divorce but hasn’t yet completed it. This is what used to be called the Decree Nisi. You’re still married at this stage.

This 20-week wait can be an excellent time to work out any financial arrangements. This might include maintenance and deciding how to divide matrimonial assets such as property, pensions and bank accounts.

It’s a very good idea to send your agreement to the court for approval which makes it binding. This document is called a consent order. However, the court can’t give approval until the conditional order has been granted.

Conditional order

After the 20-week cooling off period, the application for a conditional order will be submitted. The court will review it to ensure all the documentation is correct.

The court will set a date for the formal pronouncement of the conditional order. You don’t need to attend the court for pronouncement. You’ll both be sent a copy of the order.

Final Order

Six weeks after the date of the conditional order, you can apply to the court for a final order.

If the application has been a joint application throughout, you can apply for the final order jointly. If it has been a sole application, only the applicant can submit this application.

The final order concludes the divorce process and brings your marriage to an end.

Financial issues

The financial aspects of a divorce need to be negotiated separately and we recommend that you both obtain legal advice.

Even when the divorce is complete, you’re still financially connected to each other. Most couples want to have a “clean break” which severs those ties. Even if you reach an agreement, it is a good idea to make it binding. The only way to achieve this is to obtain a court order.

It is often important to delay the final divorce order until financial matters are approved by the court. It would be very messy if one of you were to die after the divorce is complete but before financial matters are resolved. The survivor would no longer be a spouse so would not be entitled to widow’s or widower’s entitlements.

Have more questions?

Call the Picasso Legal divorce team on 01952 303004 to arrange a free appointment with our specialist divorce solicitor.

www.picassolegal.co.uk