

Step-by-step guide to no-fault divorce

Since April 2022, couples have been able to seek a divorce after one year of marriage without having to blame their former partner for any reason. Prior to the change in the law, couples who agreed to separate had to wait at least two years before they could divorce. If they wanted a divorce prior to this, then blame had to be attributed to their spouse. There were no alternative options.

Tony Roe, a partner in the family team with Dexter Montague LLP, Reading, explains, 'Thankfully the introduction of no-fault divorce means you can now petition straight away without blame being attributed to either spouse. It is hoped this will lead to less acrimony, which could ease financial negotiations and foster better relations between divorcing parents which can only be seen as a positive for any children.'

Tony Roe provides a step-by-step guide to the no-fault divorce process.

Step 1 - Consult an experienced family solicitor

Divorce is not a step anyone takes lightly. It will mean significant changes for your family, and for your finances. It is important that you speak to a specialist family lawyer about the implications and how you and any children can be looked after best.

We will arrange an initial consultation with you to understand your family circumstances, what you would like to happen, and what concerns you have. We will then provide you with advice, outlining the steps which can be taken to best achieve your desired outcomes. The first thirty minutes of our meeting with you will be without charge.

Step 2 - The application

Once you have decided to proceed with a divorce, we will draft the required court papers for you. You must have been married at least one year before you can apply for divorce.

If you and your former spouse both agree that the marriage has ended, then you can apply for divorce jointly. You can also continue to apply on your own. Regardless of which route you choose; we will draft the application for you and lodge this together with your marriage certificate at the court office.

Step 3 – Wait for court papers

Your application will then be processed by the court. This step is known as the court 'issuing' your divorce. The timescale for this occurring varies, but it usually takes around two to four weeks. Your case is added to the court system, and will be given a court reference. The court office will then return the issued papers.

Step 4 - The acknowledgement

If you have applied jointly, you and your former spouse will have to complete an acknowledgement of receipt of the court papers.

If you applied alone then your former spouse will be sent the court issued papers and they will be asked to return an acknowledgement of service form to the court within 14 days. In this form your former spouse will state if they consent to the divorce, or if they wish to object.

If your former spouse wishes to dispute the divorce, they must lodge their reasons as to why. Under the new law, the reasons the court will permit are very limited, such as claiming the marriage has already been dissolved, or the marriage was invalid.

If your former spouse fails to return the acknowledgement of service, then we will proceed with your divorce on an undefended basis.

Step 5 – Reflection period

A 20-week period for reflection follows. It allows couples to adjust to their divorce, and time to discuss any child or financial arrangements needed.

Divorce does not resolve the separation of your marital assets, it simply dissolves your marriage. Most divorcing couples, with the help of their lawyers, are able to reach a financial settlement over the division of their assets, which can then be transferred to a court order. If an agreement cannot be achieved then you may need to issue separate proceedings known as ‘financial remedy’ for the court to determine the financial division of assets.

Likewise, a divorce will not determine arrangements for your children, such as where they are to live. Most couples resolve these issues directly themselves, or with some help from their solicitors. We can advise you on what considerations you should have when discussing the long-term arrangements for your children, and help you to reach an amicable way forward with your former spouse. If an agreement is not possible, then we can advise you on the options you have via mediation or court to seek a determination on your child arrangements.

The period of 20 weeks is a minimum period, you can take a longer period to discuss and resolve your issues if needed.

We can advise you on your rights and entitlements to the marital assets and will ensure you receive the best settlement possible.

Step 6 - Conditional order

After the expiry of the 20-week reflection period from when your divorce application was issued, we can apply for a conditional order. This used to be called a decree nisi.

It is an order confirming that the court is satisfied there is no legal reason why you cannot divorce. If the court is satisfied then it provides a certificate with a date and time when your conditional order will be granted.

Step 7 – Cooling off period

After the making of the conditional order, you enter a six week 'cooling off' period. The period of six weeks remains from the previous divorce process and allows couples to ensure they really do wish to proceed to dissolve their marriage.

Step 8 - Final order

At the expiry of the six week cooling off period, we can apply for your final order (previously known as the decree absolute). It is not until your final order is made that your divorce is legally finalised, and your marriage dissolved.

How we can help

Our key contacts at DMP for further advice and assistance on divorce, financial or children matters are Stephanie Alderwick and Tony Roe:

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