

A divorce is often a difficult process for both parties. Our aim in this leaflet is to explain the procedure and to provide accessible information to which you can refer throughout your case.

The person who begins divorce proceedings is called the "Petitioner" as it is they who present the divorce papers known as a Petition to the Court.

The Respondent is the Petitioner's husband or wife.

There is only one ground for divorce, which is that the marriage has broken down irretrievably.

This is proved by demonstrating one of the **five facts** which are :

1. Adultery (not available in same sex marriages)
2. Unreasonable behaviour (not available in same sex marriages)
3. Desertion for a period of at least 2 years
4. Two years separation with consent of both parties
5. Five years separation with or without consent.

### **MEDIATION/CONCILIATION**

As family law Solicitors, we try to ensure our clients are fully aware of the range of our local services.

Some clients attend with difficulties which do not necessitate divorce and who can resolve their differences with help. We can refer you to local marriage guidance services and offer general legal advice on property/financial matters, which often worry clients when considering splitting up.

For those clients who have already separated, we can refer to local mediation services. Mediation is a service available to couples involved at any stage of separation or divorce. These services do not aim to persuade people to get back together but to help them talk openly and reasonably about the various issues which need resolving. Mediation is overseen by an impartial, trained mediator who will safely manage your discussions in a carefully constructed way.

These services are entirely voluntary and not a compulsory part of divorce procedure unless either

party wants to issue financial proceedings within the divorce process.

### **DIVORCE PROCEDURE**

This is a general outline of most uncontested cases.

<b>Petitioner</b>	<b>Respondent</b>
1. Divorce Petition sent to local Family Court with: <ol style="list-style-type: none"> <li>1. Marriage Certificate</li> <li>2. Statement of Reconciliation</li> <li>3. £550 fee</li> </ol>	
2. Court sends Notice of Issue to Petitioner	3. Court sends papers to Respondent together with an Acknowledgment of Service Form to be completed and returned to the Court.
4. Court send copy Acknowledgement of Service to Petitioner who then prepares a Statement in Support and, if uncontested, asks for the proceedings to be placed on a Special Procedure List.	
5. Court sends Certificate of Entitlement and date for Decree Nisi to both parties.	See box 5
6. Compulsory 6 weeks wait between Decree Nisi and Decree Absolute.	
7. The day after the 6 weeks, the Petitioner may present Application for Decree Absolute.	
	8. 3 months after that time, Respondent may apply for Decree Absolute, if Petitioner has not done so.

It is very difficult to predict exactly how long your divorce will take, because many factors are outside our control. In addition if financial matters need to be dealt with the process is likely to take longer. The process of an uncontested case is likely to take anywhere between 4 months and a year.

### **EFFECTS OF DIVORCE**

Either party can stop the proceedings at any time up to the Decree Absolute.

On that day you are legally divorced and no longer your ex-spouse's next of kin and would not inherit from them should they die and vice versa.

If you are considering remarrying you should make this clear to us at the outset of your case, to ensure you do not make arrangements before Decree Absolute. Remarriage can affect any claim for financial settlement and you must make sure the claim is already made before remarriage, although it does not need to be settled by then.

We strongly advise clients to make a first or **new Will** on Decree Absolute if not before to ensure your wishes will be followed.

You should also contact your Pension company to notify them of divorce.

It is important to remember that if you do not have a Will, the intestacy rules mean your Estate could pass to your estranged spouse if you die before Decree Absolute. If you are likely to wait before Decree Absolute it is especially important to consider a Will in the meantime.

This leaflet can only summarise points which may relate to your case. Each case is different. We will of course have to tailor our advice and action to your individual needs.

### **FUNDING YOUR CASE**

All Clients are understandably concerned at the likely costs of legal proceedings. Divorce proceedings themselves need not be very costly, most of the money spent is usually in the associated financial matters.

We will provide you with a costs estimate at our first interview, which will be based on the information available to us at the time. We will aim to raise bills in respect of your matter on a monthly basis and we will be continually re-assessing your case in respect of the likely costs and appropriate next step. We rarely have all of the relevant information from the outset, making the costs element of your matter very difficult to predict with certainty. However, we are committed to providing an efficient service and will keep you advised of your costs position throughout.

We will from the outset provide you with a Terms of Business letter setting out our commitment to you and what we expect from you as a client. We will ask you to sign this confirming that you wish to instruct us to act for you. We will also ask for an amount on account of costs.

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#### **IMPORTANT NOTICE**

This literature is intended purely as an overview of this area of law in England and Wales and no action should be taken upon it without specific legal advice. It is not intended as a substitute for formal legal advice on your specific circumstances