

Ramsdens
Solicitors

Experts in Law

Divorce process

A guide to

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Since 6 April 2022, it is not necessary to allege fault in order to obtain a divorce.

This means that you no longer provide reasons such as adultery or unreasonable behaviour in your divorce application and will rely solely on the ground that your marriage has broken down irretrievably.

So, what is the starting point for a divorce under the Divorce, Dissolution and Separation Act 2020?

- **You must have been married for at least one year;**
- **the marriage must be valid; and**
- **the marriage must have broken down irretrievably.**

If the above factors are satisfied, you can begin divorce proceedings.

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Application

You can apply for a divorce using the online HMCTS portal or by paper using Form D8.

If you have instructed us to make the application on your behalf, we can only use the online system and will require the following details:

- Your full name, address and contact details
- Your spouse full name, address and contact details
- A colour scan of your original marriage certificate which will include the date of marriage and will include any maiden names but the scan must show all four corners of the certificate.
- Whether you intend to seek a financial order in respect of yourself and/or any children.
- Confirmation that you believe your marriage has broken down irretrievably and there is no chance of a reconciliation.
- Court fee of £593.00.

If you have decided to make the application yourself, you need to be aware that even where matters are amicable between you and you have come to an agreement in respect of finances, you still need to ensure that you **tick the box to confirm that you will be applying for financial relief**. This allows you to lodge a financial agreement, by way of a consent order, once the conditional order has been pronounced.

Under the new divorce procedure, you can make an application for divorce jointly. We would not advise making the application jointly where there is a risk of domestic abuse or where matters are not amicable. If you wish to make an application jointly, we will be unable to act in the divorce aspect but will be able to act for one of you in respect of division of financial assets.

Response to the application

Once the application has been approved by you and submitted, your spouse will be required to respond to the application.

Your spouse will be required to acknowledge receipt of the divorce application and confirm that the divorce is to proceed. Your spouse is unable to contest the application, only on grounds of validity of the marriage or jurisdiction.

If your spouse refuses to respond to the application, the applicant can instruct a process server to personally serve the respondent (your spouse) with the application. There will be a fee involved however the process server will provide a statement of service which can be used in the absence of a response. This will allow the divorce to progress.

Reflection period

Following issue of the divorce application, there is a statutory 20 week 'reflection period'.

The purpose of this is to provide parties with an opportunity to reflect on the marriage. If, at the end of this period, they still wish to proceed with the divorce then the applicant can make an application for a 'conditional order' by stating that the facts stated in the divorce application remain true and that they wish to proceed with the divorce.

During the reflection period, parties are encouraged to begin discussing the financial consequences of their marital breakdown. Please see our booklet 'A Guide to Resolving Finances Following Marital Breakdown' for more details on how an agreement may be reached and, if not, what the next steps are.

Conditional order

You, or your legal representative, can apply for a conditional order once the 20 week reflection period has lapsed. This can be done on the HMCTS portal or by paper using Form D84.

This represents the 'mid-point' of the divorce. Once the conditional order has been pronounced by the court, you are able to lodge any financial agreement reached. **Once approved by the court, the financial agreement becomes legally binding.**

Final order

You must wait six weeks and one day from the making of a conditional order to apply for a final order.


If you made a joint application then either party can apply for the final order. If you made a sole application, you can apply for the final order. If you fail to do so, your spouse can apply for a final order three months after you, as the applicant, are able to.

You should not apply for a final order until finances have been resolved. This is why parties are encouraged to begin negotiations during the reflection period so that if an agreement can be reached without the need to issue court proceedings, the divorce can progress as timetabled.

Once the final order has been made, this has the effect of finalising your divorce and you will no longer be married.

Additional considerations

1. **Is your will up to date?** If you do not have a will and suddenly pass away then, under the law of intestacy, your spouse will benefit from your estate. If you have a will, it is likely that you will have named your spouse as a beneficiary. We advise changing your will to reflect your circumstances and to ensure that in the event you do pass away, you are leaving your estate to your chosen beneficiaries.
2. **Do you have a life insurance policy?** If you have a life insurance policy, you are likely to have named your spouse as the beneficiary. We advise contacting the policy provider to change the beneficiary details.
3. **Do you have death in service benefits?** It is likely that in your job role, you will have death in service benefits. We would advise speaking to your workplace and changing the beneficiary of those.
4. **Do you have a private pension?** The considerations surrounding your pension are twofold:
 - a. It is likely that you will have named your spouse as your pension beneficiary, as you may have done with your life insurance policy, and therefore, we advise contacting the provider to change these details.
 - b. If you or your spouse have a large pension or in particular, a public sector pension, we would advise obtaining a pension actuary report. A pension actuary report is a type of appraisal of pension assets which will report on the current and future conditions of the funds and whether it is on track to meet the needs of the people depending on it. It allows you to make an informed decision in the settlement as to whether any part of the pensions should be split.

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5. **Do you own a jointly owned property?** It is likely that you own the matrimonial home jointly as 'joint tenants'. Where this is the case, the property will pass entirely to the surviving spouse where one passes away during the joint ownership. On this basis, we advise clients to sever the tenancy which means that the property is then held as 'tenants in common'. This metaphorically allows the parties to each own a share in the property which they can they choose to leave to their chosen beneficiary an a will.
 6. Even in the event that you do not hold the property jointly, you may register a Home Rights Notice on the property at the Land Registry following matrimonial breakdown. If one party attempted to sell the property or transfer into another person's name then the other party will be notified. The property cannot sell without consent of the party who has registered the home right.
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Resolution

Many of the solicitors at Ramsdens are members of Resolution, which means that our family solicitors follow a Code of Practice that promotes a constructive approach to family issues and considers the needs of the whole family, in particular the best interests of children.

Our solicitors approach issues in a sensible fashion to try and assist client's to come to a resolve in an amicable manner. The aim is to listen to your concerns, guide you through the options available to you and support you in your decisions whilst reducing and/or managing any conflict or confrontation.

Contact us

Our family team are specialists in all aspects of family law including divorce, finances and children, and are here to help!

Please contact the team on 08000 147720 or send us an email at family@ramsdens.co.uk to discuss your circumstances and the next steps.

All enquires are provided in the strictest of confidence.