

Divorce

Once a party has made the difficult decision to end their marriage it is important to ensure matters are dealt with properly. Most divorces follow a four stage process:-

1. Divorce Petition

The only ground in this country for obtaining a divorce is the irretrievable breakdown of the marriage. To prove this, you must establish one of five facts; your spouses unreasonable behaviour, your spouses adultery, a separation of two years or more with you both consenting to a divorce, your spouses desertion or a separation of five years or more with or without your spouses consent.

Once we have established the most appropriate fact for you to rely on, we prepare a Divorce Petition for you to approve, before it is sent to the court to be issued. Most cases are issued in the local divorce unit, however, Divorce Petitions can be issued in any area the Petitioner wishes. The person who starts the divorce is known as the Petitioner and the other spouse the Respondent. The Court no longer consider the arrangements for children as part of the divorce process. This is dealt with separately if an agreement cannot be reached.

2. Acknowledgement

Once the Divorce Petition is issued by the Court they will send a copy to your spouse with a form to complete known as the Acknowledgement of Service. In that form they will confirm, amongst other things, whether they object to the divorce or paying any legal costs you may be claiming against them. If they have not returned this within 14 days we will have them personally served to allow the divorce to proceed with or without their co-operation. It is extremely rare for a Respondent to defend a divorce, but more common for a reluctant spouse to simply not engage in the process.

3. Decree Nisi

Once the Acknowledgement of Service has been returned or the Respondent has been personally served and not responded, the next step is to apply to the Court for the Decree Nisi. This is the Judges formal acknowledgement of the divorce proceedings and a declaration that the marriage can be legally ended in six weeks and one day's time provided no good reason is brought forward for the marriage not to be brought to an end. Such a situation is extremely rare and will not apply in most cases.

At this stage the Judge will also decide whether the Respondent should be ordered to pay any legal costs which may have been claimed in the Divorce Petition.

Once the Decree Nisi is pronounced, the court has the power to make any binding financial orders in readiness for effect upon the Decree Absolute.

4. Decree Absolute

Six weeks and one day after the Decree Nisi is pronounced, the Petitioner can apply for the Decree Absolute to end the marriage. Three months after the date the Petitioner can apply, the Respondent may apply for the Decree Absolute in the event the Petitioner has failed to do so. Upon the Decree Absolute being pronounced, both parties are legally separated.

Any financial orders previously made are given effect and in the absence of financial matters being agreed claims for widows benefit under any pension schemes are lost.

Financial matters – A Warning

Either party may, bring financial claims against the other as a result of their marriage for the remainder of their lives and so it is important to address finances as part of the divorce process to eliminate this risk.

In most cases, provided the process is properly followed and documents drafted correctly, there will never be a need to attend court and matters will be dealt with by post. This is why it is important to instruct an expert. As most divorces proceed on the basis of the above and are undefended we are able to offer fixed fees for this service.

Please see our finances factsheet for more information.

**Why not contact our specialists, Carly or Julie
for no obligation appointment?**

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