

DIVORCE HANDOUT

A divorce is the dissolution of marriage through the legal process in a court of law. Once a couple has divorced, they are no longer legally married.

To be eligible for divorce or to end a civil partnership, you need to have been married or in the civil partnership for at least 12 months or more.

In England and Wales, you do not have to provide a reason for the breakdown of your marriage, the only requirement is that the applicant/s to divorce must give a statement that the marriage has irretrievably broken down.

DIVORCE PROCEDURE

- You can either make an application for a divorce on your own or make a joint application with your spouse;
- You and your spouse can make a joint application for a divorce if you both agree you should get divorced and you are not a victim of or at risk of being a victim of domestic violence.
- If you both wish to make a joint application for divorce, you must agree whether the application is made online or by paper application, both of you will need to complete the application form.
- A joint application can become a single application later in the process, if one of you refuses to sign the paperwork or take any other necessary steps to progress the divorce.
- Your marriage certificate must be provided to the Court with the divorce application. (if you were married abroad this may have to be translated into English at extra cost). If you cannot find your marriage certificate and you were married in England and Wales, you may be able to obtain a copy from the Registrar of Births Deaths and marriages online at www.gov.uk/order-copy-birth-death-marriage-certificate.
- Once the application is prepared, this will be filed at Court along with the Court fee.
- The court will send to your spouse ("the Respondent") either an email or letter, notifying them of the proceedings and sending a copy of the divorce application and acknowledgment of service form (or if sent by email, a link to the acknowledgement of service form).
- Your spouse then has 14 days to complete and return the acknowledgement of service form to the Court.

- Once service has been dealt with, the Applicant can apply for a Conditional Order.
- 20 weeks from the date of the initial application, the Conditional Order can be applied for.
- If the application was originally a joint application, but is now proceeding as a sole application, a copy of the application for a Conditional Order must also be sent to your spouse at the same time as submitted to the Court.
- If the Judge is satisfied the applicant is entitled to a divorce, then the Court will send a Certificate of Entitlement for a Conditional Order, this will give a date and time at which the Conditional Order will be made by the Court. This is the first stage of the divorce.
- Six weeks and one day after the date of the Conditional Order, application can be made for a Final Order.
- If the Applicant to the divorce does not apply for a Final Order, then 3 months after the end of the six weeks period, the Respondent can apply for a Final Order.
- If 12 months elapses between the date of the conditional order the court will require further information from the Applicant which you include on the form.
- The Divorce process will take around 6-8 months from application to Final Order (this may increase however dependent upon court processing times and any delays in the application being served upon and acknowledged by your spouse).
- It may, in very exceptional circumstances be possible to ask the Court to reduce the time limits.
- Under the no fault-based divorce procedure, each party is usually expected to pay their own costs.
- The court has retained discretion to make a costs Order against either party in the divorce proceedings. If this situation arises, a separate application to the court can be made, (which will incur a separate court fee) and the application will be listed for a hearing where the Judge will determine the issue.

WILL

It is important to note that Divorce affects inheritance under a Will.

Where a Will has already been made by either party to the marriage then; -

- Any provisions of the Will appointing a former spouse as executor or trustee or conferring a power of appointment on the former spouse shall take effect as if the former spouse had died on the date on which the marriage is dissolved unless a contrary intention appears in the Will,
- Any property which, or an interest in which, is devised or bequeathed to the former spouse shall pass as if the former spouse had died on the date on which the marriage is dissolved unless a contrary intention appears in the Will.
- Divorce affects the appointment of a guardian.

You should therefore seek advice on the effect of the same and if so advised, make a new Will.

For more advice on making a will, please telephone our offices and speak to our Wills Department.

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