

divorce

the key steps



If you have reached the difficult decision that your marriage is over and divorce is the only option, we can help you to take the necessary steps and ensure that things go as smoothly as possible at a difficult time.

Issuing a Divorce Petition

The first step is to issue a divorce petition. One of you (the Petitioner) needs to petition the other (the Respondent). The only ground for divorce in England and Wales is that the marriage has irretrievably broken down. You need to show why the marriage has broken down by relying on one of five facts which form the basis of your divorce petition.

- **Adultery** – a sexual relationship with someone of the opposite sex
- **Unreasonable Behaviour** – behaviour from the other party to the marriage which you can no longer tolerate
- **Desertion**
- **Two years' Separation** – you have been separated for two years and the other party consents to a divorce
- **Five years' Separation** – you have been separated for a period of five years.

We can draft the divorce petition on your behalf from the information you give us. This is then sent to the court along with your marriage certificate and the court fee of £410.

What happens next?

The Court sends the Respondent a copy of the divorce petition and a form called the Acknowledgement of Service. The Respondent needs to fill this out within seven days and return it to the court, indicating whether they are going to defend the divorce. This very rarely happens, but if it does the process becomes more complex.

Decree Nisi – If the divorce is not defended, the Acknowledgement of Service form is sent to the Petitioner who can then make an application to the Court for the Decree Nisi. This is the half way stage in the divorce process and means the Court formally recognises your right to get divorced. You are still married at this point however.

Decree Absolute – Six weeks and one day after the date of Decree Nisi, the Petitioner can make the application to the Court for Decree Absolute. When this is granted, the marriage is over. A divorce can generally be obtained in four or five months assuming no one delays in dealing with the paperwork but it usually takes longer to sort out the financial issues.

Financial Matters and Children

For many people, the most difficult aspect of divorce is separating the household finances. There are many different ways of reaching an agreement about financial matters, and many different issues to discuss.

Even if you are able to reach an agreement with your former spouse without outside help, it is important to seek the advice of a solicitor about how to formalise this agreement so it has the desired effect.

Sometimes reaching agreement about arrangements for children can prove equally difficult.

Reaching agreement yourselves – Some couples are able to agree exactly how they will resolve matters by sitting down and talking to each other. This is ideal as long as you then get a solicitor's input on the agreement you and your spouse have

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reached. Are there any potential problems that neither of you have thought of? For instance, have you looked at issues such as pensions and future earnings as well as current assets, and taken a sensible approach to dividing assets such as property and equities where values can fluctuate widely? We may also be able to help resolve any issues you have not yet been able to agree.

Mediation offers an alternative for couples who wish to reach agreement through discussion but would like some help to do so. Mediation sessions take place with husband and wife and the mediator present throughout the whole session. You will both need to provide an overview of your financial position so that everyone has information about all the assets of the marriage. The mediator cannot offer legal advice to either of you, but can help to focus your discussions.

Collaborative Law is a relatively new approach to relationship breakdown. It is based on confidential face-to-face negotiations with your partner with the full support of your lawyer alongside you. You, your lawyer, your ex-partner and their lawyer all sit down together and negotiate a solution, whether it be concerning finances or children. Almost all of the discussions take place in these 'four-way' meetings. Unlike in mediation, you have the benefit of having your legal adviser with you and on-hand to offer advice as discussions progress. The aim is to reach an agreement which achieves the best possible outcome for your family.

Negotiation – Many couples resolve their matrimonial issues with the help of a solicitor in a more traditional way. Usually, this is achieved through a process of negotiation which can

take place in writing or in face-to-face meetings. A solicitor will be able to advise you about what is a 'fair' division of the assets of your marriage based on your situation. They will be able to negotiate with your spouse on your behalf, usually through correspondence with your spouse's solicitor. Throughout the negotiation process, your solicitor will work very closely with you to negotiate a settlement which meets your expectations.

Court Proceedings – In some instances, the negotiation approach fails and agreement cannot be reached. Sometimes there are wider issues such as one person having concerns that the other is hiding assets. In these cases, couples can rely on the Court to assist them in resolving financial matters. A Court application is made and a deadline is given for both parties to provide full details of their assets. When a Court hearing takes place the emphasis is on trying to reach an agreement with your spouse with guidance being provided by a Judge. If you are not able to reach an agreement, ultimately, a Judge will make a decision which is binding on both you and your spouse.

How can we Help?

Whether your divorce is likely to be relatively straightforward, or have complicated issues regarding finances or children, we can help. We can also assist with the other issues you will need to consider after your divorce, such as making a new Will. Please call us for individual advice.

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