

# Your guide to Divorce.



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# Introduction

At Setfords, we understand that divorce can be a painful and overwhelming experience and if you're considering divorce or have decided to separate, you likely have many questions about what comes next.

Our family law solicitors are experienced specialists with an average of 20 years in practice, and we've helped thousands of clients navigate this transition with clarity and confidence.

This guide is designed to answer your most pressing questions and walk you through the divorce process step by step, in plain English, without legal jargon. Whether you're at the very beginning of this decision or ready to start proceedings, you'll find practical information to help you understand your options and move forward.

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# What is divorce?

## What is divorce?

Divorce is the legal process that permanently ends a marriage. It formally recognises that your marriage has broken down and allows you both to move on with separate legal and financial lives.

If you're in a civil partnership, the equivalent process is called dissolution, which follows a similar procedure.

## What is no-fault divorce?

Since 6 April 2022, couples in England and Wales no longer need to assign blame when divorcing. This is known as no-fault divorce.

Now, the only ground for divorce is that the marriage has irretrievably broken down, which means there's no realistic chance of reconciliation. You don't need to prove why the marriage has broken down or provide evidence.

No fault divorce reduces conflict and makes the process smoother for both parties.

## Who Can Apply for Divorce?

You must meet certain criteria to be able to apply for divorce:

- Be married for at least one year
- Have a marriage legally recognised in England and Wales

You can either make a sole application, where just one party applies, or a joint application, where both parties apply together.

In most cases, it doesn't make much difference who files first, especially now that many couples apply jointly.

If you're applying alone, the person who applies is the Applicant and the other party is the Respondent. The Applicant has slightly more control over the process, as they are the one who can apply for the Conditional and Final Orders.

## Can divorce be disputed?

Under no-fault divorce, disputes are rare. You can only challenge a divorce in limited circumstances, such as:

- If the marriage isn't legally valid
- If England and Wales isn't the right legal jurisdiction
- If the marriage has already been legally ended elsewhere

You cannot contest the divorce simply because you don't agree that the marriage has broken down or you don't want to divorce.

# The divorce process step by step

## **Step one: check you meet the requirements**

You can apply for divorce if you have been married for at least one year and your marriage is legally recognised in the UK. If you have been married for less than a year, you can apply for a legal separation which formalises your decision to live apart and can include a separation agreement to detail how you want to split your finances and other assets while you wait to be eligible for a divorce. If your marriage is not legally recognised, you can apply for an annulment at any time.

## **Step two: making the application**

You can start the divorce with either a sole application (one person applies) or a joint application (you apply together).

In a sole application, the person applying is the Applicant, and the other is the Respondent.

In a joint application, you'll be known as Applicant 1 and Applicant 2.

Once your application is submitted online or by post, the court will check your documents and officially issue the divorce application. The Respondent (in a sole application) will then need to acknowledge receipt.

## **Step 3: Waiting period and Conditional Order**

There's a 20-week waiting period (also sometimes referred to as a reflection period) before you can apply for the Conditional Order (previously known as Decree Nisi).

This is an important step because the court can only approve a financial settlement once this order is made.

Practical Tip: Use the waiting period to discuss finances and childcare arrangements.

## **Step 4: Final Order**

After at least six weeks and one day, you can apply for the Final Order (previously known as the Decree Absolute).

Once the Final Order is granted and sealed by the court, your marriage is legally ended.

# Divorce and children

If there are children involved, this can add an extra layer of worry. Of course, you want what's best for your children, and often a divorce is the best thing for the whole family.

When deciding on child arrangements, such as where children will live and how and where they'll spend time with each parent, it's important to always prioritise their welfare above anything else.

You and your ex-partner can decide on child arrangements directly, or correspond through your solicitors. However, if you cannot agree, mediation is usually the next step. This is where you will discuss arrangements with an impartial third party who is there to help you come to an amicable decision.

Child arrangements usually cover:

- Where the children live
- How much time they spend with each parent
- How decisions about their upbringing (such as which school they attend or medical decisions) are made

If you and your ex-partner can't agree, a court can make a Child Arrangements Order. This is usually a last resort due to the additional time, expense and stress involved. However, in some cases where mediation may not be appropriate, such as cases involving domestic violence, the court may become involved at an earlier stage.

# Financial matters

There's a common misconception that all financial assets are divided 50/50 upon divorce. However, in reality, there's no fixed formula. The aim is always for a fair outcome, based on your individual circumstances. Factors such as children, income, health, and future earning potential are taken into account.

Most couples agree on a financial settlement without going to court, often through negotiation or mediation.

When you reach an agreement about finances, your lawyer can draft a Consent Order (also sometimes known as a 'Clean Break Order') to make it legally binding. This gives you both finality, allowing you to move on and live financially separate lives. A Consent Order also offers protection from future financial claims from your ex-spouse.

## **What assets should be considered?**

- Property (such as the family home)
- Savings and investments
- Pensions
- Personal belongings and vehicles
- Debts and other liabilities

## **What if we can't agree?**

If you can't reach an agreement, you can apply for the court to decide. Before doing so, you'll usually need to attend mediation, or at least Mediation Information and Assessment Meeting (MIAM). This is usually the case unless there are exceptional circumstances, such as domestic abuse.

Bear in mind that going to court can be costly and time-consuming, so it's usually recommended to try and come to an agreement without court involvement if you can.

## **What does the court consider?**

The Matrimonial Causes Act 1973 sets out what judges look at when deciding what's fair. These include:

- The welfare of any children under 18
- Each person's income, property, and future earning potential
- Financial needs and responsibilities
- The standard of living during the marriage
- The contributions (both financial and non-financial) each person made to the marriage. For example, if one person gave up work to care for children and the household, the court will consider this contribution in the settlement.
- The age and health of both parties
- The duration of the marriage

# The family home

After children, the family home is often the biggest concern for divorcing couples. It's usually the most valuable marital asset.

If you can't agree on what happens to it, the court will decide based on fairness and prioritise the needs of any children above all.

Common outcomes include:

- One person stays in the home with the children until they reach a certain age, upon which it is sold.
- The home is sold, and proceeds divided.
- One person buys out the other's share, or ownership is transferred, so they can continue living there.

Until a financial settlement is finalised, you both have Family Home Rights, meaning neither of you can be forced to leave if you're legally married.

Practical Tip: If you can't come to an amicable decision on what should happen to the property, mediation can help agree on arrangements without court.

# Pensions

Pensions are often one of the most valuable assets in a divorce. However, they're often overlooked. Make sure you're considering your pensions in any discussions.

There are many different kinds of pensions, and they are often unequal between spouses, which can make things complicated. You'll be required to share the value of your pension as part of the divorce process.

Courts can make Pension Sharing Orders, dividing pension rights between you. In many cases, expert financial advice is needed to ensure fairness, especially if one partner has significantly more pension provision than the other.

It's a good idea to get advice from a solicitor experienced in dealing with pensions, especially if you have significant pension assets.

# Costs and timescales

## **Costs:**

There are a few different costs involved in divorce. The main fees you will have to pay are:

- £593 court fee for divorce application (mandatory for all divorces)
- £53 Consent Order fee (not mandatory, but strongly recommended to make your financial arrangements legally binding).
- Solicitors' fees, which are typically paid hourly and can vary depending on your location and your chosen solicitor's experience.

If you can agree amicably, your divorce is likely to cost less. Mediation can also help you reduce costs and avoid lengthy, costly court proceedings.

## **Timescale:**

The legal process of divorce takes a minimum of 26 weeks between application and the Final Order. This is mostly due to the 20-week waiting period before you can apply for the Conditional Order.

However, some divorces can take longer, for example if finances or childcare arrangements are complex and take more time to resolve.

# Do you need a solicitor for divorce?

While you are not legally required to have a lawyer or solicitor to divorce, having one can make a huge difference. Working with a specialist family solicitor will:

- Ensure all paperwork is correct first time
- Protect your financial position, which can save you money in the long run
- Help you reach a fair settlement with your partner on finances, property and children matters
- Reduce stress by managing communication on your behalf

Even in more straightforward cases, getting legal advice provides peace of mind and long-term protection.

However, in more complex cases, such as those with many or complicated assets, working with a lawyer is essential to help you make sense of the process and ensure you and your family are protected.

Before you begin the process, it's helpful to have an initial chat with a lawyer. They can explain your options, discuss timescales and costs, and help you decide the best way forward.

At Setfords, our experienced family lawyers understand how difficult this time can be. We're here to guide you through every stage with empathy, clarity, and care, helping you reach a fair outcome and start your next chapter with confidence.

## Alternatives to divorce

If you and your spouse want to separate, divorce isn't the only option. You might choose to:

- Separate informally without divorce, agreeing your own arrangements. You may want to sign a Separation Agreement, a written document setting out your financial arrangements.
- Apply to the court for a Judicial Separation. This is a formal process which doesn't legally end the marriage but enables court orders to be made about the division of finances and property.

Divorce is final, legally ending the marriage. There are many reasons why you may choose to separate but not divorce, for example religious reasons or the possibility of reconciling at a later date. However, bear in mind that you cannot remarry unless you are divorced.

# Divorce FAQs

## **How long does a divorce take?**

At least 26 weeks between applying for divorce and the final order, but it can take longer if disputes arise or you have complicated matters to sort out.

## **Do I need to attend court?**

Usually not, unless there are disputes about finances or children that you cannot solve without the court's help. You can apply to the court for a divorce and Consent Order without having to attend.

## **Can my ex-spouse and I use the same lawyer?**

No, each party needs to seek independent legal advice.

## **What happens if my spouse doesn't respond to my application for divorce?**

If you make a sole application and your spouse doesn't respond, the court can proceed without their response after certain steps.

## **What happens to the family home?**

It depends on your circumstances. You and your spouse should try and come to an agreement between yourselves and try mediation before taking the matter to court. Courts always prioritise children's welfare and fairness when dealing with any matters, including what happens to the family home.

## **Can pensions be shared upon divorce?**

Yes. Pension Sharing Orders may be part of your financial settlement.

## **How much does divorce cost?**

There is a mandatory court fee of £593. Additional costs for Consent Orders (£53) and legal advice vary.

## **Do I need a lawyer?**

Not legally, but seeking legal advice is highly recommended to help protect your rights and avoid costly mistakes.

## **When can you remarry after divorce?**

You can remarry once your Final Order has been granted. However, it's important to agree and formalise your financial settlement first. Otherwise, you may lose the right to make financial claims against your former spouse in future.

## **What if we agree on everything straight away?**

Great! This will save you stress and costs. You can apply for a Consent Order to make your agreement on finances legally binding.

## **What if we can't agree?**

Mediation is often the next step if you can't agree on matters including children and finances. If that fails, the court can decide, but this is an expensive and often stressful process so you should try every other avenue first.

## **Are there alternatives to divorce?**

Yes, Separation Agreements or Judicial Separation may suit some couples, but you cannot remarry unless you are divorced.

# Divorce checklist

Making the decision to divorce is often the hardest step. Here's what to do next with a practical checklist to help you take the right steps:

## Confirm eligibility for divorce

- Married for at least one year.
- Marriage legally recognised in England and Wales.

## Gather Key Information

- Marriage certificate.
- Details of any children.
- Financial documents (property, pensions, savings).

## Consider Your Options

- Would you like to make a sole or joint application?
- Do you think you can come to an amicable decision with your ex-spouse on matters such as children, finances and property, or do you want to explore mediation?

## Appoint your solicitor

- While not legally required, working with a qualified family lawyer makes the entire process less stressful.
- Appoint them when you're ready to start the process. Getting legal advice early is the best way to protect yourself and your family.
- Your chosen lawyer will advise you on the amount of support you're likely to need, depending on how complex your case is.

## Start the Application

- Apply online or by post.
- Pay the court fee (£593).

## Plan for the 20-Week Reflection Period

- Use this time to discuss finances and child arrangements.

## Prepare Financial Disclosure

- List all assets and debts.
- Consider pensions and future needs.

## Agree on a Financial Settlement

- Aim for a Consent Order to make it legally binding – this will protect both parties in the future.

## Think About Child Arrangements

- You can make an informal agreement, use mediation, or a court order can be put in place if needed.

## Apply for the Conditional Order

- After the 20-week waiting period, it's time to apply for the Conditional Order.

## Apply for Final Order

- Six weeks and one day after the Conditional Order is granted, you can apply for the Final Order. This signifies the marriage is legally ended.

## Update Your Affairs

- Change your wills, update beneficiaries, review joint accounts and any other accounts you shared with your ex-spouse to reflect your new circumstances.

