

## **GETTING DIVORCED**

### **HOW DO I GET DIVORCED?**

We prepare a petition and a statement regarding any children, which you approve.

These papers are then sent to the County Court which gives your case a reference number and sends copies of the papers to your spouse (or their solicitor if they prefer).

Your spouse then has to sign a standard form acknowledging service of the papers and saying whether they will agree to the divorce.

If your spouse ignores the papers we can arrange to serve them again by personal delivery to prove that they have had the papers so that you can get on with the divorce.

Once we are satisfied that the papers have been served then we can prepare your application for the Decree Nisi.

We prepare an Affidavit (a sworn statement) for you to swear saying that the contents of your Divorce Petition are true. This Affidavit is then filed at Court by us with another form requesting "Special Procedure directions" – this is what used to be known as a "quickie divorce".

At this point a District Judge looks at the papers on your divorce file. If he or she is satisfied that everything is in order a date will be given for your Decree Nisi to be pronounced at Court. We will receive a notice from the Court giving us the details and we will write to you to let you know. In most cases there is no need to attend Court for the Decree Nisi.

The Decree Nisi means that you have proved that you are entitled to a divorce but, unless there are exceptional circumstances, you will have to wait another six weeks before the Decree Nisi can be made Absolute. In order to do this a single page form has to be filed at Court.

We will advise you about whether it is appropriate in your case for you to apply for your Decree Absolute at the first possible opportunity. In certain cases it is not always advisable.

In a small number of cases the District Judge will ask the Court to list a children's appointment. If this happens you will not be able to have your Decree Nisi made Absolute until after the children's appointment. You will have to attend the children's appointment and we will advise you about this. It is an informal hearing where the District Judge asks questions about the arrangements for the children. Children's appointments are now quite rare and usually only happen if there are exceptional circumstances, for example if you and your spouse are still living under the same roof or if one of your children has a serious medical condition or if there is disagreement about the arrangements for the children. Orders relating to children will

not normally be made in divorce proceedings. Divorce does not affect Parental Responsibility.

Once the application for Decree Absolute has been filed at Court we usually get the Decree Absolute back within two weeks. It is the Decree Absolute which dissolves your marriage and finally divorces you. It is only then that you are free to remarry.

### **HOW MUCH WILL A DIVORCE COST?**

We hold a contract with the Legal Services Commission and, at our first meeting with you, we will assess whether you are eligible to sign a Legal Help Form. If so, the costs of your divorce will be covered by legal aid and you will be exempt from paying Court fees. If you are not able to sign a Legal Help Form then we will give you a cost estimate and details of our charging rates. The Court fees in a divorce are £300 to file a petition and £40 to apply for Decree Absolute.

It is possible to make a costs claim against your spouse. However, an inappropriate costs claim may cause delay and increase the overall cost of the proceedings. We will be able to advise you about this.

### **HOW LONG DOES A DIVORCE TAKE?**

Provided that your spouse cooperates then from filing the Divorce Petition at Court to Decree Absolute takes about four – six months although this can vary depending on how busy the Court is.

### **WHAT HAPPENS IF MY SPOUSE WILL NOT AGREE TO A DIVORCE?**

We will try to agree with your spouse or their solicitor the best way forward and where possible agree the grounds of the divorce and even agree a draft petition. If this is not possible your spouse may try to defend the divorce. This will substantially lengthen the proceedings and increase the cost although you may be eligible for legal aid and we will check this for you. Thankfully defended divorces are not that common.

### **WHAT HAPPENS IF I CHANGE MY MIND AND WANT TO GET BACK TOGETHER WITH MY SPOUSE?**

You can stop the divorce proceedings at any time before the Decree Absolute. If you are thinking about doing this then please let us know as soon as possible. You may think that some help with a reconciliation would be a good idea. We can refer you to Relate.

### **IF I TRY FOR RECONCILIATION WITH MY SPOUSE BUT IT DOES NOT WORK CAN I STILL GET DIVORCED?**

If you and your spouse start living together again you need to know that a period of more than six months together may affect your right to a divorce. We can explain this in more detail if it is relevant to you.

### **ONCE I GET MY DECREE ABSOLUTE DOES THIS MEAN THAT EVERYTHING WILL BE SORTED OUT?**

Probably not. Some couples cannot agree the arrangements for their children or the financial arrangements and applications to the Court about these matters usually take longer than the divorce. Applications about the children or money or property can be made at any time from the date of filing of the petition but the Court cannot make final orders in relation to money or property until after the date of Decree Nisi.

### **I WANT TO RE-MARRY BUT THE FINANCES ARE NOT SORTED OUT IN MY DIVORCE YET. WHAT SHOULD I DO?**

The answer is tell us as soon as you know that you want to re-marry. The reason for this is that if you have any financial claims to make against your spouse then the application must be lodged with the Court before you re-marry. If you get married before making the application then you will be barred from doing so. This is not the case with applications in relation to the children. These can be made at any time.

### **HOW DOES A DIVORCE AFFECT MY WILL?**

When your marriage breaks down (obviously) it is sensible to look at what the position would be if you were to die unexpectedly. We will advise you about making a Will and making other interim arrangements before your divorce comes through. A divorce affects inheritance under a will; it takes effect as though your spouse had died when the divorce came through. Please see our wills leaflet for more details.

The family department are:

Mary Shaw	Partner
Clare Routledge	Partner
Lesley Monkhouse	Partner
Elspeth Thomson	Partner
Lucy McGivern	Solicitor
Jane Wilkinson	Solicitor
Helen Holmes	Solicitor
Nicky Hunter	Solicitor
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Leaflet updated: October 2007

# David Gray Solicitors



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## Divorce

Justice is not **black**  
or

**white** It's Gray