

LEGAL FACT SHEET

DIVORCE PROCEEDINGS

On 6 April 2022 the Divorce, Dissolution and Separation Act 2020 came into force, meaning that there is now no need to rely on one of the "five facts" to be able to obtain a divorce.

There is still only ground for divorce - Irretrievable Breakdown of Marriage.

Some key changes are:

- The Court will no longer use the term "PETITIONER" in relation to the person applying for the divorce, this is replaced with "APPLICANT";
- **DECREE NISI** is now called "CONDITIONAL ORDER"
- There is a 20 week 'cooling off' period after a divorce has been issued (and the Respondent has replied) before applying for a Conditional Order, allowing time for the parties to enter into financial discussions and reach a settlement on the same. A Judge will be unable to approve an Order regarding matrimonial finances until you have a Conditional Order.
- **DECREE ABSOLUTE** is now called "FINAL ORDER"

THE FIVE STEPS OF THE NO FAULT DIVORCE APPLICATION

1. **Have you been married for over a year?** The parties will be unable to begin divorce proceedings until they have been married for over one year.
2. **The Divorce Application.** Has the marriage broken down irretrievably? Under the old rules, it was required that the Petitioner (now known as Applicant) use one of the five facts in order to satisfy the Court. This is no longer necessary. The court now only require confirmation that the marriage has broken down irretrievably. The Applicant will still need to provide to the Court, a copy of the MARRIAGE CERTIFICATE (or a certified copy) along with the Court fee which is now £593. If the Applicant is in receipt of an income related benefit or they fall within the financial threshold, they may be exempt from paying this fee and should complete an "EX160", to apply for help with their Court fees.
3. **Does your spouse agree that the marriage has broken down irretrievably?** If so, then both parties are able to make a joint application for a divorce (or a you can make a sole application). If the Respondent does not agree, then you are able to make a sole application.
4. **Responding to the application:**
 - i. **Joint Application:** once the Court has received your divorce application and the same has been issued, both parties will then need to submit to court an "ACKNOWLEDGEMENT RECEIPT".
 - ii. **Sole Application:** if you (the Applicant) have made a sole application, your spouse (the Respondent) will need to complete an "ACKNOWLEDGEMENT OF SERVICE" form within 14 days confirming that they either agree with the divorce or that they intend to dispute the divorce. The Respondent should seek legal advice before responding to a divorce application.
 - iii. **Disputing a divorce application:** if the Respondent wishes to dispute the divorce, they will need to complete an "ANSWER FORM" confirming their reasoning. The Respondent must have a genuine legal reason to dispute the divorce, for example, the marriage is not valid, the marriage has already legally ended or the Court does not have jurisdiction to entertain the proceedings. The Respondent cannot object on the grounds that they simply do not want a divorce.
5. **CONDITIONAL ORDER.** It is necessary to wait 20 weeks before the parties (in the case of a joint application) or the Applicant (in the case of a sole application) can apply for a **CONDITIONAL ORDER** (previously known as Decree Nisi). This will allow the parties time to resolve any financial issues if they wish.
6. **Final Order.** Following receipt of the Conditional Order, the parties must then wait **6 weeks and 1 day** before they can apply for the Final Order (previously known as Decree Absolute). This will be done by the Applicant in the case of a sole application.

FUNDING

Legal Aid may be available for Divorce Proceedings. In certain circumstances for example if there has been domestic violence and appropriate evidence can be obtained or if there has been a Non-molestation Injunction in place. This is not an exhaustive list and please contact us to discuss this issue if you think you may be eligible for Legal Aid.

The Court can make an Order that the Respondent shall pay the Applicant's costs but this will depend upon the circumstances.

ADDITIONAL ISSUES

If the Respondent does not reply to the divorce application, or the Applicant delays applying for the Final Order, this will delay matters but steps can be taken to address this.

FURTHER INFORMATION

For further information about children and financial issues please refer to the fact sheets on these subjects.

KHF Solicitors Ltd. provide this fact sheet
free of charge

For further information contact

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