



STOWE

FAMILY LAW

PREMIUM HANDBOOK

A BEGINNER'S GUIDE TO DIVORCE



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This handbook is a beginner's guide to divorce. It will explore the legal processes of divorce, and how to navigate them, as well as what support is available to you.

Whether you have made the decision to divorce on your own terms, or it has been made for you, the situation can be overwhelming. There are lots of things to consider, including your finances, child arrangements, and emotional wellbeing.

For ease, this handbook refers to divorce, marriage and ex-spouse, but the same processes apply for civil partnership dissolution.

This handbook will guide you through the general divorce process. It covers a substantial amount of information, so skip to the sections relevant to you and return to sections when you need them.

This guide is for general information only and should not be used in the place of legal advice. Please seek expert legal advice for your specific circumstances.



HOW TO HAVE *THE CONVERSATION*

Unfortunately, telling your spouse that you want a divorce is unlikely to be an easy conversation, and there is no magic formula.

Remember that you are probably in a different space emotionally than your spouse, so respect their emotions and the time they may need. You have made a decision that will change both your lives, and the lives of any children you have. Whilst you may have known for a long time, and begun to move on emotionally, this will likely be new information to your spouse, who will need time to adjust.

Below are some tips for how to handle having 'the conversation':



PLAN WHAT YOU ARE GOING TO SAY

Write down key points. Be calm and clear, and avoid blurting things out all at once.



DECIDE WHERE AND WHEN

Space and timing is important when having these big conversations. Do not try to have it when you are putting the children to bed, or getting ready for work. Plan a time when you will be alone, with minimal distractions.



ENSURE YOU ACKNOWLEDGE YOUR SPOUSE'S EMOTIONS

Your spouse may not react the way you expect them to, so be prepared to show consideration whatever direction the conversation takes. They will need time to process the information, so be willing to press pause and come back to the conversation another time.



BE HONEST

Although it may not be appropriate to discuss details at this stage, if they have questions, answer them truthfully.



THE FIRST STEPS

Most people are beginners to divorce. This can mean that the first steps seem overwhelming and complicated. However, there are some things you can do to get started.

The first thing to do if you have decided to get divorced, or your spouse has told you they want a divorce, is to seek legal advice from a specialist family lawyer.

An initial consultation with a lawyer will give you an overview of what you might expect within the divorce process, including financial settlements, child arrangements, potential costs, and time frames.

Seeking legal advice can be helpful if you have not yet decided to divorce.

A family lawyer will talk you through the process and you can make a more well-informed decision about your next steps. Your lawyer can point you in the direction of other support, for example, discernment counselling or working with a divorce coach.

Many family lawyers are members of **Resolution**, an organisation that promotes a non-confrontational approach to family law disputes; members are committed to resolving matters without the assistance of the court, where it is possible to do so, on the basis that this will be in the family's best interest.

Other than the relatively straightforward administrative procedure of divorce, the process is subjective. Everyone's circumstances are unique and therefore there is not one right answer for your divorce. This means you may need other professional support alongside your legal team, for example, a divorce coach, therapist, or a financial adviser.

Friends and family can be a trusted network to support your emotional wellbeing and offer practical help.



CHOOSING A LAWYER

Ensuring your lawyer is the right fit for you will make the divorce process less stressful. You should trust your lawyer, and feel comfortable sharing information with them.

- **Ask friends and family for personal recommendations**
- **Search online**
- **Read online reviews and testimonials**
- **Look at the Resolution website for accredited solicitors**

It is important to choose a specialist family law firm, and to ensure the solicitor is regulated by the Solicitors Regulation Authority (SRA).

You can 'shop around' for a lawyer. Most lawyers will offer a free initial consultation, which can last 30-40 minutes. This is an opportunity for you to get to know the lawyer, explain your situation and the help you will need. However, you do not have to choose the first lawyer you speak to if they are not right for you.

It is important to find a lawyer who is a specialist in family law. If you have any niche issues in your divorce, you may want to find a lawyer who can specifically advise on those.

THE LEGAL PROCESS OF DIVORCE

In April 2022, the divorce process changed to 'no fault divorce'. No fault divorce removed the blame elements of the divorce process, so the only reason you need to give for ending your marriage is that your relationship has broken down irretrievably.

STEP 1

The first administrative step is to submit your divorce application, using Form D8, an Application for Divorce or Dissolution. You can find this form on the Government website. This form is the first legal step, and requests that your marriage be dissolved. It is not a legal requirement for you to have discussed divorce with your spouse or sought advice from a lawyer before you submit this form. However, it is advisable to do so as this can assist in making positive progress at an early stage.

You or your spouse can apply as a sole applicant, or you can apply together as joint applicants. In a joint application, one of you will need to be Applicant 1, and the other Applicant 2. If you apply solely, you are the Applicant, your spouse becomes the Respondent. You will need both your and your spouse's full name and address, your original marriage certificate and proof of your name change if you changed it since you got married.

This form asks whether you intend to apply to the court for a financial order. Whilst this will not automatically start court proceedings, by ticking 'yes', you will preserve your ability to do so at a later date, even if you and your spouse reach an agreement on your financial matters. There is further information about this process in the section of this handbook on the **Dangers of a DIY Divorce**.

Submitting Form D8 costs £612. The sole applicant will pay the fee, or Applicant 1 if you are applying jointly. You may be able to get help with fees through **legal aid**. *Please note that Stowe Family Law does not offer legal aid.*

You will need to have sufficient connection with England and Wales to be able to get a divorce under this jurisdiction and you will be asked to give a reason why the court can deal with your case. For most couples, this will be that at least one of you lives in England or Wales. If you are unsure whether you can divorce in this jurisdiction, seek legal advice as soon as possible. If you married abroad, you can get divorced in this jurisdiction, provided your marriage is legally recognised in England and Wales. If you are unsure, you should seek legal advice.

STEP 2

When your spouse has agreed to the divorce by accepting the application, and the court has processed the form, your 20-week 'cooling off period' begins.

This is usually the time couples make their child arrangements and discuss their financial settlement and there is further information on both of these processes later in the handbook.

When the 20-week period is over, the court will notify you that

you can apply for a conditional order (previously the Decree Nisi), which states that the court will allow you to divorce.

To do this, you need to fill in the form D84 Application for a conditional order or (judicial) separation order.

STEP 3

After this, you need to wait a further 6 weeks and 1 day to apply for your final order (previously the Decree Absolute) which legally dissolves your marriage. Use Form D36 Notice of application for decree nisi to be made absolute or conditional order to be made final.

It is very important that you do not apply for this order until you have had your financial consent order approved by the court, and your finances are legally separated. We will discuss this in more detail in the next section.

If you need more time, you can take longer than the minimum 6 weeks to apply for your final order. However, if more than 12 months elapses from the date of your conditional order before you apply for a final order, you will need to submit a form to the court explaining the delay, and that you and your ex-spouse have not reconciled or had any children in this time.

When the court confirms your final order, your marriage is legally dissolved.

FINANCES

The process of separating finances can be problematic for some couples, and disputes can arise when negotiating a financial settlement.

A final order will officially dissolve a marriage, but without a legally stamped financial settlement, known as a financial consent order, a couple's money and assets are still linked. Not separating finances can leave you vulnerable to claims from your ex-spouse in the future, even if you feel you trust them not to make any claims.

To ensure a fair and reasonable financial settlement, you will need to have a clear picture of your own, and any shared assets and debts. You will also need to understand what income you will need to live on going forward. You can use our free **Divorce Calculator** to give you an idea of what you might be entitled to in your financial settlement.

To do this, you will need a number of documents and insights into your financial position, including information about your property, pensions, bank accounts, income, insurance, assets and debts. You can find out more about what information you need from our **Stowe talks: How to pull together information for a financial settlement**. This video also explains what to do if you cannot get hold of the necessary information.

This information will then help you fill in the Form E, which is a court form giving extensive details about your financial situation and your future needs. This is a lengthy document, but you can use our **step-by-step guide to filling in the Form E** to help, and your lawyer can assist with any issues.

Your lawyer will be able to give you guidance on what a fair settlement may be once they have a full understanding of the assets and debts. If you and your ex-spouse can reach an agreement, your lawyer (or their lawyer) will draw up a financial consent order to be approved by the court. If an agreement cannot be reached with your ex-spouse, your lawyer will advise you in relation to appropriate forms of non-court dispute resolution which may assist a resolution, or alternatively, court proceedings may be required.

The Form E is not a compulsory court document to complete if you are preparing financial documents on a voluntary basis, but it can be a useful tool to ensure that you have a full and transparent understanding of each other's finances before considering what a fair settlement might be. This would not need to be submitted to the court if you and your ex-spouse are able to make an agreement. In this case, you would need to complete Form D81 Statement of information for a consent order in relation to financial remedy, to be submitted alongside your draft financial consent order. Form D81 explains why your decision has been made and gives the court important information about your financial situation, and expected circumstances if the consent order is approved.

Importantly, financial disclosure is ongoing until the financial matters are finalised, either by consent or through the court. Therefore, it is important to keep your information up to date, including any changes in income, for example if you change jobs, or if you receive inheritance or a large bonus.

If you are worried your spouse is not giving full disclosure, and may be hiding assets, there are ways to manage this, but it is important to inform your solicitor as soon as possible. You may also need a forensic accountant. Orders can be enforced by the courts if necessary. **Read more about what to do if your spouse refuses to give full disclosure.**





HOW ARE FINANCES DIVIDED IN DIVORCE?

A starting point for dividing finances in divorce is equality, with a focus on achieving fairness for both parties whilst also considering the welfare of any children of the family.

Both parties should be able to move forward on an equal basis, which means a '50/50' divide is not always going to achieve equality. Parties must also be mindful of their entire financial circumstances, considering what assets (and income sources) may be matrimonial and non-matrimonial; this will all be considered when assessing a fair and reasonable financial settlement.

There are **principles set out in the Matrimonial Causes Act 1973, S25** that must be considered when assessing what a fair and reasonable settlement might be. Your lawyer will be happy to explain what this means practically in your unique circumstances.

A settlement should consider all available assets and finances, including:

- **All capital assets**
- **Income**
- **Pensions**

Your circumstances are unique, so there is not one answer to how finances are divided on divorce. Legal advice, and advice from a financial adviser will be important in understanding how to reach a fair settlement.



PENSIONS

Pensions are sometimes ignored in financial negotiations. They are seen as complex, and often as a sole asset, rather than something that should be considered as part of the settlement. However, it is risky to ignore pensions in divorce. You should always ask your solicitor for advice.

Most couples who split pensions will do so using a pension sharing order. This is part of a financial consent order – you cannot have a pension sharing order without the consent order. If your consent order is approved without a pension claim within it, you cannot later make claims on your ex-spouse's pension. Pensions can become complex in the event of one ex-spouse passing away. If you fail to get a consent order in your divorce, you cannot make claims on your deceased ex's pension when they die.

It is advisable to speak to a pensions expert as well as your lawyer, as early as possible, particularly if you or your spouse has a considerable or public sector pension.

INTERIM FINANCES

Managing your bills, mortgage, and other costs whilst you go through the divorce may be an area of concern.

It is recommended that separating spouses maintain 'the status quo', and all bills are paid as they had been during the marriage. For example, if both of you contributed equally to the mortgage, this should remain the same. This can be complicated if one party moves out of the family home, as an additional rent or mortgage will need to be factored in. You may need to budget more strictly until long-term finances can be agreed.

Interim maintenance is available if necessary. However, it is a costly and complicated route to take, and it is preferable, if possible, to make arrangements with your ex-spouse directly. If not, a family lawyer can help you.



CHILD ARRANGEMENTS

Some couples can make their child arrangements without legal intervention, by creating a parenting plan.

A parenting plan can include a structure of how your weeks will look, who has time with the child/ren, pick up and drop off arrangements, how holidays will be managed, special occasions and more.

Parenting plans can be made informally between you and your partner, or you can fill in an official parenting plan through the **Cafcass website**. However, the plans are not legally binding.

If you cannot reach an agreement together, there are several options that can help. You can work with a mediator or a family lawyer to negotiate a settlement, or participate in other forms of non-court dispute resolution - these are explored in the Mediation and other forms of alternative dispute resolution section of this handbook. The family court is there as a last resort. If you want to make the arrangements legal binding you can apply for a child arrangements order. The order will cover details such as where the child should live, who should have contact, schooling, and holidays etc. You can learn more about how to get a child arrangements order, and what they can cover, in our **Stowe talks: How to get a child arrangements order video**.

A child arrangements order costs £263.

It is possible to vary an existing child arrangements order, which you can learn about with our **Stowe talks: How to vary a child arrangements order**.

Making child arrangements for post-separation can be an emotional process. You may find a divorce coach helpful when working to manage your emotions around the changes in your family. Divorce coaches can guide you through the challenges of parenting post-divorce and help you to create a parenting plan that puts the needs of the children first.

HOW DO I PARENT AFTER DIVORCE?

How you parent your child/ren after divorce depends on your unique family relationship. Families are complex and you need to find something that works for you and the children practically.

Co-parenting is where parents work together and share the responsibilities of raising the child, even though they have separated. Positive, continual communication is key.

Co-parenting works well when introducing new relationships and blending families. You can learn more about introducing new partners and creating a cooperative blended family through our podcasts:

- **How to introduce a new partner to the kids**
- **How to co-parent calmly and navigate the challenges of blended families with Tom Nash**

In some cases, the only viable option for parents is to parallel parent. This parenting style is usually adopted when the couple struggle to agree or there has been domestic abuse. Each parent runs their own household, with their independent parenting styles. They do not consult with each other, and interaction is limited to structured swap-over times.

Where there are financial concerns, or other emotional and practical obstacles, particularly in the early days of separation, birdnesting is sometimes used as a parenting structure. Birdnesting is where the children remain in the family home, and the parents rotate into the home. When they are not with the children, they will either stay with family or friends on a temporary basis or have a smaller second home.

Ideally, you and your ex-spouse will agree on your parenting plan. However, you can discuss which parenting option may work for you with your lawyer, a mediator or a divorce coach. In some serious cases, social services, such as Cafcass will need to be involved.



MEDIATION AND OTHER ALTERNATIVE DISPUTE RESOLUTION

Divorce can be complicated, and there may be some elements that you and your ex-spouse cannot agree on together.

Court is just one option for dealing with these disputes, but it is preferable to try and use a method of non-court dispute resolution, such as mediation, to reach an agreement.

In 2024, there was a legal change in the family justice system, which meant a bigger emphasis on non-court dispute resolution. Every divorcing couple will now have to attend a Mediation Information Assessment Meeting (MIAM) to explore other ways to resolve their differences, or explain why this is not possible (usually for safeguarding reasons such as domestic abuse).

You will be invited by your solicitor to attend a MIAM, where you and your ex-spouse will meet with a trained mediator to consider whether your issues can be resolved without the need for court. This is a confidential meeting where the specialist mediator will discuss the options for non-court resolution with you, and assess your suitability.

Mediation is one of several alternative dispute resolution (ADR) methods couples can use to reach agreements, alongside private **financial dispute resolution**, **collaborative divorce** and **arbitration**.

There are different types of mediation to suit the needs of the couple. **Download our Beginner's guide to mediation handbook.**

If you are suitable for ADR, this will work alongside your legal processes. You can also conduct non-court dispute resolution alongside court proceedings.

Some benefits of ADR are:

- Faster and smoother resolution of differences
- More cost-effective
- Less traumatic for the couple and children
- Builds positive communication structures for post-divorce



THE DANGERS OF A DIY DIVORCE

A DIY divorce, or 'kitchen table divorce' means you go through the legal process of divorce, negotiating a financial settlement and child arrangements without any lawyer or professional input.

Whilst this can be done successfully by some couples, and it can be a good way to maintain amicability, there are some pitfalls to be aware of.

Find out more about the dangers of a DIY divorce.

Many lawyers will offer individual services, for example support with drafting a consent order. This can be a more cost-effective way of managing the legal processes, and ensures you get the legal support you need.

THE DIVORCE APPLICATION

You will be asked on your Form D8 (divorce application form) if you would like to allow the court to make a financial order. This can be confusing, and some couples will automatically respond 'no', assuming this means you want your case to go to court. However, by saying no, the court is unable to make financial orders in your divorce even with both parties consent. Whilst you may not think you will need this, it is sensible to give the court permission, particularly for when it comes to finances.

FINANCIAL VULNERABILITY

Some DIY divorcees fail to make a financial order, even where parties have agreed informally how to deal with their finances. If your marriage is dissolved, without an order dealing with your finances, these will remain interlinked and your ex-spouse may be able to bring financial claims against you in the future. This is regardless of any casual arrangements you and your ex-spouse have made. There is no limitation on future claims – your ex-spouse can make a claim at any time, including if you remarry; a lawyer would be able to assist in identifying if these claims have any merit and the appropriate steps to take. It is therefore always advisable that a financial order is prepared and sealed by the court, even where this simply records your agreement, to provide you with the clean break which will prevent future claims being raised.

IMPLICATIONS FOR INHERITANCE AND WILLS

Once you are divorced, any provisions you have made for your spouse in your will become void, even if you still want them to inherit money or assets on your death. For the purposes of the will, your ex-spouse is effectively viewed as having died. This can be extremely complex and professional advice should be sought from a Wills and Estates planner.

PENSIONS

It can be tempting in a DIY divorce to ignore complex issues like pensions. However, this can mean you lose out on considerable sums, jeopardising long term stability for short term gain.

COMMON DIVORCE MYTHS

There are several divorce misconceptions, and it is common for separating couples to pick these up from friends or family who have been through divorce, or internet sites.

Here are some of the common divorce myths, and an explanation of why they are false.



"A divorce always ends in a court battle"

There is no requirement to go to court and most divorcing couples do not use the court. If your case does need to be taken to court, the experience can be dignified and civil.



"Divorce is always expensive"

Expense is relative and there are ways of reducing costs. If you can negotiate and reach compromises between yourselves, the process is likely to be quicker and cheaper.

"Assets are always equally shared"

The starting point is equality, but there are a variety of factors which will play into how assets are divided, e.g., welfare of any children, needs of the couple, individual contributions to the marriage etc.



"Parent with custody always gets 60%"

There is no fixed regime for child arrangements. It will depend on your unique family situation and the best interests of the child. This may involve the wishes and feelings of the child if they are able to communicate these.



"Quickie divorce"

You cannot abridge the divorce process unless it needs expediting for a very specific reason such as the imminent death of one party.



The important thing is to seek legal and other professional advice. Avoid taking legal advice from the internet, friends, and family, or using social media to compare your situation to others'.



EMOTIONAL CHALLENGES OF DIVORCE

The legal process of divorce can be overwhelming and stressful, which is why it is important to seek advice from a specialist family lawyer.

Divorce can also be emotionally taxing and is often described as a form of bereavement. Whilst trusted loved ones are important to have around you, it is sometimes necessary to have other professional help, for example from therapists, counsellors, or a divorce coach.

These professionals can guide you through the emotions associated with relationship breakdown, and help you to build resilience before, during and after divorce, so you can move forward in life.

Emotional challenges could include (but are not limited to):

- Heartbreak
- Grief
- Stress and anxiety
- Worry
- Depression
- Loss
- Loneliness
- Guilt



WHAT HELP IS THERE?

DISCERNMENT COUNSELLING

Some couples struggle to decide whether to stay together, or separate. Discernment counselling can help with this part of the process. It is a form of therapy for couples who are on the edge of separation or divorce, but feel they need guidance on whether to break up or not. Discernment counselling can be confused with marriage counselling; however, it is different as it is for couples who are deciding between divorce and remaining married. On the other hand, marriage counselling offers couples the tools they need to work through their issues. Marriage counselling is often offered at the end of discernment counselling if the couple decides to remain married.

Learn more about discernment through our **Should I Stay, or Should I Go?** podcast.

SUPPORT GROUPS

Divorce support groups exist across the country – they can be in person or online. Support groups offer a structured environment for those going through divorce to share their experiences in a safe space, with a professional facilitator. They balance peer support with professional guidance. They are particularly useful for people who need a more community-based approach in addition to one-on-one support from a solicitor or coach

FRIENDS AND FAMILY

It is important to build a network of trusted loved ones who can provide emotional support. Friends and family will want to be there for you, but do remember that (unless they are trained family lawyers) they cannot offer legal advice. However, they are often the first line of support, for familiarity and comfort, as well as practical support like childcare.

THERAPY OR COUNSELLING

Some people will require therapy or counselling when going through divorce. It is helpful to speak to your GP in the first instance to discuss what option would be best for you. For example, if you are particularly struggling with anxiety or depression as a result of your divorce, there are specific techniques that work best.

Your GP can refer you to the most relevant treatment, or you can often self-refer to charity organisations or the NHS.



DIVORCE COACHING

A **divorce coach** works alongside your legal team to help you manage the emotions associated with your separation. Divorce coaches are trained to provide guidance and support for those going through relationship breakdown. They combine this training with a deep understanding of the divorce process.

Divorce coaches help empower you and focus your mindset on your new future. However, your time with your divorce coach is what you need it to be, and they will tailor support to your needs. Some divorce coaches specialise in specific areas, such as parenting after divorce, or divorcing from an abusive spouse.

At Stowe Family Law, we work with partner divorce coaches who are qualified through the Divorce Coaching Academy, the UK's only externally accredited specialist divorce training programme. Our Divorce Coaching service allows you to get the holistic support you need throughout your divorce, and beyond. Visit the **Stowe website** to learn more.



THE IMPORTANCE OF LEGAL ADVICE

The importance of legal advice cannot be understated. A lawyer will guide you through each step of the process, tailoring advice and professional support to your unique circumstances.

Although some divorce administration can be done without legal input, it is best to seek the advice of an expert family lawyer, especially when it comes to arranging finances and children. This is where you can fall into traps, for example not disclosing your finances fully. A lawyer will ensure your orders are drafted properly, and you give the right information at the right time, so you stand the best chance of the process going smoothly.

Divorce is a legal process, so legal advice is essential to getting it right.

CONCLUSION

Most people will be 'new' to divorce. The process can be extremely stressful, particularly when you are just starting out.

Take each small element a step at a time. There is time built into the legal process to allow breathing room, and nothing needs to be rushed.

It is important to reach out for support where you need it, and to seek legal advice, particularly when it comes to finances and child arrangements.

You can find a wealth of free information on **Stowe Support**, in the form of blogs, webinars, podcasts and guides.



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DISCLAIMER

The information in this guide applies only to England and Wales. The law may be different if you live in Scotland or Northern Ireland. This guide serves as a generic overview and source of information. It is not a substitute for legal advice and is not a complete statement of the law. Please seek legal advice where possible.

NEED MORE INFORMATION?

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

