

DIVORCE

If you are faced with divorce or separation, it can be helpful to seek prompt, professional advice early regarding your legal rights and to establish the course of action best suited to your personal circumstances.

CAN I END MY MARRIAGE?

You can get divorced in England & Wales provided you have been married for over a year. The process itself is straight forward and generally administrative. It doesn't matter where in the world you were married, but you can only apply for a dissolution in England and Wales if either you or your spouse meet certain residence conditions or are domiciled here. You should speak to your family lawyer about this if you are in any doubt.

Usually neither of you will need to see a judge to get a divorce as it is almost always agreed by a judge on the paperwork.

You may only need to attend court if you and your spouse do not agree about children, money and property. You can invite the court to make orders about money and children if necessary, during (or after) the divorce. However, these legal processes are entirely separate from the divorce itself.

If financial settlements or children arrangements need to be resolved, it doesn't matter in most cases who starts the proceedings for divorce.

This guide only deals with the dissolution procedure, see our guides to arrangements for children and financial arrangements for more information on these areas.

See www.kjsmith.co.uk/our-services/child-arrangements-order and www.kjsmith.co.uk/our-services/finances-on-separation.

GROUNDINGS FOR DIVORCE

Under current law, you no longer need a ground or reason. You can now apply for a divorce without assigning any blame.

PROCEDURE (SOLE APPLICATION)

The Application

The application form for divorce is submitted to the court (together with the court fee and your original marriage certificate). The application cannot now be defended except in very limited circumstances

Once the application has been issued by the court, the court can then email your partner (the "respondent") enabling them to view the divorce application and complete and submit their acknowledgement form to confirm service notification. A notice is also sent to the Respondent by post to confirm this.

Once the application for divorce has been issued by the court you must then wait a minimum of 20 weeks to progress to the next stage.

Applying for the Conditional order

After the period of 20 weeks has elapsed, the Applicant can then apply for a Conditional Order. Your family lawyer will be able to apply for this on your behalf. The Conditional Order is the second-to-last phase of the process. It means the court has agreed that you are entitled to a divorce, but has not yet made it final.

Only after a conditional order is made is the court able to make a binding financial order. It will not do so unless you or the respondent ask it to do so (by consent) or as a result of separate financial court proceedings.

Applying for the Final order (dissolution)

Six weeks after the grant of the conditional order, the applicant can apply for the Final Order, this Order formally ends the marriage.

It may not be sensible to apply for the Final Order immediately if, for example, financial arrangements are not yet settled. You should discuss your specific circumstances with your family lawyer as in some cases the grant of a Final Order will prevent certain types of financial claims being made.

HOW LONG WILL MY DIVORCE TAKE?

Generally, around 7-10 months but this can vary depending on the prevailing timescales for the court dealing with your proceedings, whether each step in the application is handled promptly and provided financial arrangements do not hold things up.

IMPLICATIONS CONCERNING YOUR WILL

Divorce may affect your Will. To ensure your wishes are carried out call our Estate Planning & Wealth Management team on 0118-418-1000.

This guide is intended to be general information and not to be relied upon as legal advice. Each case is different and we would suggest you contact us to obtain complete and proper legal advice.

For more information, please see our website

www.kjsmith.co.uk/our-services/divorce-and-separation.

Email your enquiry to info@kjsmith.co.uk or call 0118-418-1000.