

Divorce terminology and process

Version 1.3

Divorce terminology

Acknowledgement of Service: Form sent by the Court to the Respondent with the Petition and signed by the Respondent to confirm receipt of Petition and whether or not he/she intends to defend.

Ancillary Relief: Financial orders put in place on or after pronouncement of the Decree Nisi

Clean Break: A final settlement of property and financial issues meaning neither party can make any further claim against the other.

Conciliation/Mediation: An attempt to agree on the issues arising out of divorce (eg children/finances) via a Mediator and without contested proceedings in Court

Decree Absolute: Final stage of divorce. Can be applied for six weeks and one day after Decree Nisi is pronounced.

Decree nisi: First stage of divorce

Defended Divorce: Divorce where Respondent indicates an intention to defend. Hearing takes place before Judge to determine if marriage has irretrievably broken down on grounds alleged.

Periodical payments: Financial support given by one party to other in form of maintenance

Petitioner: The person who starts the proceedings leading to divorce

Property Adjustment Order: An order for sale of property or an order changing ownership of property.

Respondent: The person who receives the divorce petition

Undefended divorce: Divorce where Respondent does not defend. No need for either party to attend Court.

Grounds for Divorce

The only ground for divorce in England and Wales is irretrievable breakdown of the marriage.

Irretrievable breakdown is established by proving one of five facts:

- a) adultery
- b) unreasonable behaviour
- c) desertion
- d) separation for two years with the consent of both parties
- e) separation for five years

A divorce petition cannot be issued until the parties have been married for at least a year.

Undefended Divorce Procedure

(Time estimate: 4-6 months)

1. Petitioner sends Petition, original marriage certificate or certified copy and fee of £550 to the Court.
2. The Court issues the Petition and sends it, usually by post, to the Respondent together with an Acknowledgement of Service form.
- 3.. The Respondent has eight days to sign and return the acknowledgement to the Court indicating whether or not he intends to defend.
4. A copy of the Acknowledgement of Service is sealed and sent to the Petitioner.
5. The Petitioner completes an application for Decree Nisi and a statement confirming that contents of Petition are true and lodges with Court.
6. If satisfied with paperwork, District Judge issues certificate containing date for pronouncement of Decree Nisi
7. Decree Nisi is pronounced – no need for either party to attend
8. Six weeks and one day later Petitioner can lodge application for Decree Nisi to be made absolute If Petitioner fails to apply Respondent can make application after a further three months on notice to Petitioner.
9. Copy Decree Absolute sent to both parties