

A GUIDE TO DIVORCE

Family Law is very fast moving with rapid and regular changes. It is therefore vital that your Solicitor is a Specialist. Ideally your Solicitor will also be a member of the Solicitor's Family Law Association, dedicated to dealing with your problems in a sensitive, conciliatory and cost effective way. Every member subscribes to the Code of Practice, which requires him or her to employ a constructive approach to resolving the problems which arise when a relationship fails. Every Family Lawyer is required to comply with the Family Law Protocol.

How do you get a divorce?

Presently to obtain a divorce you must have been married for at least a year and have your home in England and Wales. The only ground for divorce is irretrievable breakdown, which is "proved" by one of five facts :-

1. Live apart for two years and both agree
2. Live apart for five years if no agreement
3. One spouse deserts the other for two years or more
4. One spouse commits adultery
5. One spouse behaves unreasonably

How long does it take?

It takes about six weeks from filing a Petition for divorce until Decree Nisi. You are not divorced at this stage. You must then wait at least six weeks for Decree Absolute and the ending of the marriage. If you have not been married for a year, or there are other reasons why you may not want a divorce, then you can obtain a Judicial Separation in exactly the same way which can be converted into a divorce at a later stage.

How is it done?

One spouse, called the Petitioner, instructs their solicitor to file the Divorce Petition in a County Court with the Marriage Certificate. If there are children, a separate form is required. The Court sends copies of the forms to the other spouse (called the Respondent) who completes a form called an Acknowledgment of Service and sends it back to the Court.

A copy of the Acknowledgment of Service is then sent to the Petitioner who, if the divorce is not defended, swears a document called a Special Procedure Affidavit and applies for the Decree Nisi. Unless there is a dispute about costs, there is usually no need to attend Court. You then have to wait at least six weeks before the divorce can be finalised. This is done by applying for Decree Absolute. Sometimes it is wise to wait until finances are agreed before applying for Decree Absolute. The Respondent has to wait a further three months before he/she can apply.

What does it cost?

The cost is £210 in Court fees plus £500 approx. Solicitors' fees plus VAT. You can ask the Court to order your spouse to pay these.

Other Considerations

As divorce affects inheritance, you should consider making or altering your Will.

The Child Support Agency usually deals with maintenance for children, not the Courts. Problems concerning the children and finances are dealt with separately in another section.

It is vital to get legal advice on finances before remarrying.