

# About divorce

## What is a divorce?

A divorce is a way to end the marriage of an opposite sex couple.

## How do I get a divorce?

By filling in an application form, called a divorce petition, and taking it to any divorce county court or to the Principal Registry in London. The addresses and telephone numbers of all county courts are listed in the telephone directory under Courts.

## When can I get a divorce?

You cannot start an application for divorce unless you have been married for more than one year.

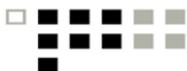
## Must I explain why I want a divorce/dissolution?

Yes, you must be able to prove to the court that you have reasons (or 'grounds') for saying the marriage is at an end. The expression the court will use is that the marriage has 'irretrievably broken down'.

The court will accept one or more of the following 'facts' as proof:

- that your husband or wife has committed adultery and that you find it intolerable to live with him or her
- that your husband/wife has behaved in such a way that you cannot reasonably be expected to live with them
- that your husband/wife deserted you at least two years ago
- that you and your husband/wife have lived apart for at least two years and he or she agrees to a divorce, or
- that you and your husband/wife have lived apart for at least five years.

## Do I have to live in this country to get a divorce here?



You and your husband/wife, must both have your permanent homes (known as 'domicile') in England or Wales when the application is started, or

You and your husband/wife must both be living in England or Wales when the application is started, or

You and your husband/wife must both have had your last home in England or Wales and one of you must still be living in either of these countries when the application is started, or

Your husband/wife must be living in England or Wales when the application is started, or

You must have been living in England or Wales for at least a year on the day the application is started, or

You must have your permanent home in England or Wales and have been living in either of these countries for at least six months on the day the application is started.

You may also get a divorce in England and Wales in other specific circumstances.

## **What Other information will I need to complete the Divorce Petition?**

- (a) Your name and that of your together with the date and place of the marriage
- (b) The last address at which you lived together as husband and wife.
- (c) Whether there are any living children of the family and, if so, the number of such children, and their full names and dates of birth or if it be the case, any child over 18, and in the case of each minor child over the age of 16, whether that child is receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation.
- (d) Whether (to the knowledge of the Petitioner in the case of a husband's petition) any other child now living has been born to the wife during the marriage and if so details of the child.

- (e) If it be the case whether there is any dispute whether a child is a child of the family.
- (f) Whether or not there have been any other proceedings relating to the marriage or to the property by either spouse or to any child of the family, and if so, details of those proceedings.
- (g) Whether there are any proceedings by the Child Support Agency.
- (h) Whether there are any continuing proceedings in any country outside England and Wales, if so, providing details.
- (i) In the case of a petition based on 5 years whether any agreement has been reached between you.
- (j) A statement that the marriage has broken down irretrievably.

## **Statement Confirming the Arrangements for the children.**

In addition to the Divorce Petition, where there are children of the family, a Statement of Arrangements has also to be filled in. This form requires details of

- (i) The children's accommodation,
- (ii) Education,
- (iii) child care arrangements
- (iv) Financial matters relating to the children,
- (v) Arrangements as to contact, and
- (vi) matters relating to the children's health.
- (vii) Whether Social Services have had any involvement, or whether there are any other Court proceedings affecting the children.

## **Will I have to attend a court hearing?**

If you can agree with your husband/wife about financial support, property and the arrangements for any children, you may not have to attend a court hearing at all. For more

information about the range of options to help you address these ancillary issues and the costs related to the same please contact a member of our team on 0151 647 7372

You may have to attend a court hearing if you ask the court to make an order for financial support or cannot agree about the arrangements for the children.

## How much will the divorce cost?

You may have to pay a court fee for the following:

- when you submit your application for divorce to the court currently £340.00, and
- when you apply to the court for a decree absolute which shows that your marriage has been dissolved currently £45.00.
- if you submit any applications for financial support or regarding any children in the marriage

For more information about fees, please refer to booklet **EX50 – Civil and Family Court Fees (High Court and County Court)**. This booklet lists the most common family fees. You can get a copy from any court office or [www.justice.gov.uk](http://www.justice.gov.uk).

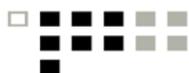
## Methods of payment

Courts accept payment by debit or credit cards, cash, postal orders or cheques, which should be made payable to 'HM Courts & Tribunals Service'. If you pay by cheque and it is dishonoured, the court will take steps to recover the money. Non-payment will result in your case being stayed or even struck out.

## What if I cannot afford to pay a court fee?

If you cannot afford to pay a court fee, you may be eligible for a fee remission in full or in part. The booklet **EX160A – Court fees –do I have to pay them?** gives all the information you need. You will find a copy of this included within this pack ( steps 1 & 3 ).

## Will I need a copy of my marriage certificate?



Yes. You will have to give a copy to the court when you start your application. It will be kept on the court file. The copy must not be a photocopy. If you married abroad then you will need a certified translation of your certificate.

## **Where can I get a copy of my marriage certificate if I do not have one?**

If you were married in England or Wales, you can get a copy from:

- the office of the Registrar of Births, Deaths, Marriages and Civil Partnerships for the district in which you were married. You can get the address from the phone book. You will have to pay a fee, and they will tell you how much it is.
- You can also get a copy from:

Certificates Services Section General Register Office PO Box 2 Southport PR8 2JD

Tel: 0845 603 7788

[www.gro.gov.uk](http://www.gro.gov.uk)

You cannot order in person at the General Register Office. You can apply for certificates by phone on 0845 6037788, lines are open Monday to Friday 8am to 8pm and Saturday 9am to 4pm. Alternatively, you can apply by post to the above address or online at [www.gro.gov.uk/gro/content/certificates](http://www.gro.gov.uk/gro/content/certificates).

There will be a charge for your copy certificate. The office will tell you how much it is.

The office you go to will want to know:

- the date and place of your marriage
- your full name, and
- the full name of your husband/wife.

If you married abroad, you will need to contact the authorities in the relevant country to obtain a copy of the certificate, and you may need to obtain a certified translation.

## **Step 1 Issuing the Divorce Petition**

The Court will enter the case in the Court books and assign to it a number (which is its identity tag for the remainder of the case). This is called the case Number.

The Court will then serve generally by second class post a copy of the Petition, a copy of the Statement of Arrangements for the Children, a Notice of Proceedings and an Acknowledgement of Service upon your Husband / Wife. This will normally be within three weeks of the papers being lodged at court.

Your spouse upon receipt of the papers from the Court then has to return the Acknowledgement of Service to the Court and in which he/she states whether or not they will be defending the divorce.

If your spouse fails to return the Acknowledgement to the Court then steps can be taken to have the papers served either by a Court Bailiff or by, e.g. an Enquiry Agent on your behalf, or by substituted service. Your spouse should return the Acknowledgement of Service to the Court within seven days of the receipt of the Petition and accompanying documents. The Acknowledgement of Service is in question and answer format, and one of the questions asked as mentioned above is whether your spouse wishes to defend the divorce.

## **Step 2 Applying for the Decree Nisi**

In the event of your spouse indicating that the divorce is not to be defended, you will be able to apply for your Decree Nisi. This consist of an application form and a statement in support. In this statement you will state that what you have said in your Petition is true; any alterations you wish to make to what you have stated in your Petition; confirm the accuracy of the Statement of Arrangements for the Children or to correct any inaccuracies or add any further information, and also for you to identify your spouse's signature on the Acknowledgement of Service. This is then sent to the court.

The District Judge then considers the papers filed, and if he is satisfied with the evidence, a certificate will be completed to that effect and a date will be fixed for the pronouncement of the decree in open court, and you will be notified of that date although no one needs to attend the pronouncement unless there are outstanding issues which need to be addressed by the court. The District Judge also considers the Statement of Arrangements for the Children, and if satisfied will issue a certificate to that effect. If the District Judge is not satisfied as to the arrangements for the children the decree nisi cannot be made absolute until arrangements are

made to the satisfaction of the Court. The date is normally fixed within six weeks of the application being lodged.

When the decree nisi is pronounced in open court on the day appointed, a copy is sent to both parties. This does not finally dissolve the marriage which is still a marriage until decree absolute.

### **Step 3 Applying for the Decree Absolute**

Decree absolute is the final decree which permits you to remarry. The decree absolute may not usually be granted until six weeks after the decree nisi, although there is power to expedite in urgent cases.

The period of six weeks is intended for the purpose of establishing that everything is in order to terminate the status of marriage. The Petitioner may apply for the decree absolute six weeks after the grant of decree nisi, but the Respondent must wait a further three months after that (i.e. a total of four-and-a-half months after decree nisi) before applying, if the Petitioner has not done so. The Petitioner's application is made by completing and signing a form which is lodged with the Court with the appropriate fee. The District Judge must then ensure that all the formalities have been complied with, that no one is trying to upset the decree nisi and there is no appeal or re-hearing pending, and no one is intervening to show cause to prevent the decree from being made absolute. If the results of these enquiries are satisfactory the District Judge will make the decree absolute and will issue a certificate to that effect, copies of which go to each party.

Upon the grant of the decree absolute your marriage is finally dissolved

### **Warnings**

A Divorce can have adverse consequences upon your financial interests or entitlements ie you are no longer a spouse and will immediately lose any widow entitlements you may otherwise receive under an Occupational or Private Pension Scheme.

You may also lose your right to occupy your family home if the property is in your husband's / Wife's sole name.

The Decree Absolute also impacts upon Inheritance and Rules of Intestacy.

You are strongly urged to contact a member of our team on 0151 647 7372 to discuss further and to consider making a will before you make this application.