

**RIGHTS** *of*  
**WOMEN**  
*helping women through the law*



# A guide to divorce

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This guide sets out the law and procedure if you wish to end your marriage.

The process of ending a marriage is called divorce. When marriages break down there are often other issues that need to be resolved, such as child arrangements or financial matters. You may find it helpful to read Rights of Women's other guides such as [Children and the law: when parents separate](#) and [A guide to financial arrangements after marriage breakdown](#). You can access our full range of legal guides [here](#).

The law and procedure in this guide applies from **6 April 2022**. If you or your spouse applied for a divorce before 6 April 2022 please contact Rights of Women's advice line for advice on your case.

In this guide **spouse** means your husband or wife.

## **When can I apply for a divorce?**

Spouses who have been married for **at least one year** can apply for a divorce.

## **Religious and foreign marriages**

Some foreign or religious marriage ceremonies are not recognised by the law of England and Wales. If you are unsure whether or not you are legally married please consult our legal guide [A guide to marriage](#) or call Rights of Women's legal [advice line](#).

## **Jurisdiction**

The courts of England and Wales can only deal with applications relating to a marriage if there is an appropriate connection, for example if one or both of you live in England or Wales or you are both from England or Wales.

It may be that you and your spouse have connections with more than one country and that you have the option to get divorced here or abroad. Choosing the right country to get divorced in is important as it can have a big impact on how the marital finances are shared. If you think your spouse intends to start divorce proceedings in another country, you should seek family law advice urgently as you may wish to start divorce proceedings in England or Wales before they do.

## Reasons for the divorce

To obtain a divorce you must confirm that your marriage has irretrievably broken down. **Irretrievably broken down** means the marriage has ended permanently and cannot be fixed. If you are applying for a divorce, you will be asked to confirm that your marriage has broken down on the application form.

It is no longer necessary to explain to the court why the marriage has broken down. If there has been abuse or there are other types of safety concerns, the court will want to know about these in other proceedings such as child arrangements but it will not affect the process of getting divorced. Whatever the reason for the breakdown of the marriage, the end of a marriage is often emotionally difficult and you may find it helpful to see [Useful contacts](#) for organisations that can provide support.

## How much will it cost?

### Application fee

As of 1 March 2022 the court fee is £593. Court fees do change from time to time and you should ask your local court or check: [www.gov.uk/court-fees-what-they-are](http://www.gov.uk/court-fees-what-they-are)

If you are on a low income the court may waive or reduce the fee if you apply for **help with fees**. For further information and to apply see [www.gov.uk/get-help-with-court-fees](http://www.gov.uk/get-help-with-court-fees)

If you are making a joint application for a divorce, then both you and your spouse will need to qualify for help with fees, otherwise the full fee will be payable by one of you only. In that case you would need to agree how you wish to share the fee, and who will make payment to the court.

### Other costs

If you would like a solicitor to help you, then your solicitor's costs will depend upon their rates. Many law firms now offer a fixed fee for divorces. Legal aid may be available if you have experienced domestic abuse. See our legal guides [Family Court proceedings: where can I get advice and support?](#) and [A guide to family law legal aid](#) for further information.

## Applying for your spouse to pay the costs

You cannot include a claim for your spouse to pay your legal costs in your application for a divorce. If you want the court to order that your spouse pays the costs of the divorce, you need to make a separate application to the court. The court may order your spouse to pay all or some of your costs, or you might be able to agree to share the costs between you. The form you use to make a costs application is form D11.

It is rare for a court to make a costs order. The most common reason for a court to make a costs order is likely to be where a party has behaved unreasonably through the process. This could be by trying to avoid being served with the papers, or disputing the application or without any basis.

## The application process

You can apply for a divorce online at [www.gov.uk/apply-for-divorce](https://www.gov.uk/apply-for-divorce).

If do not want to apply online you can make a paper application using Form D8. You can get an application form from your local court or from the [Government website](#).

There are two ways of applying for a divorce. A **sole application**, and a **joint application**.

### Sole application

A **sole application** is made by one party to the marriage. If you make the application yourself, you or your solicitor should complete all of the application form. You will be the **applicant**. Your spouse will be the **respondent**.

Part of the application asks if you intend to make a financial claim against your spouse. It is usually best to tick 'yes' to these boxes to keep your options open if you decide to apply for a financial order in the future. If you tick 'yes' this does not start a financial claim against your spouse. To start the financial claim you need to make a separate application. If you want to make a financial claim see our legal guide [A guide to financial arrangements after marriage breakdown](#).

The forms are designed to be completed without needing a solicitor, but you should seek advice from a solicitor or our legal advice line if possible.

### **Joint application**

If you and your spouse agree that divorce is the right way forward, you can apply jointly to end your marriage. One of you will be **applicant 1** and the other will be **applicant 2**. Both of you will need to complete the application form. Applicant 1 will complete most of the form. Other than that, it does not make any difference which of you is applicant 1 or 2.

### **What if we make a joint application and one of us stops cooperating?**

A joint application can become a single application later in the process, for example if your spouse refuses to sign paperwork or take other necessary steps to progress the divorce.

Once a joint application becomes a sole application, it cannot go back to being a joint application.

### **Can a sole application be turned into a joint application?**

No. If one spouse makes a sole application then it will remain a sole application.

### **Keeping contact details confidential if you are applying for divorce**

You will need to provide the court with your contact details on the application. The respondent will receive a copy of the application. If you do not want the respondent to have your contact details then you must indicate this on the application. You do this by selecting 'yes' to the question which asks "Do you wish to keep your contact details confidential from your spouse or civil partner?" The court will remove your contact details from the information that is sent to the respondent.

## Marriage certificate

You must provide the court with a certified copy of your marriage certificate with your application. If you are applying online you will be given information on how to upload your marriage certificate or send it by post. If you cannot find your marriage certificate, you can apply for a copy from the Registry Office in the district where you were married or from the General Register Office. If your marriage certificate is in another language you must arrange to have it translated and the translation certified by a notary public – seek legal advice about this.

## What happens after I send the application?

The court will allocate a case number to the application and start the process for the divorce. This is known as **issuing** the application. The court will notify you when the application has been issued and tell you the next steps.

It may take a while for the court to receive and issue your application. If you need to start your divorce **urgently** then seek legal advice on how to do this. See **Useful contacts** or contact Rights of Women's **advice line**.



## **Sole application – letting the respondent know**

The application asks you to provide the respondent's usual email address and postal address. The court will use these contact details to let the respondent know about the application for divorce. This is known as **service**.

Once the application for divorce has been issued, the court will send an email to the respondent with the application, notification of proceedings and a form to acknowledge service. The court will also send a postal letter to tell the respondent about the email.

If you do not know the respondent's email address then you can indicate on the application that you would like the court to serve the respondent by post only.

If you do not know the respondent's postal address, but you do know the email address, then you can make a separate application to the court for permission to serve by email only using a form D11.

If you do not know the respondent's usual postal address or email address and you are unable to obtain these details then you can apply for permission to serve the respondent in another way, or for permission to proceed with the divorce without service called **dispensing with service**. You can make these applications using form D11. If possible, seek legal advice before you make this application.

## **Circumstances when you may have to serve the respondent**

In most cases the court will serve the respondent. There may be situations when you should serve the respondent. This means you will need to ensure that the respondent receives the application, notification of proceedings and acknowledgement of service form. The circumstances when you should serve the respondent are:

- The respondent lives outside of England and Wales
- The court has tried to serve the respondent and has been unable to do so
- You choose to serve the respondent by selecting the relevant box on the application form

If you are responsible for serving the respondent then you must do so within 28 days from the date the application was issued. If there are good reasons why you cannot serve the respondent within this time then you can apply for an extension of time. You will have to explain to the court why you have not been able to serve the respondent and show that you have been doing everything you can to serve him.

## Responding to an application for divorce

The respondent is required to send their acknowledgement of service to the court within fourteen days, starting on the day after they receive the divorce papers. This can be done online or by paper using form D10. Time limits are longer if the respondent is outside England and Wales.

The acknowledgement of service form allows the respondent to say whether or not they agree with the contents of the divorce papers and whether they intend to dispute the divorce. The respondent cannot dispute the divorce on the basis that they do not agree that the marriage has broken down irretrievably or that they want to stay married.

Respondents who wish to dispute a divorce must also submit a D8B form, called the **answer**. It is only possible to dispute a divorce for one of the following reasons:

- The court does not have jurisdiction to deal with the case
- The marriage is not valid
- The marriage has already legally ended

The fee for disputing a divorce is currently £245.

The answer needs to be submitted within 21 days from the date that the acknowledgement of service must be filed.

### Example

The divorce was issued on 3<sup>rd</sup> May 2022 and was served on the respondent by email on 6<sup>th</sup> May 2022 and a notice was also sent by post confirming the email had been sent. The respondent has until 20<sup>th</sup> May 2022 to send the acknowledgement of service to the court either online or on paper. If the respondent intends to dispute the divorce, they have until 10<sup>th</sup> June 2022 to submit the answer using the D8B form.



If your spouse disputes the divorce you should seek legal advice.

### **Keeping your address confidential when responding to a divorce**

If your spouse has applied for a divorce and you are the respondent, remember that your spouse will receive a copy of your acknowledgment of service (and answer if you are disputing the divorce). If you do not want your spouse to have your contact details then do all of the following:

- Do not put your contact details on the acknowledgement of service or answer
- Indicate on the form that your contact details are confidential
- Send your contact details to the court using a form C8

### **Applying for a conditional order**

Once service has been dealt with the next step is for the applicant, or applicants to apply for a **conditional order**. You must wait 20 weeks from the date of the application being issued before applying for the conditional order.

Once this 20 week period has expired you may apply for a conditional order on a form D84.

If you were originally applying jointly, and you are now applying as a sole applicant for the conditional order, you must send a copy of the D84 form to your spouse at the same time you submit it to the court.

### **What happens after you apply for a conditional order**

The judge will look at the information given to the court so far and consider whether you are entitled to a divorce. If the divorce is undisputed you do not have to attend court for a hearing. The judge simply looks at the paperwork.

If the judge is satisfied you are entitled to a divorce, then the court will send you a **Certificate of Entitlement to Conditional Order**. This will give a date and time at which your conditional order will be made at court. You do not have to attend court on this date. The conditional order is the first stage of the divorce and does not end the marriage.

## **Applying for the final order**

Six weeks and one day after the date of your conditional order, you can apply for your **final order**. You do this using a form D36.

If it has been over 12 months since the date of the conditional order then the court will require further information from the applicant which you include on the form.

If the applicant does not apply for the final order, the respondent can apply 3 months after the end of the six weeks that the applicant could have applied.

If you applied jointly for the initial application and conditional order, and now you are applying as a sole applicant for the final order, you must give at least 14 days notice to your spouse that you are going to ask for the conditional order to be made final. You must prove to the court that you sent the notice to your spouse by sending a certificate of service to the court. You can then apply for the conditional order using form D36A.

It is only when the final order has been made by the court that your marriage has formally ended. You and your spouse are then free to marry again if you wish. If possible, you should review and seek legal advice on any existing or new wills.

## **How long will it take?**

The time limits to process divorce require just over 6 months from application to final order. However, the process is likely to take longer depending upon how long it takes for the court to process each stage of the divorce and how long it takes each spouse to respond.

It is only possible to ask for the time limits to be reduced in exceptional circumstances, for example, a party to the marriage is terminally ill and wishes to divorce before passing away.

It is often advisable to postpone applying for the final order until any financial proceedings have concluded as it can affect your rights to live in the family home, pensions, or other issues relating to joint finances. If your spouse is uncooperative or there are complications resolving the finances, the divorce could take much longer.

## Is a religious divorce valid?

A religious divorce may dissolve a religious marriage. However, to end a legal marriage in England and Wales, you must obtain a legal divorce, through the courts.

## What happens if I get divorced in another country?

Divorces which take place overseas are not automatically legally recognised in England and Wales. A divorce can be valid in the country where it took place, but it will not necessarily be recognised in England and Wales. This means you may still be married and if you remarry before you legally end your first marriage, the second marriage would be **void**. You would also be guilty of bigamy which is an offence. The rules recognising overseas divorces are complex and vary depending on which country your divorce took place in. Because of this, we strongly advise that you seek legal advice from a solicitor.

## My home rights

A person has a right to live in a property if it is their matrimonial home. This means that even if your spouse owns the property in their sole name, you have the right to live there until your marriage ends. This is called **home rights**. If your home is in your spouse's sole name the divorce may end your right to live there so it is important to seek legal advice. For further information about home rights see our legal guide [Marriage: your rights to your home](#).



The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice. Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

## **Rights of Women's family law advice lines**

We have two family law advice lines, one national and one for women in London.

Women living or working in London: **call 020 7608 1137**

For all women: call **020 7251 6577**

For a full list of Rights of Women's legal guides and information about our advice lines go to

**[www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)**

## Useful contacts

### Emergency Contacts

#### Police (emergency)

999

#### 24 hour domestic violence helpline

0808 200 0247

[www.nationaldomesticviolencehelpline.org.uk](http://www.nationaldomesticviolencehelpline.org.uk)

#### National LGBT Domestic Abuse Helpline

0300 999 5428 or

0800 999 5428

### Find a lawyer

#### The Law Society

0207 320 5650

[www.lawsociety.org.uk/find-a-solicitor](http://www.lawsociety.org.uk/find-a-solicitor)

#### Ministry of Justice

<https://find-legal-advice.justice.gov.uk/>

#### Resolution

020 3841 0300

[www.resolution.org.uk](http://www.resolution.org.uk)

#### Public Access Portal

[www.directaccessportal.co.uk](http://www.directaccessportal.co.uk)

### Legal advice and support

#### Citizens Advice

[www.citizensadvice.org.uk/index/getadvice.htm](http://www.citizensadvice.org.uk/index/getadvice.htm)

#### Law Centres Network

020 7749 9120

[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

#### LawWorks Clinic Network

[www.lawworks.org.uk](http://www.lawworks.org.uk)

#### Support Through Court

0300 081 0006

[www.supportthroughcourt.org](http://www.supportthroughcourt.org)

#### Disability Law Service

020 7791 9800

[www.dls.org.uk](http://www.dls.org.uk)

### Other contacts

#### Her Majesty's Court & Tribunals Service

[www.gov.uk/government/organisations/hm-court-service](http://www.gov.uk/government/organisations/hm-court-service)

#### Relate

[www.relate.org.uk](http://www.relate.org.uk)

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