

Divorce Factsheet

The divorce process is broadly the same whether you are married or in a Civil Partnership. The term 'divorce' is used in this factsheet to include dissolution of a civil partnership. A divorce can only be obtained if the parties have been married for at least a year.

Where the parties are in agreement then the divorce process is straightforward and can be done on paper and probably without the need to attend court in person.

The process starts when one person (called the Petitioner) sends a petition to the court setting out that the marriage has irretrievably broken down. There are 5 reasons for a divorce and one of them must be established. They are:

- Adultery (that your spouse has had an affair).
- Unreasonable behaviour (that your spouse has behaved in such a way that you can't be expected to live together).
- That your spouse has deserted you for at least two years.
- That you have been living apart for two years and your spouse also wants a divorce.
- That you have lived apart for five years.

Adultery is a specific legal term relating to heterosexual sex and which cannot therefore be used as grounds for dissolving a civil partnership. If your partner is unfaithful the grounds for dissolution would instead be unreasonable behaviour.

The petition is sent to the court with the marriage certificate and a fee, currently £550. Sometimes a person can be exempt from paying the fee. Eligibility can be assessed here: <https://www.gov.uk/get-help-with-court-fees>

The court then sends the petition to your spouse, referring to him/her as the "Respondent", together with a document called the Acknowledgement of Service. The Respondent completes this saying whether he/she agrees to the divorce.

To disagree with the divorce petition a Respondent fills in the part of the form that says they are defending the divorce. This form is then sent back to the Petitioner and the Respondent then has up to 21 days to say why they are defending the divorce. This is called 'giving an answer'.

If your partner does not return the form, you can pay the court to serve the papers in person (using a court bailiff or a process server).

When the Respondent returns the Acknowledgement of Service the Petitioner is sent a copy. If the divorce is accepted, then the Petitioner completes a short statement in support of the divorce petition confirming that the contents of the divorce petition are true. This is sent back to the court and a judge then considers the paperwork, decides if the Petitioner is entitled to a divorce and sets a date for the pronouncement of a decree nisi.

At this point the court will consider making any binding financial orders that have been sought. It is a good idea to make sure that the financial arrangements are settled before moving to the next stage.

6 weeks and 1 day after the decree nisi the Petitioner can apply for the Decree Absolute which formally ends the marriage. This is an application made by the Petitioner, however the Respondent can ask the court for permission to make the application four and a half months later, if the Petitioner has not moved to this stage.

The divorce process can be expected to last between 4 and 6 months.

Useful Websites:

www.resolution.org.uk

www.relate.co.uk

www.advicenow.org.uk