

Guide to Divorce



'A very comprehensive and professional service was received for our very difficult and personal case.' Family Law Client

Our family solicitors can give you practical, helpful advice and support to guide you through the process.

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'They have been with us every step of the way and supported our family issues.'

Family Law Client

At Hegarty Solicitors we understand how difficult it can be seeking legal advice when a relationship breaks down.

If you need help regarding separation, divorce or dissolution of a civil partnership, we can arrange a meeting with you to take the details of your situation and give you an indication of costs (and explain if you are eligible for financial assistance) for any action you decide upon.

At the initial meeting we can also discuss with you whether your case would be suitable for the Collaborative Law process.

Briefly, this is where you and your former partner sit down with the help of your own solicitors, reach an agreement face-to-face without Court intervention. It is therefore an amicable and non-confrontational way of reaching a solution to important issues on the breakdown of a relationship.

Divorce Proceedings

Who can start divorce proceedings?

Anyone who has been married for over a year provided the relevant criteria on residency and domicile is met. During your first meeting a solicitor will check that you are eligible to start proceedings.

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On what grounds can a divorce petition be started?

A divorce can be granted if the marriage has irretrievably broken down, and one of the following five reasons is established:

- (a) your spouse has committed adultery and you find it intolerable to continue living together.
- (b) your spouse has behaved in such a way that it would be unreasonable to expect you to continue living together.
- (c) your spouse has deserted you for a continuous period of 2 years or more.
- (d) you and your spouse have been living separately for 2 years or more and your spouse agrees to the divorce.
- (e) you and your spouse have been living separately for 5 years or more, whether or not your spouse consents to the divorce.

If the marriage has irretrievably broken down, and one of the five reasons applies, what happens next?

You should seek the advice of a solicitor who will explain more about divorce. If you decide to start divorce proceedings, your solicitor will explain that the first stage is to issue a divorce petition. It is often sensible to try to obtain your spouse's consent to the petition and try to reach agreement over the contents of the petition.

What information is included in the divorce petition?

The divorce petition contains basic information about names, addresses, and a statement that the marriage has irretrievably broken down. It will also state the reason for the divorce.

The petition will contain a section that will include a request for the divorce to be granted.

Stages of a divorce and length of time of proceedings

People often ask how long a divorce will take but this is a very difficult question to answer as so much depends on the circumstances of the individuals involved. There are, however, some stages of a divorce which do have strict timetables.

Stage 1: See a solicitor and start divorce proceedings

After one year of marriage either spouse may start the divorce, the person who starts the divorce is called the Petitioner. The divorce petition is completed and sent to court with the marriage certificate. We will advise whether you are eligible for financial assistance and will complete the necessary forms for you. The divorce can now all take place online via the Court's online divorce portal.

For more information visit [hegarty.co.uk/divorce](https://www.hegarty.co.uk/divorce)



Stage 2: Court receives Petition

Within a few days the court will send a copy of the petition to the other spouse, referred to as the Respondent. A copy of the petition is also sent to anyone named in the adultery petition, although it is not usually necessary to name the other party or involve them in the proceedings.

Stage 3: Response of the Respondent

Within 14 days - the Respondent should send to court a form called 'Acknowledgement of Service'. The form asks the Respondent whether they intend to defend the petition and whether any claim for costs is disputed.

Within 28 days of receipt (longer if the documents have been sent abroad) - whether or not the Respondent has returned the 'Acknowledgement of Service', the Respondent, must if they intend to defend the petition, file a 'Defence' (called an Answer).

The petition then becomes defended and the procedure outlined below does not apply. Defended divorce proceedings resulting in a fully contested hearing are rare, but will inevitably cause a delay in proceedings.

If the 'Acknowledgement of Service' is not returned by the Respondent then proof that the Respondent and any named Co-Respondent have received the petition will have to be obtained before any further steps are taken. This may involve arranging for someone to deliver the petition to the Respondent and Co-Respondent personally, or more rarely by obtaining a court order that the proof that the Respondent and Co-Respondent received the petition is not needed.

Stage 4: Court receives 'Acknowledgement of Service'

The court will send a copy of the form(s) of 'Acknowledgement of Service' to the Petitioner's solicitor.



'I received an excellent service to help me through a difficult time.'

Family Law Client

Stage 5. If the Respondent is not defending the petition, the Petitioner can apply for a certificate of Entitlement to a decree.

Depending on the court's diary, the date is likely to be a few weeks after the application is lodged. The couple will not usually have to attend court.

The Petitioner's solicitor prepares a document called a 'Statement in Support of Divorce' for the Petitioner to sign confirming that the contents of the petition are true. It will also state whether the circumstances have changed since the filing of the petition. It will then be sent to the court with the request for a date for the first decree of divorce (Decree Nisi) to be pronounced.

Stage 7: Decree Absolute

Six weeks and one day after the date of the Decree Nisi the Petitioner may apply for the final decree (Decree Absolute) by sending the appropriate form to the Court. This step is not automatic. This Decree will be processed and may even be available on the same day.

Stage 6: Court grants Decree Nisi

The District Judge looks through the papers and, if they seem in order, will give a certificate for the Decree Nisi to be pronounced. Both the Petitioner and Respondent (through their solicitors) are then advised of the date fixed for the Decree Nisi.

If more than three months after the Petitioner could first have applied for Decree Absolute has passed, the Respondent may apply for the Decree Absolute if the Petitioner has not already done so.

For more information visit [hegarty.co.uk/divorce](https://www.hegarty.co.uk/divorce)



We would thoroughly recommend...

We would thoroughly recommend using Hegarty Solicitors, they are so very good in sorting very difficult situations out. We have been with them for quite a few years now and have never had a problem at all. You can always get hold of someone if you phone the office and the staff are amazing.

Legal terms

Anchor Statement

In the collaborative process; a statement both parties are encouraged to write explaining why they wish to deal with matters in a Collaborative way.

Collaborative Law

Very simply, the couple who are separating, and their lawyers, agree in writing to try and reach a reasonable settlement without going to court. The couple and their lawyers will have face-to-face meetings to talk through all the issues and come to an agreement. More information about Collaborative law can be found on our Collaborative law page or at the Peterborough Collaborative Law Group website.

Decree Nisi

Following a divorce petition, a decree nisi is a document that shows that the court is satisfied that all legal requirements have been met to proceed with a divorce. At this stage the divorce is not complete; there is a six week and one day minimum mandatory period between grant of decree nisi and decree absolute.



Decree Absolute

This is the final stage of divorce and the legal document that ends a marriage.

Participation Agreement

In the collaborative process, a Participation Agreement is the contract which starts the formal engagement in the collaborative law process and is a way of keeping both parties focused. Once signed it confirms that if the parties have to resort to the Court process to resolve issues they will both have to seek legal advice from alternative Lawyers.

Petitioner

The person who starts the divorce proceedings.

Respondent

The party against whom the petition is filed, the other spouse in divorce proceedings.

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