



A FIVE-STEP GUIDE

How do I get
divorced?



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Whether you want to start divorce proceedings or have been served a divorce petition, knowing where to start and how to get divorced can be daunting.

So, let's start with this. Marriages do end. Couples do get divorced. In fact, more than 100,000 marriages in England and Wales end in divorce each year.

Second, put very simply, divorce is the administrative process you take to dissolve a marriage in the eyes of the law with five clear steps:

- 1 Decide on the legal reasons on which you wish to divorce**
- 2 Complete a divorce petition**
- 3 Submit the petition to a divorce centre either online or by post with the correct court fee**
- 4 Apply for the decree nisi (once the petition is acknowledged by your spouse)**
- 5 Apply for the decree absolute (6 weeks +1 day after you have the decree nisi)**

And you're divorced.

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However,

as in life and relationships, things are never that simple. Whilst it is relatively simple to get a divorce, it is important that you make arrangements for assets, property, money, children etc and you will need legal advice to make sure this is handled properly. It is very important that you have considered the financial consequences of your marriage breakdown before you finalise your divorce.

Whilst we always highly recommend that you seek legal advice to protect yourself and your family, here's a step by step guide about how to get divorced.

1 Decide the reasons for divorce

In English law, you must cite one of five reasons for divorce in support of your claim in your divorce petition that the marriage has irretrievably broken down:

Adultery – it is worth noting that your ex-partner will have to formally admit to an affair otherwise you will need to prove it.

Behaviour – The most commonly used reason, as it can cover multiple behaviours and issues. You will have to put some details in the petition, but the other party does not have to formally admit it.

Separation, two years – You have lived apart for two years and the other party agrees to the divorce.

Separation, five years – If the other party will not agree to a divorce, you must have lived separately for five years.

Desertion, two years – this is something more than just separation. It is the abandonment of one party to the marriage by their spouse. It is a ground which is rarely used.



2 Complete a divorce petition

If it's you who is starting divorce proceedings, you are known as the 'petitioner.' Your spouse is the 'respondent'.

You need to download and fill in a divorce petition which is basically an application for divorce @ www.gov.uk/government/publications

You will need to gather together details about you and your ex-partner. Please do refer to the guidance notes as they explain what each section means.

3 Submit the petition

Once the form is completed, you need to supply your original marriage certificate or download an official copy.

It is at this stage that payment of the court fee is required (currently £550).

You can submit your petition in two ways:

(England and Wales only)

Online

@ www.gov.uk/apply-for-divorce

You'll need a debit or credit card to pay your fee online.

Apply by post

Send 3 copies of the form to your nearest divorce centre.

@ www.courttribunalfinder.service.gov.uk/search/postcode



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The Court will send you a copy, one to your spouse and keep a copy on file. Send 4 copies if you have named someone who has committed adultery with your spouse.

You can pay by debit or credit card (the divorce centre will call you to take payment) or by cheque – made payable to ‘HM Courts and Tribunals Service.’

But what if there’s money to be sorted out?

There is a question about making a financial claim on the petition and you just tick a box, however, it is rarely that simple. Very few people know exactly what assets there are. Whilst you can find out what property, assets and income there is by yourself (a process called financial disclosure), we would strongly recommend getting legal advice so you are protected financially. It’s one thing to know what there is, however that doesn’t mean that you will know how those assets and financial resources including income should be distributed.

If you do not get a financial court order, you are leaving yourself open to any financial claims that can potentially be made in the future. It is much better to address those claims at the time of your divorce, even if you are just closing them off.

Form and submission details @ www.gov.uk/government/publications

What happens next to your petition:

Your application will be checked by the court and, if it's completed correctly, you will be sent a notice that your application has been issued, a copy of your application and a case number.

A copy of the application will be served on your spouse who will have seven days to respond to say if they intend to defend the divorce.

If your ex-partner says in a form they send to the court called the acknowledgement of service form that they do not wish to defend the divorce petition, then you can apply for a decree nisi. This is the interim decree of divorce, and basically means the court sees no reason why you cannot divorce.



4 Apply for a decree nisi

To get a decree nisi, read the guidance and then fill in the application.

@ www.gov.uk/government/publications

Once the decree nisi has been pronounced, you can apply after six weeks and one day to have the decree absolute granted. This is the formal court document that legally dissolves your marriage.

5 Apply for a decree absolute

You must complete a notice of application to the court who will check the time limits and that there are no other reasons not to grant the divorce. If more than 12 months have passed since the decree nisi was pronounced, then you will need to file a short statement confirming that you have not reconciled since the date of the nisi, that you have not had any further children together and the reason for the delay.

Complete a decree absolute

The court will send the decree absolute to both parties and you are divorced. Keep it safe; you will need to show it if you wish to remarry.

@ www.gov.uk/government/publications

Further forms and guidance on divorce, both marriage and civil partnerships

@ www.gov.uk/government/collections

How long will a divorce take?

All in all, the process could take around five months to complete – provided both parties do everything required at the earliest opportunity. Delays by either side and disagreements over the financial issues are common factors that slow progress, making the process take longer.

One thing to be aware of when applying for decree absolute is that once it is pronounced you are no longer husband or wife. Should one of you die and the financial issues have not been resolved, then you may not be entitled to any widow's benefits from pensions or life policies. It is always prudent, therefore, to have considered the financial issues before you decide to apply for a decree absolute.



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