

Your guide to divorce, dissolution and judicial separation

Overview

This guide will provide you with an overview of the legal requirements and process to apply for a divorce or dissolution. A divorce will legally end a marriage and dissolution will legally end a civil partnership. Reference throughout this guide to divorce or marriage will equally apply to dissolution or civil partnership unless stated otherwise.

Legal requirements

You must meet the following legal requirements to issue an application:

- You must have been married for at least one year;
- The court must have jurisdiction (based on habitual residence or domicile); and
- The marriage must have irretrievably broken down (the legal reason).

Terminology

You can make a joint or sole application. A party applying for a divorce or dissolution is known as the 'applicant'. On a joint application the parties will be known as 'applicant 1' and 'applicant 2'. In a sole application case, the other party will be known as the 'respondent'.

Jurisdiction

The court must have jurisdiction to deal with your application. The usual basis for the court to have jurisdiction is where one or both parties are habitually resident in England and Wales.

'Habitual Residence' is the place in which your life is mainly based. This may be the place where you work, own property, your children go to school and where your main family life takes place.. It is the place where you are settled and intend to stay settled.

'Domicile' is the place of your permanent home in which you live, or to which you intend to return. When you were born you will have acquired your parents' domicile. If you have since moved to another country and made that your permanent home then your domicile may have moved there.

If you were born in England, lived your entire life here, and intend to stay here, then it is very likely that you will be both habitually resident and domiciled here.

You will need to state in the application why the court has jurisdiction and which of the following reasons apply from the list below:

- Both parties to the marriage/civil partnership are habitually resident in England and Wales;
- Both parties to the marriage/civil partnership were last habitually resident in England and Wales and one of them continues to reside there;
- The respondent is habitually resident in England and Wales;
- On a joint application either applicant 1 or applicant 2 is habitually resident in England and Wales;
- The applicant is habitually resident in England and Wales and has resided there for at least one year immediately before the application was made;
- The applicant is domiciled and habitually resident in England and Wales and has resided there for at least six months immediately before the application was made;
- Both parties to the marriage/civil partnership are domiciled in England and Wales; or
- Only
 - applicant/applicant 1

- applicant 2
- respondent

is domiciled in England and Wales.

For civil partners or same sex marriage if the options above do not apply the below may be applicable:

- The parties registered as civil partners of each other in England or Wales, or, in the case of a same sex couple, married each other under the law of England and Wales and it would be in the interests of justice for the court to assume jurisdiction.

Stage 1: Communication with the other party and payment of the court fee

An application is likely to proceed more quickly and amicably if you communicate with the other party before issuing the application to try and agree the application process and a contribution towards the costs of the application. Sole applicants cannot change their application to a joint application after issue, so the decision on whether to apply solely or jointly must be made at the start.

The court fee to issue an application is £593. Sole applicants can apply for Help with Fees where they have little or no savings and either get certain benefits or have a low income. More information on Help with Fees can be found at [Help with court fees](#).

Joint applicants can agree between themselves how they are going to pay the fee. If the application is being applied for using the online digital service, applicant 1 will have to pay the court fee. If you are making a paper application, either applicant may insert their details on the court fee page. Joint applicants can also apply for Help with Fees if both applicants have little or no savings and either get certain benefits or have a low income. Where this is only the case for one applicant, Help with Fees will not be available for joint applicants.

Stage 2: Making the application

Applications can be made online using the court's digital service or on paper using the D8 Form. Where the applicant is legally represented or either one or both joint applicants are legally represented the application must be made online.

Marriage or Civil Partnership Certificate

If your application is being made online you will need to upload an image of your original or certified copy of your certificate. If you are making a paper application the original or certified copy of the certificate will need to be sent to the court. A photocopy will not be accepted.

If your marriage certificate is not in English a translation that has been certified by a notary public or authenticated by a statement of truth by the person who did the translation will need to be provided.

If you married in England and Wales and cannot find your certificate you can apply for a copy at [Copy certificates](#).

Completing the application form

In the application form you will need to confirm:

- The full name, date of birth, address, gender and contact details for both parties and, if applicable, legal representatives;
- Details of the marriage/civil partnership;
- Why the court has jurisdiction (see list above);

- A statement that the marriage has irretrievably broken down (the legal reason);
- Details of any existing or previous court cases;
- Whether you want to apply for a financial order for you or your children;
- Whether you are asking the court to order the respondent to pay your costs; and
- A statement of truth.

It is possible to apply for your address to be kept confidential and not disclosed to the respondent.

If you confirm that you would like to apply for a financial order the court will not take any action until you formally start financial proceedings by issuing For A or A1. For further information the financial aspects of a divorce or dissolution read our following guides:

- Your guide to applying for financial orders
- Your guide to pensions on divorce and dissolution
- Your guide to tax on divorce, dissolution and separation
- Your guide to how the court decides what financial orders to make

Costs

You can ask the court to consider making an order that some or all the costs are paid by the respondent. You will need to make a separate application using Form D11 if you want to apply for costs.

Stage 3: Notice of proceedings and serving the application

Sole application procedure

Once the application has been issued you will receive notice of issue from the court confirming your case number and the date of issue.

The general rule is that the court will send the application to the respondent. If an email address has been provided for the respondent the court will email the respondent with a link to the digital service to enable them to view the application (if the application is digital and if not a copy of the paper application will be sent by email). A notice is also sent by post to confirm this. If an email address is not provided (or the applicant does not want the respondent to be served by email) the court will serve the application by post.

If the respondent is unlikely to respond or co-operate with the application you can request that you take responsibility for service.

The court will not serve an application outside of England and Wales. The applicant must serve the application using prescribed methods of international service and within 28 days from the date the application was issued by the court.

If you receive a failure of service notification from the court you can ask the court to serve again at an alternative email/postal address. Should this service method fail again, the court will not attempt to serve again. If you are not sure you have the respondent's correct email or postal address or you believe the respondent will not co-operate with the application you can instruct a process server to personally serve the respondent and provide you with a statement of service.

Completing the acknowledgement of service form

The respondent will be required to complete the acknowledgement of service form to confirm service of the application and to confirm whether they dispute the application. The acknowledgement of service form will need to be completed within 14 days beginning with the date on which the application was served.

Disputing the application

Respondents are not able to dispute whether the marriage has broken down. They can only dispute the application because:

- they dispute the jurisdiction of the court in England and Wales to conduct the proceedings. For example, where neither party lives in or has any other connection with England and Wales;
- they dispute the validity of the marriage or civil partnership. For example, if the parties have not entered into a legally valid marriage; or
- the marriage or civil partnership has already been legally ended. For example, if the marriage has already been brought to an end in proceedings outside of England and Wales.

It will also be possible to challenge proceedings for reasons such as fraud and procedural compliance.

Should the respondent wish to dispute the application they will have to do so offline by filing a paper form with the court (known as 'the answer') and pay the court fee. The respondent must file and serve their answer within 21 days from the date the acknowledgement of service is required to be filed, with their reason for disputing.

Joint application procedure

On the digital service, once applicant 1 has provided the relevant information and submitted the application, applicant 2 will receive an email asking them to review the information provided by applicant 1 and provide any additional details. The application will then go back to applicant 1 to review applicant 2's additions and submit to the court.

When a joint application has been made the court must send a copy of the notice of proceedings to both parties.

Stage 4: Applying for the conditional order

The conditional order is the first of two orders you must obtain before you are divorced. An application may be made for the conditional order at any time after the end of the period of 20 weeks from the date on which the application was issued provided that:

- the time for filing the acknowledgement of service has expired and no party has filed an acknowledgment of service indicating an intention to dispute the proceedings; and
- in any other case, the time for filing an answer to the application has expired.

The application may be made:

- by the applicant;
- in a joint application by both parties; or
- in a joint application by only one party. The party applying on a sole basis must at the same time as making the application send a copy of the conditional order application to the other party. Upon the court's confirmation of entitlement to an order, the other applicant becomes the respondent for the remainder of the proceedings.

If the court is satisfied that the applicant or applicants are entitled to a conditional order the application will be listed before a judge for the making of the conditional order at the next available date.

The court must not give directions for the conditional order unless it is satisfied that a copy of the application has been properly served on the respondent. If the court is not satisfied that the applicant or applicants are entitled to the conditional order the court will direct:

- that any party to the proceedings provide such further information, or take such other steps, as the court

- may specify; or
- that the case be listed for a case management hearing.

If the applicant has applied for costs, the court may make directions in the costs application at this stage.

If the respondent has not responded to the application, you may need to change the address or email for service, instruct a process server to personally serve the respondent or you may be able to apply for deemed service on the respondent.

Stage 5: Applying for the final order

Six weeks after the making of the conditional order the final order can be applied for. The application can be made:

- by the applicant giving notice for the conditional order to be made final;
- by both applicants giving notice jointly for the conditional order to be made final; or
- by only one applicant to a joint application giving notice for the conditional order to be made final. Before doing so the applicant must give 14 days' notice to the other party of their intention to give notice to the court that they wish the conditional order to be made final. By giving this notice the applicant withdraws from the joint application and becomes the sole applicant and the other party becomes the respondent.

If you are making the application more than 12 months after the making of your conditional order, your application will need to be accompanied by a short statement setting out the reasons for the delay in making the application.

It can be quite common to delay applying for the final order until financial matters have been determined and a financial order made as certain rights may be lost on divorce. For example, pension benefits payable on death or insurance policies may only be payable to a "widow" or "widower". Divorce also affects inheritance, the implementation of orders and occupation of the family home.

If the applicant has not applied for the final order within a period of three months from the earliest date it can be applied for, the respondent can apply for it. The respondent will need to give notice of their application.

If parties cannot reach an agreement on when to apply for the final order an application can be made to the court to determine when the final order is made.

You should seek legal advice on your financial position well before the date an application for the final order can be made.

Expediting the application for conditional or final order

In exceptional circumstances (such as terminal illness or imminent birth of a child to one of the parties) it may be possible to have the process expedited. This will need to be applied for offline using the D11 form.

International considerations

This guide only explains the procedure in England and Wales. If you or the other party have a connection with another country, you should seek advice before taking any action.

Religious marriages

If you entered into a religious marriage as well as a civil marriage, you may need to follow a different process to dissolve the religious element of your marriage. It is important that you contact the relevant religious

authority and seek further guidance if you are unsure.

This guide is for general guidance only and should not be treated as a definitive guide or be regarded as legal advice. If you need more information about the issues referred to in this guide, please seek formal advice.