



GUIDE TO GETTING A DIVORCE

The legal formality of obtaining a divorce tends to be quite a straightforward process, especially if both parties agree to the divorce. The difficulties tend to lie in the resolution of financial matters, arrangements for the children, dividing up the assets and where each party will live. Therefore, we have prepared this guide, outlining the divorce process, to assist you.

Conditions of Issuing Divorce Proceedings

- To issue divorce proceedings you must have been married for over one year, and
- One or other of the couple must be either domiciled here or has been resident in England or Wales during the preceding year. (It does not matter where you were married, provided that the marriage is recognised as valid in England and Wales)

To Obtain a Divorce

In order to obtain a divorce the marriage must have “broken down irretrievably” and it must be based on one of the following five facts: -

- **Adultery:** Your spouse has committed adultery and you find it intolerable to live with them.
- **Unreasonable Behaviour:** Your spouse has behaved in such a way that it would be unreasonable to expect you to continue living together.
- **Desertion:** Your spouse has deserted you for a continuous period of 2 years or more.
- **Separation (2 years):** You and your spouse have been living separate and apart for 2 years or more and your spouse consents to the divorce.
- **Separation (5 years):** You and spouse have been living separate and apart for 5 years or more, whether or not your spouse consents to the divorce.

Initial Letter to Your Spouse

- If you are applying for a divorce, your solicitor will usually start the process by writing a letter to your spouse to tell them that you are planning to start divorce action.
- This letter will also recommend that your spouse obtain independent legal advice if they have not already done so.

Content of Divorce Petition

- You will be required to complete a form known as a “Divorce Petition”
- It is often sensible to try to obtain your spouse’s consent to the Petition to keep things amicable.

- Try to reach an agreement over the content of the Petition. For example, if the Petition is based on unreasonable behaviour, only a brief outline of the particular behaviour may need to be given.
- The Petition sets out basic information, such as names, addresses, ages of children etc.
- It includes the “fact” that the divorce is based upon, together with details.
- It also incorporates a section on whether you will be asking your spouse to pay the costs of the divorce or to provide some other sort of financial support for you or your children.
- Once you have completed the Divorce Petition, it is then sent to the Court and a copy is sent to your spouse’s solicitor.

The Statement of Arrangements for Children

- This is a form that is sent to the Court at the same time as the Divorce Petition and relates to the children of the family under the age of 16 (or between 16 and 18 in full-time education).
- It includes details about who the children live with, where they are educated and what your plans are for them (including any arrangement for contact with the other parent).
- When the Court comes to consider the divorce papers, they will take this information into account to make sure that the children are properly provided for.

Decree Nisi

- Once the Court is satisfied that you should have a divorce, it sets a date for the District Judge to pronounce the “Decree Nisi”.
- You do not need to go to Court for this. It is simply a statement from the Court that the divorce can go ahead and the divorce papers are approved.
- If at this point you and your spouse have not decided who should pay the legal costs of the divorce, the District Judge will make the decision for you.
- It is normally at this time that the solicitors set in motion resolving financial matters.

Decree Absolute

- Six weeks after the Decree Nisi, you can have the decree made “absolute”.
- This legally dissolves the marriage.

Resolving financial matters

- It is not necessary for financial discussions and any settlement terms to be completed by the time the divorce is final, however there may be reason to delay, particularly where there are pensions, and there can be ramifications on future claims in the event of remarriage of parties.
- Both sides will usually be required to disclose their financial position by filling out a financial statement form (known as a Form E).
- It is based upon these forms that negotiations can begin as to resolving financial matters.
- It is in your interest, the interest of your spouse and the interests of any children of the family to settle matters out of Court as this will save time, money and distress.
- However, if both parties cannot come to an agreement with regard to money, property or children, it may be necessary to institute proceedings at the Court.

**THE ABOVE IS ONLY A GUIDE AND IF YOU HAVE ANY FURTHER QUESTIONS THEN
PLEASE CONTACT TARA BIGGS ON 01747 852377 OR E-MAIL HER AT:**

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