



Divorce

We have set out a brief step by step guide to divorce to help you understand the process. However, it is always important to discuss your specific circumstances with a specialist family lawyer.

Guide to Divorce

We have set out a brief step by step guide to divorce to help you understand the process. However, it is always important to discuss your specific circumstances with a specialist family lawyer.

To apply for divorce, you must have been married for at least a year.

It doesn't matter where in the world you were married, you can only apply for divorce in England and Wales if either you or your spouse are permanent residents here or one of you has been resident here during the last year.

The law still requires one spouse to petition against the other, even if you have mutually agreed that you wish to separate.

Therefore, to proceed with a petition for divorce, you must confirm that your marriage has irretrievably broken down. This is proved by relying on one of the following five facts:

- Adultery - you cannot rely on your own adultery to support a petition for divorce.
- Unreasonable behaviour - you cannot blame yourself and the behaviour must relate to your spouse (even if you have mutually agreed to separate)
- Your spouse has deserted you for a continuous period of at least 2 years.
- You have lived apart from your spouse for at least 2 years and your spouse agrees to a divorce.
- You have lived apart from your spouse for at least 5 years.

Divorce Reform - No fault divorce - After years of campaigning for a change in divorce law, the government has now passed the Divorce, Dissolution and Separation Act 2020 which reforms the divorce process by (amongst other things) removing the concept of fault and allowing couples to provide a statement confirming the marriage has irretrievably broken down. This change will mean that divorcing couples will no longer have to blame each other for the breakdown of the marriage.

Whilst the Act has been passed, it will not come into effect immediately. It is though that the Act will be implemented in Autumn 2021. Therefore, for now, the existing divorce process continues.





After deciding the most appropriate fact to rely upon to support a petition for divorce, your solicitor will draft the divorce petition and send a copy to your spouse or their solicitor for consideration before it is sent to the Court. This gives the other spouse an opportunity to receive advice and raise any objection.



The Divorce Petition, original marriage certificate and Court fee (£550.00) is sent to the Court - Note: some people are eligible for fee exemptions or reductions and you should speak to your solicitor to find out more.



The Court issues your Divorce Petition and sends a copy to you and your spouse (the respondent).



The respondent is required to complete an Acknowledgment of Service (which is provided to them by the Court) within 7 days, confirming whether they will agree to the divorce or intend to defend the same.

- If defended, the respondent spouse must file an Answer within 21 days - if this occurs, you will need to seek specific advice from your solicitor regarding the next steps.
- If the respondent spouse does not complete the Acknowledgment, there are steps that can be taken to progress the divorce - Again, you will need to seek specific advice from your solicitor regarding the next steps.
- If the respondent spouse completes and returns the Acknowledgment, confirming that they will not defend the divorce, you can progress the divorce and continue with the steps below.



After receiving the signed Acknowledgement of Service from the respondent, you can apply for the Decree Nisi by completing an Application and Statement, which is sent to the Court.





The Judge will consider the documentation provided to establish whether you are entitled to a divorce. If satisfied, a date will be set for the pronouncement of the Decree Nisi - you do not need to attend the Court for the pronouncement.



After the Decree Nisi is pronounced, it will be sent to you solicitor by post. The Decree Nisi is the first decree needed to dissolve your marriage. It does not mean you are divorced.



You can apply for the Decree Nisi to be made Absolute, after a period of 6 weeks and one day. However, you should seek advice before applying for the Decree Absolute given there are certain risks and Implications of applying for the Decree Absolute before the financial aspects have been resolved.

The respondent spouse can apply for the Decree Absolute 3 months after you could have first applied for it - but this is not as simple as the petitioner applying and it is likely a Court Hearing will be required. You should seek advice from your family lawyer if you wish to apply for the Decree Absolute as the respondent.

When the Decree Absolute is pronounced, you are divorced.



It is important to note that the pronouncement of the decree absolute affects any provision in your will regarding your former spouse. Therefore, it is important to make a new will quickly after the decree absolute (or in contemplation of a divorce).

Please note that this article does not constitute legal advice and only provides a brief overview of certain issues. You should always speak to a legal professional to discuss your circumstances and consider your options.

How can we help you?

Our experienced lawyers will give you clear and practical advice with a focus on keeping costs to a minimum and ensure matters are dealt with amicably and swiftly. There are many unforeseen pitfalls and family law can be a complex and

confusing area. We have the expertise to assist you and avoid the many hazards by giving clear advice to give you the best possible outcome.

Our family Department offers a free 30-minute appointment to all clients. At that appointment we will discuss and review your circumstances and give you preliminary legal advice. We will also review with you, in general terms, your options in respect of the divorce, finances or children matters and also provide a cost estimate.

Contact *Hart Reade*

If you wish to speak to any of the family law team, please call us on **01323 727321**, visit our website www.hartreade.co.uk or email us on info@hartreade.co.uk.

Eastbourne

Address:

104 South Street,
Eastbourne,
East Sussex,
BN21 4LW

Telephone:

01323 727321

Hailsham

Address:

Old Manor House,
Market Street,
Hailsham,
East Sussex,
BN27 2AE

Telephone:

01323 841481

Polegate

Address:

55 High Street,
Polegate,
East Sussex,
BN26 6AL

Telephone:

01323 487051

Meads

Address:

3b Meads Street,
Eastbourne,
East Sussex,
BN20 7QX

Telephone:

01323 407577

This information sheet is intended to be a summary only and should not be treated as a comprehensive guide and should not be acted on without qualified legal advice. If you require further information, please do not hesitate to contact Hart Reade and we will be happy to assist.

Hart Reade Solicitors is the trading name of Hart Reade LLP (a Limited Liability Partnership) registered in England and Wales, number OC435917. Authorised and regulated by the Solicitors Regulation Authority, number 817652.

Registered office: 104 South Street Eastbourne BN21 4LW, where a list of Members names is available for inspection. We use the term 'Partner' to refer to a Member of the LLP (and this does not imply any legal obligation beyond that of a Member of the LLP) or a partner non-Member employee / consultant.