

FACT SHEET

Divorce

KEY CONTACT



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Please note that this information sheet is provided by way of general information only and is not advice, which can only be given based on your specific circumstances.

Please do not make any decision based on this information without first seeking advice from your solicitor.

Divorce Grounds

To apply for a divorce you have to have been married for at least one year.

To issue a divorce, you have to tell the court not only that the marriage has broken down irretrievably, but also give details of one of the following:

Adultery

This means sexual intercourse with a person of the opposite sex. You cannot issue a divorce based on your own adultery. You cannot use this ground if you have continued to live together for more than six months from the date you found out. It can be difficult to use this ground if your spouse does not admit the adultery. The court does not encourage you to name the other person.

Unreasonable Behaviour

This involves a list of events showing that your spouse's behaviour makes you feel that the marriage is over. Your spouse does not need to agree to a divorce.

Separation for Over Two Years

This can be used where you have been separated for more than two years and your spouse agrees to a divorce, or if your spouse has left you.

KEY CONTACT



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Separation for Over Five Years

This can be used where you have been separated for over five years. Your spouse does not need to agree to a divorce.

The Divorce Process

Divorce Petition

The person who starts the divorce (the petitioner) issues a Divorce Petition at court.

Acknowledgement

The court sends the petition to the other party (the respondent) who should sign and return to court an acknowledgement form. The respondent has a limited time to return the form to court (who send a copy to the petitioner) and decide if they wish to oppose (contest) the divorce. This is usually the only form the respondent needs to complete as part of the divorce process.

If the respondent does not send the form to court, which proves service, the petitioner has to prove service, usually by arranging for the petition to be personally served on the respondent.

Decree Nisi

Once the petitioner has proof of service, they complete a further form to apply for the Decree Nisi. The court then looks at the divorce petition. If the court feels that there is sufficient evidence of grounds of divorce and sufficient evidence of service, there will be a hearing for the court to pronounce the Decree Nisi. There is usually no need to attend that hearing.

The Decree Nisi is the order which states that there can be a divorce. At that stage, it is possible for the court to make an order (whether by agreement or in court proceedings, where court proceedings are issued) about the finances of the marriage.

The court does not make any orders about the finances of the marriage unless an agreement is sent to court or one party issues court proceedings about the finances.

The court does not make any orders about the children of the marriage unless one party issues court proceedings about the children, which are dealt with separately.

Decree Absolute

Once six weeks have passed from the date of the Decree Nisi, the petitioner can send an application to court for the Decree Absolute. The court will usually grant the Decree Absolute immediately. The Decree Absolute is the order that ends the marriage.

The application for the Decree Absolute is usually delayed until the finances of the marriage have been resolved.



How Can We Help You?

For more information and to find out how we can help you, please contact us on 0345 646 0406 or email enquiries@nockolds.co.uk and a member of our Team will be in touch.

This fact sheet has been provided for information purposes only and should not be construed as legal advice. Whilst every effort has been made to ensure that the information in this fact sheet is correct (as at May 2019), it is intended as a guide only and should not be relied upon. Specialist legal advice should be sought so that all the factors specific to your circumstances can be taken into account.