



The Divorce Process

Divorce is generally an administrative process as long as the other spouse does not defend the proceedings. In order to apply for a divorce, you must have been married for at least a year.

The **Law Society's Family Law Protocol** requires that a solicitor acting for someone who wants to obtain a divorce should usually send a draft copy of the divorce petition to the other spouse at least 7 days before it is filed at court. This gives the other spouse the opportunity to obtain legal representation and to object to anything in the petition he or she finds offensive, instead of causing bad feeling and delay later on.

To start a divorce, you must file a **petition** at court setting out details about you and your spouse, any children in your family, and that your marriage has irretrievably broken down. You must support this with either an allegation that your spouse has committed adultery, has behaved unreasonably, has deserted you for two years, or that you have lived apart for two years and he or she consents to the divorce, or that you have lived apart for five years (in which case no consent is needed).

The person completing the petition is called the petitioner, and the other party is referred to as the respondent.

The petition is filed at court with the court fee and your marriage certificate. If there are children in the family, the petitioner must also complete and file a **Statement of Arrangements for Children** form. Ideally, this would be agreed by the respondent in advance of filing the petition.

The court sends the petition out to ("serves") the respondent together with a form for him or her to fill in, called the **acknowledgement of service**. In this form the respondent has to say whether or not he or she intends to defend the divorce. If there is no intention to defend the proceedings, that is the end of the respondent's active involvement in the divorce process.

The petitioner then has to complete an **affidavit in support of petition** which states that the contents of the divorce petition are true. This must be sworn in front of a solicitor or at the court office, and is then filed at court with a request that the court should consider the paperwork and grant a decree nisi.

Decree nisi is the penultimate phase of the divorce, and the point after which the court is able to make a binding financial order. After six weeks and one day, the petitioner can apply for the **decree absolute**, which formally ends the marriage. It may not be sensible to apply so quickly if, for example, financial arrangements are not yet settled. However, if the respondent is keen to end the marriage and the petitioner has not applied for the decree absolute, the respondent can ask the court for permission to do so four and a half months later.

If each step is taken quickly, the whole process can take between 4 and 6 months.

Divorce may invalidate certain provisions in your Will. It is essential to **make a new Will** quickly after your divorce to ensure that your wishes are carried out in the event of your death.

