

Services to Union Members

Divorce and Family Law

Getting divorced: explaining the process

We understand how difficult and distressing it is when deciding to separate or divorce. There can be a lot of legal terminology and jargon to understand and the process can seem daunting. We will work alongside you, explaining the process step by step so that you fully understand what is happening and why.

This information sheet will help you to understand what is involved and covers some frequently asked questions. We appreciate there is a lot to take in, so please contact your Solicitor if you have any further questions.

Divorce - the facts

Divorce is the formal and legal dissolution of your marriage. There is no real 'average' time from applying for a divorce to being granted one. It may take 4-6 months if there are no exceptional circumstances, but it can take longer.

How do I get a divorce?

The only ground for divorce is that your marriage has irretrievably broken down. However, you have to prove that it has broken down due to one of five factors:

1. Adultery has been committed
2. Unreasonable behaviour has taken place
3. Desertion for 2 years or more
4. 2 years of separation, where both parties have consented
5. 5 years of separation, if one partner has not consented

How do I apply for a divorce?

The first step is to decide which one of these factors will form the basis of your divorce application, known as the **Petition**.

If you are initiating the divorce you are known as the **Petitioner**. Once your petition has been filled out, your Solicitor will file this in court. Your marriage certificate will also be sent to the court, along with a court fee.

If you have children, we will also help you to fill in a 'Statement of Arrangements' form, which is also sent to the court. This standard form simply outlines the proposed living arrangements for any children under the age of 16 or between the ages of 16-18 and in full time education.

Will I have to go to court?

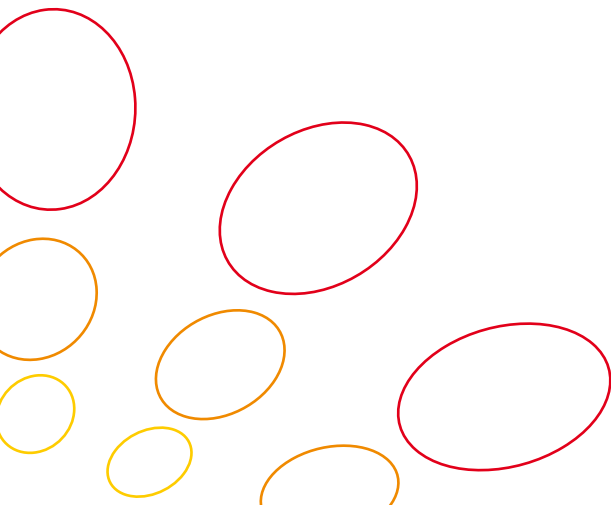
Most of your divorce can be arranged via paperwork and negotiation between your Solicitor and your partner's Solicitor. There is a standard process to follow when getting divorced, and your options, especially when making arrangements about children and finances, will be explained to you clearly.

If you have already initiated a divorce, please ask for our '*What Happens Now?*' information sheet.

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What if my partner has filed for divorce first?

If your partner has filed a petition first, you will receive a copy from the court and a document known as an 'Acknowledgement of Service'. This will need to be completed and signed as agreement that the marriage has irretrievably broken down. You are known as the 'Respondent'.

What if I want to reject my partner's petition?

You are under no obligation to accept your partner's petition. If you do reject it, there are other alternatives, which we will talk you through in more detail.

Children and Divorce

If you have children you will have to provide details of their current living arrangements at the Petition stage. The law encourages couples to reach agreement over arrangements for their children.

If you cannot reach an agreement at this stage, the court can act if necessary to decide on matters of child contact and living arrangements. In terms of child maintenance, the Child Support Agency can provide details of how much you should be paying and when.

Both parents have equal legal status in respect of the children, known as 'Parental Responsibility'. This means all rights, duties, powers, responsibilities and authority, which by law a parent has in relation to their child. Court Orders are only made in relation to children if the parents cannot agree arrangements for their children between themselves.

For more details see our '*Divorce: what happens if you have children?*' information sheet.

Coming to a financial settlement

Agreeing to a financial settlement can often be the main source of difficulty when couples separate and divorce. We will work alongside you to negotiate an agreement regarding what will happen to the family home, maintenance, pensions and any savings and investments.

In order to begin this process, we must have a **full and honest disclosure** of your personal assets, which includes full details of your income, capital assets (property, business assets, cars etc.) and any savings, insurance plans or pensions. Your partner must do the same. From here, we can begin to negotiate with your partner's Solicitor to reach a mutually agreed split of assets and finances.

For more details see our '*Divorce and separation: explaining your financial options*' information sheet.

What if we are unable to reach a financial settlement?

If both parties have voluntarily disclosed their financial positions but you cannot agree on financial terms, you will have to start court proceedings to determine the settlement. If you find yourself in this position we will explain the process further and advise you on the likely outcome.

We will be there to support and advise you every step of the way...

Alternatives to Divorce

Judicial Separation

One alternative to divorce is a **Judicial Separation**. Although you and your partner remain legally married, all matrimonial obligations come to an end. Some couples obtain a Judicial Separation when a divorce is not an option (perhaps for religious reasons). This is also applicable if you have been married for less than a year, as you cannot apply for a divorce in the first 12 months of marriage.

A decree of Judicial Separation is granted on the same grounds as a divorce (such as adultery or unreasonable behaviour). The main difference is that you do not have to prove that the marriage has irretrievably broken down.

Frequently asked questions

Do I have to go to court to get a divorce?

No. The whole process is dealt with via paperwork and through your Solicitor. The only time you would have to attend court is if the divorce is being contested by your partner, or if you are unable to agree arrangements for your children or financial matters.

What documents do I need?

Your Solicitor will need a certified copy of your marriage certificate to lodge the petition and copies of all financial statements for disclosure of your income and capital assets.

I can't find my Marriage Certificate, what should I do?

Don't worry. Simply contact the relevant registry office providing them with the parties' names and date of marriage. They will provide you with a copy of your marriage certificate for a small fee.

Who pays for the court fees?

This depends on individual circumstances but in the first instance you will need to pay the court fee to your Solicitor even if you partner agrees to pay some or all of the fees incurred.

Will I get my Marriage Certificate back at the end of the process?

No. Instead you will receive a Decree Absolute, which is a document that legally ends the marriage.

How long will the divorce process take?

It really does depend on the individual case but an uncontested divorce usually takes between 4-6 months. However it may take much longer if you cannot agree upon your financial settlement.

When will I hear that I am officially divorced?

The Decree Absolute marks your official divorce from your partner. Your Solicitor will send this to you when they receive it from the courts.

What if I want to change my mind and seek reconciliation?

If you have started off the divorce or are the petitioner, you can stop divorce proceedings at any time until the Decree Absolute has been issued. After that you are officially divorced and would have to remarry. Remember, you will still have to pay your Solicitors and court fees.

When can I remarry?

Neither partner is able to marry until the Decree Absolute has been declared.

For further information, please contact the Divorce and Family Law team on Chester 01244 357400 or Wrexham 01978 340400.

Alternative ways to get Divorced

Collaborative Law - Reaching agreements together

Collaborative Law was started by couples looking for a less acrimonious way to get divorced. Both you and your partner will work with trained Collaborative Lawyers who, like you, are committed to reaching an agreement without court proceedings. The four of you will reach solutions and agreements through roundtable meetings. As long as everyone enters the process with a commitment to open communication and honest negotiation, Collaborative Law can be a less stressful and time consuming way to reach agreements.

Collaborative Law is a way of keeping court proceedings to a bare minimum, avoiding the bitter hostility and uncertain decisions which may come with it. Because communication channels have been successfully maintained, relationships are often far more amicable after the divorce has taken place. Parents find this particularly helpful as children benefit from seeing their mum and dad working together.

Mediation - Helping you find a fair solution through talking

Mediation can help couples talk through and reach decisions on key issues, particularly concerning the split of financial assets. This involves you both communicating face-to-face in order to reach a settlement, with a qualified Mediator in the room. The Mediator cannot give legal advice, and can only encourage the communication process. However, a Solicitor will still be needed to turn any agreement into a court order document which is recognised by the court and then implemented.

Before you think of Mediation as an option, consider if you are both prepared to commit to a number of sessions with a Mediator. It usually takes between 5 and 6 two-hour sessions to help you reach a fair solution.
