



/guide

Your questions answered

WHAT IS THE ROLE OF A SOLE APPLICANT, JOINT APPLICANT OR RESPONDENT IN A DIVORCE?

This Stowe client guide explains the role of a sole applicant, joint applicant or respondent in a divorce application and any advantages or disadvantages of each one.

In the main, there is often a minimal advantage or disadvantage to being the applicant or joint applicant instead of the respondent.

However, there are some points worth considering.

What is a sole applicant, joint applicant or respondent?

You can apply for a divorce by yourself (sole applicant) or make a joint application with your ex-spouse (joint applicants).

Alternatively, if you receive a divorce application from your spouse, you are called the respondent in the legal process.

Sole application or joint application?

To apply jointly with your spouse for a divorce, one spouse takes the role of Applicant 1 and completes the divorce forms initially and pays the court fee, and then the forms are sent to Applicant 2 to review and complete.

The process then continues in a similar way, with both parties taking the necessary steps in the divorce together.

The advantage of a joint application is that both parties feel they are making decisions together and cooperating during the process.

This may make the divorce procedure feel more amicable and reduce hostility. If one party does not continue to cooperate during the process, the other party can switch to continue the application alone.

However, if the divorcing couple finds it difficult to communicate and agree on things between themselves, a sole application may be easier to navigate.

Sole applicant vs Respondent - who does what?

The applicant is the party responsible for completing the first document sent to the court – the divorce application.

If the applicant makes the application alone, rather than jointly, the other party becomes the respondent.

Typically, the applicant will complete the majority of the paperwork in the divorce process. The respondent normally only needs to prepare and send to the court one document – the Acknowledgment of Service.

Is there an advantage to being the applicant in a divorce?

There is little advantage or disadvantage to being the applicant instead of the respondent.

We now have a system of no-fault divorce which means there is no blame assigned to either party for the breakdown of the marriage.

Whether you are the applicant or the respondent will have no impact on any subsequent decisions a court may be asked to make regarding finances or the children.

If you instruct a solicitor, there may be a difference in the price you are charged for your legal fees depending on your role within the proceedings, so you should always check with your solicitor before deciding how to proceed.

Can the respondent stop the divorce?

Since the no-fault divorce system was introduced, it has become very difficult to stop divorce proceedings from continuing.

It is possible to dispute proceedings, but the reasons for doing so are limited and generally have to do with the validity of the marriage and whether it was celebrated according to the correct procedure.

It is advisable to seek specific legal advice before disputing a divorce. Any financial arrangements which may follow from the divorce are addressed separately.

Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit www.stowefamilylaw.co.uk

Can the respondent delay the final divorce order?

The speed at which the divorce proceeds is largely reliant upon the applicant, given that they are responsible for applying to the court for each stage.

Having said that, the respondent can cause delays to the divorce near the start of the process.

If this is something you are concerned about, you should raise it with your solicitor during your first meeting.

Who pays for the divorce, the applicant or respondent?

The costs of divorce include the court fee and the costs of the solicitors who assist the parties with the divorce process if they are instructed.

If the application is a joint one, Applicant 1 will pay the court fee. Otherwise, the sole applicant will pay the court fee.

The applicant or joint applicant can ask the court to make an order that the other party pays their legal costs relating to the divorce or request that the costs are divided equally, or just the court fee is shared.

However, it is necessary to make a separate application to the court to ask for a costs order, and for this reason, they are rarely sought.

Does it make a difference if you are the respondent or applicant if you want to choose what country your divorce takes place in? (subject to eligibility)

If there is a question of jurisdiction (in which country the divorce should take place), then there may be a debate about where the divorce should take place.

Given the disparity in law between different countries, this may have a material impact on the financial arrangements that follow.

In those circumstances, it may well be advantageous to be the applicant so that you ensure your chosen jurisdiction presides. Specialist international family law advice should be sought if that is a concern.