

Getting divorced

When your marriage comes to an end, it can seem overwhelming to consider the number of things to do next. However, your adviser can offer you help and support with this.

Who do I inform when my marriage ends?

If you and your partner are separating, you should tell:

- o your housing benefit office
- o your council tax office
- o your mortgage lender
- o water, gas, electricity and telephone companies
- o your benefits office
- o your tax office (particularly if you're getting tax credits)
- o your children's school
- o your bank or any other financial institution if you have a joint account.
- o hire purchase or credit companies
- o insurance companies
- o the post office (if you want mail redirected)
- o your doctor and dentist.

There are several ways to get divorced, but you can't apply for a divorce until you've been married for at least one year. There are no exceptions to this rule. If you and your partner both agree to the divorce, this is called an **undefended divorce**. If one of you doesn't agree to the divorce, this is called a **defended divorce**.

What is an undefended divorce?

An undefended divorce is dealt with in the Family Court: you don't usually need to use a solicitor for the divorce procedure itself. However, it may be advisable to go to a solicitor for general advice before you apply for a divorce.

What is a defended divorce?

A defended divorce is dealt with in the Family Court. In a defended divorce, both partners should always consult a solicitor. When the case is heard, you will usually need to use a barrister as well. Legal fees can be very high if there are long disputes.

What do I have to prove to get a divorce?

The court will grant a divorce if you or your partner can show that the marriage has permanently broken down. Legally, this is called an **irretrievable breakdown of the marriage**. For a marriage to have irretrievably broken down, one of the following things must be proved:

- o adultery
- o your partner has behaved unreasonably
- o your partner deserted you at least two years ago
- o you've lived apart for at least two years if you both agree to the divorce
- o you've lived apart for at least five years if one of you doesn't agree to the divorce.

How do I apply for a divorce?

The partner who is applying for the divorce is called the petitioner. The other partner is the respondent.

If you want to start divorce proceedings you will need to get the forms from the court. You can also get them from the Ministry of Justice website at www.justice.gov.uk.

What the court will do?

If you both agree to the divorce - the court will look at the petition and grant an order called a decree nisi. No court hearing is needed.

If one of you doesn't agree to the divorce – the person who doesn't agree will have to fill in court papers called an Answer. They have to say why they don't agree that the marriage has broken down. There might be a court hearing for a judge to decide whether the marriage has broken down, but this is quite unlikely.

Once the court agrees to the divorce - they will grant a **decree nisi**, which is a document you get given. Six weeks after the court grants the decree nisi, the partner who applied for the divorce can apply to the court for a **decree absolute**. This is a second document that actually confirms the divorce is final. After a decree absolute has been made, either of you can now re-marry or enter into a civil partnership.

Help with the legal costs of a divorce

You can't get legal aid for divorce unless you're a victim of domestic violence or abuse and need advice on family matters such as divorce, financial disputes or disputes about children

Children at the end of a marriage

You may be able to make arrangements between yourselves about where the children live and contact with the other parent. However, if this is not possible, the court can make the decisions for you: the first they will expect is that you have both tried using family mediation to resolve things before going to court.

What orders can a court make about children?

A court will only make an order concerning children if it feels it is in the best interests of the children to do so. This is called a **child arrangements order**. A child arrangements orders sets out the arrangements about who a child should live with and spend time with.

Financial arrangements at the end of a marriage

At the end of a marriage, both parents are responsible for supporting the children financially, regardless of where the children will live.

You can also apply for financial support (maintenance) from your partner. You can do this whether you have children or not. There are three possible ways to arrange financial support:

- o by agreement (called a family-based arrangement)
- o through the Child Maintenance Service (CMS)
- o through the courts.

Court orders

You can apply for a court order for financial support at the end of a marriage. If you do, in most cases the court will expect you to arrange a meeting with a family mediator first before it will consider your application. The court will consider all financial circumstances of both of you, including pension arrangements.

Property and possessions

When a marriage breaks down, all property owned by you and your partner will be taken into account by the court when arriving at a financial settlement. It can be difficult to establish ownership of household possessions acquired during marriage. If you cannot agree on this, you will need to go to court.

Housing rights at the end of a marriage

Both married partners have the right to live in the matrimonial home and neither of you can make the other one leave. This is case regardless of whether both of you, or only one of you, own or rent the home. This applies unless a court has ordered otherwise.

If your marriage breaks down, the court can help someone enforce their **home rights**, which include:

- o the right to stay in your home
- o the right for you to move back in if you left
- o the right to stop your partner from coming into the home.