

# Divorce and dissolution of civil partnership process in England and Wales (undefended)

## Considerations prior to commencing the divorce/dissolution process

A petition cannot be filed until one year has elapsed from the date of marriage/partnership.  
The court must have jurisdiction to deal with the divorce/dissolution.

## Grounds for divorce/dissolution

**Ground:** Irretrievable breakdown of the marriage.

**Facts:** One of five facts must be relied upon to establish that the marriage has irretrievably broken down. These are:

- (1) Adultery (n/a for civil partnership); (2) Behaviour; (3) Desertion;  
(4) Two years' separation with consent; (5) Five years' separation (without consent).

## Divorce petition

The petitioner will complete the divorce petition.

As a matter of good practice, consideration should be given to providing the respondent with a draft of the proposed divorce petition before it is filed at court.

The petition will then be filed at court with the marriage/partnership certificate and the petitioner will pay the court fee of £550, unless exempt.

## Acknowledgment of service (AOS)

The respondent will be served with the petition and an AOS which must be completed and returned to the court within seven days.

The respondent will complete the AOS to confirm whether they accept the basis for the proceedings and whether they will be defended.

If the respondent fails to acknowledge service, other options to demonstrate service are available including personal service and deemed service.

## Decree nisi/Conditional order

The petitioner can apply for the decree nisi/conditional order once the AOS has been received or once the date for filing the AOS has passed if service can be proved.

The petitioner is required to file an application for decree nisi/conditional order with a statement in support.

The court will consider the application and if approved send both parties notice of a future date on which the decree nisi/conditional order will be pronounced, together with any costs orders.

## Decree absolute/Final order

The petitioner can apply for the decree absolute/final order six weeks and one day after the decree nisi/conditional order is pronounced.

The respondent is only able to apply for the decree absolute/final order three months after the date when the petitioner is entitled to apply (i.e. 4 ½ months after the decree nisi/conditional order)

The court will then pronounce the decree absolute/final order.

### No-fault divorce

The Divorce, Dissolution and Separation Act 2020 is expected to come into force in April 2022 and will remove the requirement to establish one of the 'five facts' as evidence that the marriage has irretrievably broken down.

The procedure for divorce/dissolution will also change.

### Online court portal

The online portal introduced in January 2020 allows proceedings to be dealt with electronically.

Note: The portal cannot be used for all cases.

### Financial arrangements

Agreements for financial arrangements can be converted into a court order once the decree nisi/conditional order has been pronounced.

Applying for a financial order (by consent or otherwise) is a separate process to the divorce process.

Financial arrangements should usually be concluded in a court order before an application for decree absolute/final order is made. Legal advice may be needed to consider this.

## Definitions

**Application for decree nisi/conditional order:** [The form used to apply for decree nisi/conditional order](#), which must be accompanied by a Statement of Truth.

**Costs order:** The court has a discretion whether to make an order that the Respondent contributes to the petitioner's costs.

**Court fee/exemption:** The court fee is currently £550. The petitioner could be exempt from meeting the court fee if they meet financial eligibility requirements.

**Decree absolute/final order:** The legal document that ends a marriage or civil partnership.

**Decree nisi/conditional order:** Provisional decree of divorce/dissolution pronounced when the court is satisfied that a person has met the legal and procedural requirements to obtain a divorce/dissolution.

**Divorce centre:** Should the online court portal not be appropriate, the petition for divorce or dissolution should be filed at your regional divorce centre which can be found using the following link:

<https://courtribunalfinder.service.gov.uk/search/>

**Divorce, Dissolution and Separation Act 2020** The Act was passed in June 2020 and is expected to come into force in April 2022. The new legislation will replace the 'five facts' with a new requirement to provide a statement of irretrievable breakdown. It will also remove the possibility of contesting the proceedings and will introduce an option for a joint application. The language will be updated and there will also be changes to the timeframes and procedure for divorce proceedings.

**Family Procedure Rules:** Rules that govern the practice and procedure followed in family proceedings in the High Court and family court.

**Jurisdiction:** The Court in England and Wales will have jurisdiction to deal with proceedings if one of the following criteria are satisfied, set out in Domicile and Matrimonial Proceedings Act 1973 (DMPA 1973) (for civil partnership CPA 2004, s 225):

- The petitioner and the respondent are both habitually resident in England and Wales
- The petitioner and the respondent 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
- The petitioner is habitually resident in England and Wales and has resided there for at least one year before the divorce petition is presented
- The petitioner is domiciled in England and Wales and has been habitually resident in England and Wales for at least the six months before the divorce petition is presented
- The petitioner and the respondent are both domiciled in England and Wales
- Either party is domiciled in the jurisdiction on the date when the application is issued

**Matrimonial Causes Act 1973** The Act of Parliament relating to proceedings.

**Online court:** The link for the online divorce centre can be found here: <https://www.gov.uk/apply-for-divorce>

**Petition:** The form used to start proceedings. A copy of document can be found here.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/952037/d8-eng.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952037/d8-eng.pdf)

**Petitioner:** The person who files the petition.

**Respondent:** The person or people receiving the petition.

**Service:** Unless the petitioner requests otherwise, the court will arrange to serve the respondent by first class post. Other options include personal service, when the court documents are delivered to the respondent by hand, or deemed service, when the petitioner can provide evidence that the respondent has had notice of the proceedings.

**Statement in support:** There are different versions of this form for each of the facts relied upon.