



A survival guide to

Divorce or the dissolution of a civil partnership

advicenow

Making sense of the law and your rights



Who is this guide for?

This guide is for people who are facing divorce or the dissolution of their civil partnership. We know that this is one of the most stressful, confusing and painful times people go through. We want to help you find your way through the maze.

What does this guide do?

This guide will explain how divorce and dissolution of civil partnerships work, what you can expect, what you need to think about, what the law says, how to come to agreements, and what help is out there to help you plan for the future.

Getting legal help

Changes to how legal advice is funded mean that now most people cannot get free or subsidised legal help unless there has been abuse within the relationship. We know that many people will not be able to afford to get a lot of help from solicitors. This guide will explain where you really do need to get advice and where you might be able to manage by yourself. We also explain what help is available and the things to think about.

Ex-partner

The word 'ex-partner' in this guide means your husband, wife or civil partner. Most of the law is the same whether you are ending a marriage or a civil partnership, but some of the legal terms are different. Where there is a difference, we'll make it clear.

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It was extremely stressful to start with. I wanted to get everything sorted straight away and couldn't bear the uncertainty of where I would live or how things would work. It all got a bit easier when I accepted that it would take a few months before I would know what the future might look like. **Mark**

Things to understand

Coverage of celebrity divorces often give a false picture of the way that divorce works. Many people assume that the law will do some things that it can't or doesn't. Here are some points to remember:

- You are very unlikely to have to go to a court hearing. If you can come to agreements about the children, money and property, it all happens on paper.
- The law isn't biased. It doesn't favour women over men or the other way round. For example, either member of a couple can be ordered to pay maintenance to their ex-partner if their ex-partner has been dependent on them for money. In practice, more men are likely to pay maintenance than women, but this is because men typically earn more than women.
- There are no set formulas for working out who gets what. You need to try to agree between you (on your own or with the help of a mediator or solicitors) what happens to the money or the home. If you do take it to a court hearing, the court looks at what you both need for the future, not what you have put in.
- You can only divide what you have – so most people find they have to get used to having less money.
- You can't apply for a divorce jointly, even if you both agree that the marriage/civil partnership is over. One of you has to divorce the other, and you have to use one of five reasons. Who applies for the divorce does not affect how you divide your stuff or what arrangements you make for any children. (We explain more about this on **pages 10–11.**)
- There are no rewards for good behaviour or punishments for bad. 'Past behaviour' is listed as one of the criteria for deciding how the money is divided, but generally speaking, it doesn't work like that. It only counts if it has been really, really bad or if someone is being dishonest or trying to hide money and assets from the court.
- It's very expensive to fight all the way about things using solicitors in court hearings. When this happens it's not unusual for it to cost around £15,000 each. So it is best to come to agreements where you can and to use solicitors wisely. (We explain how on **pages 15–17.**)
- You need to have been married or in a civil partnership for a year before you can apply for a divorce or dissolution.
- Divorce or dissolution usually takes 4–6 months.

Someone advised me to start writing down how I was feeling when I got really angry with my ex. It was a really helpful outlet and meant I didn't keep dumping all my anger on my friends, or worse, my grown up children. And it was quite uplifting to re-read later, it showed how far I'd come in this difficult process. **Jane**

Do you want to divorce straight away or do you want to just separate for now?

If you have just separated (or are in the process) you may not want to divorce straight away. Maybe you want to see if there's any hope for the relationship or maybe you want to take your time before you have to deal with all the added stress of the divorce process.

You don't have to divorce just to get arrangements for the home and money sorted (or for the children if you have them); you can make a separation agreement. You can get help to make separation agreements from mediators or solicitors and they can deal with as many things as you want. You should get legal advice before you sign them however as they may have long-term legal implications (for example, the decisions you made will be taken into account if you do eventually divorce).

If you are separated for two years before you divorce, one of you doesn't have to blame the other for the end of the relationship on the court papers. This can help avoid a lot of sadness. See **page 11** for more details.

If you don't want to get divorced, (perhaps for example, for religious reasons) or you can't get divorced yet because you have been married less than a year, there is something called a 'judicial separation' or a 'legal separation'. This process works very like divorce (and costs the same) except that it doesn't end the marriage or civil partnership. This means that neither of you can marry again or form another Civil Partnership. Judicial separation is very rarely used these days.

When does separation start?

Separation starts the moment you decide to no longer live as a couple. Sometimes couples can't afford to move out of a shared home straight away when they split up. But you can share a home and still count as being separated as long as you don't live together as a couple. This means not sleeping in the same bed, not cooking or shopping for each other, washing each other's clothes, or paying for things as a couple.

If you are no longer living as a couple like this, you can also claim any benefits or tax credits you might be entitled to as a single person. (See **Benefits and living with your partner** for more details.)

When we split up, I wanted to get divorced straight away. I just wanted it over with. But he didn't want to. We agreed to let the dust settle first – and actually I think it made coming to all those agreements a lot easier. **Karen**

How divorce works

How divorce works

Many people think of divorce or dissolution as ending the marriage or civil partnership, dealing with issues like how to divide the money or property, and arrangements for the children all in one go. But these are really three distinct processes. They are all dealt with separately, but are often all going on at the same time. At some stages, how far you have got with one bit affects the others. See the table below.

Of course, if you don't have children, or you can agree what arrangements you are going to make for them (for example, who they are going to live with and when they are going to see the parent who isn't looking after them day to day), then you don't have to worry about the legal process for deciding arrangements for them.

If you have no joint finances to sort out, then you don't have to worry about the legal process for dividing money or property.

Many people think of divorce or dissolution as a single process. And sometime it is. If you can agree what arrangements you are going to make for your children, for example, who they are going to live with and when they are going to see the parent who isn't looking after them day to day, then there is no reason for separate proceedings about your children. If you have no joint finances to sort out, then your divorce or dissolution will not involve financial proceedings either.

But there can be three bits to what we usually think of as a divorce - the bit that actually ends the marriage or civil partnership, the bit that sorts out how you will share out your money and home and the bit that helps you make arrangements for your children if you cannot do this yourself. They are all dealt with separately but in many cases the divorce or dissolution runs parallel with the other bits. At some stages, how far you have got with one bit affects the others.

Arrangements for the children	Ending the marriage/civil partnership	Dividing the money or property
You can start these proceedings at any time before or during the divorce.	<p>The Divorce or dissolution form is given to the court</p> <p>↓</p>	You can only start these proceedings once the application for divorce has been given to the court.
	<p>Decree Nisi/ Conditional order</p> <p>↓</p>	The court can't make a final financial order before the Decree Nisi/Conditional order is issued.
	<p>Decree Absolute/ Final order</p>	The financial order can only take effect after you have been given the Decree Absolute/ Final order.

If you have experienced domestic abuse...

If you are divorcing because you have experienced domestic abuse, it is a really good idea to talk to a solicitor about your options as soon as possible. There are things you can do to protect yourself from further abuse, including getting a court order to prevent your ex-partner coming into your home or from harassing you any further. You can find a family solicitor near you on the Resolution website: www.resolution.org.uk/findamember
If you call around you may find one who can give you a free first appointment.

Women can also get free advice from the Rights of Women advice line – **020 7251 6577** (telephone) on Mondays to Thursdays 7pm–9pm and Fridays 12noon–2pm.

Men can get practical advice and information about accessing specialist help from Men's Advice Line **0808 801 0327** (free from landlines and most mobiles)

Monday to Friday 10am–1pm and 2pm–5pm or email info@mensadviceline.org.uk



What do you need to decide?

What do you need to decide?

On these pages we look at the things you need to decide and on **pages 15–17** we look at ways of deciding them, either on your own or with the help of solicitors and mediators, or if it cannot be avoided, going to court.

If you have children

If you have children you will need to agree:

- 1 Where the children will live
- 2 When and how you will ensure they have plenty of time with both parents
- 3 How you will continue to pay for all the things they need.

Sometimes where the children will live and with who is obvious to you both, but often this is a really hard decision. We've produced a separate guide for parents to help you to agree arrangements that work well for everybody, and to help you find a solution if that is not possible. Please see **Sorting out arrangements for your children – a survival guide**.

We've also produced a separate guide – **How to apply for a court order about the arrangements for your children without the help of a lawyer**.

I was very against the idea of moving. I didn't see why I should lose my home; it wasn't me that wanted to end the marriage! But looking back on it, I think it helped create the fresh start that I needed. **Lelia**

Money and property

Where you will each live

Some of the things you will need to think about are:

- Will one of you stay in the property or will you both need to move?
- If the home is rented or owned only in your ex-partner's name, it may be that you need to take action to secure your rights to stay. What you need to do depends upon your situation.
- If the family home is going to be sold, how will the proceeds be divided?
- Will you do it all at once or in stages? Some couples make a short-term and a long-term agreement to fit in with the needs of the family. For example, some couples (who can afford to) agree that one partner will stay in the home with the children until the children have left school, and then sell the house and divide the proceeds.
- Remember even if you move out, if your name is still on the tenancy or the mortgage you are still legally responsible for paying the rent/mortgage.

Housing law is extremely complicated; you should definitely get advice about what your rights to stay are or what the implications of leaving are. You can get advice over the phone from Shelter's free housing advice line – see **More help and advice**.

How you will divide your money and other property

The first thing to do is to make a full list of all the assets (savings, pensions, investments, property, car etc) you own jointly and individually, what you each earn, and a list of any debts.

Before you start making decisions about how to divide them, it is a good idea to get advice from a solicitor, even if you are going to do everything else yourself. Take the full list of assets with you. The solicitor will be able to tell you what you should be trying to negotiate for so that you don't leave something out or make a mistake. It is best to agree how to divide smaller items (like furniture, the TV, the DVD collection etc) between yourselves.

You can find a good family solicitor near you who believes in a constructive, non-confrontational approach on Resolution's website (see **More help and advice**). It's ok to phone around and compare prices. Some will offer one-off help for a fixed price; others may offer a first meeting for free.

Some of the things you will need to think about are:

- How you will divide any joint assets like property, savings, shares, and any pensions.
- If there will be a transfer of assets from one of you to the other.
- How you will you divide the contents of the family home.
- What you will do about other assets, such as the car.
- How will you deal with family debts?
- If one of you will pay maintenance to the other. (This wouldn't be common if you have only had a short marriage/civil partnership or if you earn similar amounts.)



What do you need to decide?

Alternatively, Wikivorce has produced an online calculator that estimates what a fair financial settlement might look like. This is useful for many couples to use as a basis for their negotiations, but it is not the same as getting advice from a solicitor.

If you cannot agree how to share out what you own between you, then see our guide **How to apply for a financial order without the help of a lawyer**.

We sorted out all the smaller stuff and furniture ourselves with the help of a packet of coloured stickers. We took it in turns to choose something so we each got the things that were most important to us. **Simon**

While it's all going on you have to be extra kind to yourself. Give yourself a few treats – they don't have to be expensive. I gave myself a treat every time I'd done something really hard. **Kayla**

How you will ask for a divorce

The last things you need to decide are:

- Who will ask for the divorce
- What reasons they will give in the legal papers.

In England and Wales, you can't get divorced just because your marriage or civil partnership is no longer a happy one. You are only allowed to get divorced because your relationship has broken down and can't be saved for one of five reasons. So you have to fit what happened in your relationship into one of those five reasons (the law calls these 'facts').

Similarly, you can't ask for a divorce together – one of you has to divorce the other. This is difficult because it often feels like one of you is 'blaming' the other for the end of the relationship, and of course these things are rarely all one person's fault (indeed, it's often not really anybody's fault). It is best to bear in mind that this is only for the divorce papers, and that there is no way for the person asking for the divorce to mention their own failings that may have contributed to the end of the relationship. Also remember that what you say when you ask for a divorce rarely makes any difference to how money or property will be divided, or where the children will live. The law refers to the person who asks for the divorce as 'the petitioner' and the other person as 'the respondent'.

You don't need to agree who will ask for the divorce and what they will say about the reasons, but it is best to if you can. It will help your divorce to move as smoothly and quickly (and cheaply) as possible, and removes the possibility of your ex-partner fighting the divorce which would complicate matters and make it more expensive.

It is particularly useful to show a bit of sensitivity if you are using 'unreasonable behaviour' as the reason for the divorce. It can all feel very hurtful when written down and people worry about how it looks (even though ordinarily only the people involved in the case see the papers). Use non-inflammatory wording and agree it beforehand if you can. It's not always possible; sometimes people are too angry or upset to discuss it.

Another option is to make a separation agreement now and divorce on the grounds of two years' separation with consent once you have lived apart for long enough. This avoids the need to cite adultery or detail one person's unreasonable behaviour so can help keep things more amicable. We explain what a separation agreement is on **page 5**.

It's ridiculous that one of you has to 'be divorced' by the other. It felt like he was asking me to take all the blame for the end of the relationship. But you can't write 'we argue all the time and make each other unhappy'. My ex and I discussed flipping a coin for who would ask for the dissolution. In the end, we decided he would divorce me and we agreed that he would say I worked too much, stayed up too late, and didn't do enough housework. It took all the hurt and anger out of it. **Peter**

Reasons for divorce or dissolution

Adultery

This means that your husband or wife has had full sexual intercourse with a person of the opposite sex. If you go on living together for more than six months after you have found out about it you may not be able to use this reason, because you also have to show the court that you find it 'intolerable' to go on living together. You don't name the 'other woman/man' like you did in the old days – it just complicates things. This reason is only available to married couples; you cannot end a Civil Partnership using this reason.

Unreasonable behaviour

This can cover all sorts of behaviour, provided the person asking for the divorce finds it unreasonable (it doesn't need to be unreasonable to anybody else). It can include things like not doing the washing up, watching boring TV programmes all the time, working too much so the other feels isolated, or a busy social life that excludes your partner, as well as more obviously unreasonable things like violence, insults or unkindness. About half of all divorce petitions use this reason.

Desertion

This means that your ex-partner has left you against your will, and you have been living apart for at least two years. As you can get a divorce if you have been living apart for two years and you both agree, this reason is not used very often.

Two years separation, with consent

This means you have been living apart for two years and both agree to the divorce. During the period of separation, you can have had up to six months trying to live together again but it doesn't count towards the two years. Even though you both agree to divorce, one person still has to divorce the other; you can't ask the court for a divorce together.

Five years separation

If you can't get your ex-partner to agree to a divorce and your situation doesn't fit into the other reasons you may have to wait until you have been apart for five years and then use this reason. Your ex-partner may still be able to block it by trying to prove to the court that the divorce would cause gross financial or other hardship, but this rarely happens.

What do you need to decide?

What do you need to decide?

If you disagree with the reasons given for the divorce...

The person who didn't ask for the divorce can refuse to agree to it. This is called 'defending the divorce petition'.

This doesn't often happen because it is expensive and usually pointless. After all, it is virtually impossible to argue that your marriage or civil partnership hasn't broken down when your partner has said it has. But there are some cases where the person who didn't ask for the divorce feels so strongly that the marriage has broken down as a result of the other person's actions, rather than their own, that they ask for a divorce too and give their reasons. This is called a 'cross-petition'.

However, in most cases, it's better to allow the divorce to go ahead no matter how unfair the reasons given. This is because it is cheaper and it doesn't usually matter what reasons are given – it rarely affects arrangements for the children or how the money or property is divided, and ordinarily the papers aren't going to be seen by anybody not involved in the divorce.



Looking to the future

Where are you going to live?

People often want to stay put, but it may not be feasible. Finding out about something doesn't commit you to it, but it does enable you to make an informed decision about what is going to be best for you.

If you rent your home:

- Look into the cost of renting somewhere else. Could you reduce your costs by moving to a smaller home, or moving to a cheaper area?
- It may be worth seeing if any council housing or housing association accommodation is available in your area. Some housing associations help particular groups, for example families with a low income or single women. Waiting lists are usually long so it often isn't an immediate solution, but it could help to reduce your costs and give you a secure place to live in the long-term.
- If you have some savings (or will have after the divorce is completed) it may be worth exploring if one of the government's Home ownership schemes would help you. You can read more about them on Gov.uk – www.gov.uk/affordable-home-ownership-schemes/overview

If you own your home:

- Check how much is outstanding on your mortgage.
- Ask an estate agent to tell you how much your home might sell for if you put it on the market. Remember that you will need to take off the costs of the sale and the costs of you both moving to work out what you would be left with.

- Check out your local property market to work out how much another home would cost.
- Consider what is available to rent as well.
- Investigate the possibility of getting a new mortgage. How much would you be able to borrow by yourself and what would it cost you?
- Remember that purchasing any residential property over £125,000 will incur Stamp Duty Land Tax (SDLT) which needs to be budgeted for.

Budgeting

Stretching your joint finances to cover the cost of two homes is going to be tricky. Both of you are likely to end up (at first) poorer than you were. If you are still at the stage where you are considering your options it will be helpful to think through the money side of things.

- Do you know how much you spend, and on what? Most people only have a hazy idea. Use our **Family budget sheet** at the back of this guide to help you work out where it all goes. You may need to keep all your receipts for a few weeks to check what you are spending on all the little things that mount up.
- Council tax will be reduced by 25% if you are the sole adult in the household. You will need to contact your council tax office for the reduction.
- Check if you might be entitled to benefits or tax credits now you are a single person. Turn 2 Us have a very helpful benefits calculator on their website: www.turn2us.org.uk/benefits_search.aspx

Looking to the future

- Work out how much child maintenance you might be paid or be expected to pay using the calculator on the Child Maintenance options website.
www.cmoptions.org/en/calculator
- Work out where you could cut your costs. You might rearrange some of your debts, spend less on some things, or find extra ways of earning money.
- If your debts are a problem, see if you can get debt advice from your local advice agency, National Debtline or Step Change. Step change also have a useful online tool called Debt remedy. See **More help and advice**.

Your future career

If you have been working part-time or not working up till now you may need to think about getting back into the job market. Now is a good time to think about what you want to do.

- Think what you will want to do in five years time. Do you need some new skills?
- Do you want to change your career path?
- What training or qualifications will you need?

If you need to plan for this, or budget for it, now is the time to do it. Your local Jobcentre plus adviser can tell you about what help is available for you to find new work and any financial help you could get with moving back into work. Gingerbread has some useful factsheets about going back into work or further education here: **www.gingerbread.org.uk/Factsheets_ModuleResults.aspx?FactsheetCategoryID=2**



While I was going through my divorce I started to take lots of regular exercise, for the first time in my life – it made me feel much less stressed and helped me to sleep. **Esme**

How to agree

If you want the divorce over with as quickly and smoothly as possible, it's best to come to as many agreements as you can rather than take each issue to court. In fact, before you can go to court over the money or property or arrangements for the children, you have to show the court that you have met with a mediator first and considered mediation, or tried to. This is because the government thinks it is usually better that you decide these things between yourselves if you can. See **Sorting out arrangements after you have split up – Could Family Mediation help you?**

You can come to agreements:

- 1 between yourselves, or
- 2 using a family mediation service, or
- 3 using solicitors to negotiate on your behalf.

You can of course use different methods to agree different things. Many people can agree arrangements for the children between them, but need help from solicitors to agree what to do about money and property.

However you do it...

- you will both need to compromise.
- it is sensible to both take a bit of legal advice first, even if you will be doing everything else yourself. (If asking for advice about how to divide the money and property, you need to be able to tell the solicitor, exactly what you and your ex-partner own, jointly and individually.) See **More help and advice** for details of how to find a good family law solicitor.

Option 1

Agreeing it yourselves

Agreeing things without help is far from easy. To start with, one or both of you may be too upset and angry to discuss it. You will need to find ways to discuss the issues without your emotions getting in the way.

We suggest:

- 1 Agree in advance with your ex-partner how and when you will try to come to agreements. For example, will you find a date to meet on neutral territory, do it over email, or will you use a family mediation service? Nobody likes to feel ambushed and you have a much better chance of agreeing something if you both arrive at it feeling that you have chosen this approach and you want it to succeed.
- 2 If you have a lot to discuss, try and agree what is urgent and deal with that first. You may have different priorities, but dealing first with the things that are most worrying for each of you can make things go much more smoothly.
- 3 If you have to discuss arrangements for the children and finances consider dealing with them separately – maybe at separate meetings.
- 4 Many people just want to sort everything out immediately so at least they don't have to deal with the uncertainty. But things often go more smoothly if you take a little bit of time.
- 5 Before you discuss it, think about the outcome you would like and where you can be flexible. If you know what your ex-partner might feel about that, think if there's anything you can do to make it more appealing for them.

How to agree



How to agree

- 6 Try to stick to the point as much as you can. If you are meeting in person, having the main points written down on a piece of paper can be helpful and can give you something to focus on if you feel yourself starting to get upset or angry, or if your ex-partner strays from the point.
- 7 If you try to do it over email, do bear in mind that it is even easier to take offence when you can't see expressions or hear tone of voice, so keeping yourself calm and sticking to the point is even more important.

My ex and I sorted out quite a lot of stuff over email. The best piece of advice I was given was to take two days before replying to any email. That gave me time to get really angry and calm down again before I said anything. **Colvin**

Option 2 Using Family Mediation

This is where you meet together with your ex-partner and a mediator, who has been properly trained to help you put your feelings aside and focus on the issues that need to be sorted out. The mediator won't take sides or decide what is fair for you – they are simply there to help your discussions.

Many people say that a positive side-effect of mediation is that it helps them to communicate again. This is extremely valuable if you have children together.

Most people have to pay for family mediation. Prices start at around £80 each for each session and most people come to the agreements they need in 2–4 sessions.

When you are looking for a mediator, don't be afraid to phone around and compare prices. (Whilst the fees are usually charged per person, it is open to you and your ex to decide who will actually pay or how the cost will be shared.)

If you are entitled to legal aid (that is help from the government to pay for legal advice) you can get mediation, and a small amount of legal advice alongside it, for free. You can find out if you are likely to be able to get it by using the legal aid checker – www.gov.uk/check-legal-aid

For more information about Family Mediation and how to find a good mediator, see **Sorting out arrangements after you have split up – Could Family Mediation help you?**

Option 3

Using Solicitors to negotiate for you

Your other option is to use a solicitor to negotiate on your behalf. This is likely to be quite a bit more expensive than mediation. It can still be relatively quick and avoids all the expense and stress of going to court. It can feel a lot safer to have an expert on your side, making your case for you. You can find good family solicitors who believe in a constructive approach on Resolution's website: www.resolution.org.uk/findamember Don't be afraid to phone around and compare prices.

If you are entitled to legal aid (that is help from the government to pay for legal advice) it will be much cheaper. You can find out if you are likely to be able to get it by using the legal aid checker – www.gov.uk/check-legal-aid

Option 4

Collaborative law

Another option is to each use a collaborative lawyer. This is a bit like a mixture of family mediation and solicitor negotiation. You and your ex-partner each have a collaborative lawyer (not all family solicitors can do collaborative law – they have to have had special training) and you agree that you will not go to court using these solicitors. You then sort everything out in a series of face to face meetings between you and your collaborative law solicitor and your ex-partner and their collaborative law solicitor.

Like mediation, collaborative law aims for an amicable solution that both of you have worked out rather than had imposed on you. It may be cheaper than the conventional way of using solicitors because it can mean that you use less of their time.

You can find out more about the collaborative law process and find a collaborative trained lawyer near you on the Resolution website: www.resolution.org.uk/editorial.asp?page_id=53

How to agree

When you have reached agreements...



When you have reached agreements

When you have reached agreements about any children you have, it is useful to write down what you have both agreed. If you have had the help of a mediator or solicitor they will record what you have agreed for you in a 'Memorandum of Understanding' or a letter. You won't usually need to do anything more formal – you just keep to the agreement. If arrangements aren't working for any reason, you just negotiate changes. You both need to be prepared to be flexible as, particularly as the children get older, you will have to move things around to fit in with new clubs they want to join or social events they don't want to miss.

When you have come to agreements about your money and property, it is best for each of you to see a solicitor separately. She or he will check the agreement for you, and help you ensure that neither of you can make another claim in the future. They will usually advise you to turn it into a court order, which is legally binding.

If you can't agree on some issues...

If there are issues around money and property or arrangements for the children that you really can't agree on, you may have to ask the court to decide. Sometimes starting the court process helps to get your ex-partner talking and focussed on the need to make agreements.

Remember that the court will usually want evidence that you have met with a mediator first and considered mediation, or tried to, before they will consider making a decision for you. See **Sorting out arrangements after you have split up – Could Family Mediation help you?** for more details about these rules.

If you need to go to court you have the option of:

- Getting a solicitor to help you make your case, or
- Doing it yourself.

I learned to block the endless replays of what happened in my head. You have to police your thoughts. It is difficult to do at first, but it comes with practice and it is a great help for moving on. **Murray**



The difficulty is that using solicitors to take matters to court can be very expensive. The legal fees can quite easily end up being more than the value of what you are arguing about. Even if the matter does end up in court, the judge will still encourage you to agree the issues with your ex-partner as this is always the preferable solution.

Doing it yourself is unfortunately not easy because it is quite a complicated procedure. See our guides **How to apply for a court order about the arrangements for your children without the help of a lawyer** and **How to apply for a financial order without the help of a lawyer**.

If you can't agree on some issues

If you can't agree on some issues

If you are using a solicitor

Cut your costs by:

- Shopping around to compare prices. If you are looking at fixed price packages, check what they include and if they are suitable for your circumstances. Check whether prices quoted include VAT.
- Being organised – ensure you don't waste time by having all the information your solicitor needs to hand (information about your finances etc)
- Preparing for conversations – have a list of everything you need to discuss and avoid going off the point.
- Avoiding sending letters, emails or telephoning your solicitor unnecessarily. If you are not on a fixed price package, solicitors will charge for taking each phone call, and replying to each letter or email.
- Agreeing what tasks you can do and what your solicitor is going to do. For example, people usually divide up the contents of the home or arrange the details of when the children will see the parent they don't live with, between themselves.
- Making sure you are clear if there will be any expenses you'll have to pay on top of solicitors fees and court fees (for example, for any expert reports or for a barrister's fee for representing you in contested court hearings).

How to get the divorce – do you need help?

There's quite a lot of complicated legal paperwork involved in getting a divorce (see **The Process** for who sends what where). You have some options about what kind of help you use.

Option 1

Use a family solicitor

This is probably the easiest route but of course many people will struggle to afford one or would prefer to save their money.

Some people on a low income who have been hurt or abused by the partner they are divorcing may be able to get help to pay for legal help. Check if you are likely to be able to get it by using the legal aid checker – www.gov.uk/check-legal-aid

Some solicitors have changed how they work and now offer to help you with the paperwork for a fixed fee rather than charge you by the hour (this is often only available for less complex cases). This makes it easier to work out how much it will cost in total. If you are the person asking for the divorce, you have to do the bulk of the paperwork and so should expect any fixed fee you have to pay to be substantially higher than a fixed fee service for the person who is being divorced.

Some solicitors offer a fixed fee service which does it all using email or over the phone, which reduces your costs further and better suits some people.

Beware of non-solicitor divorce websites

There are websites that offer cheap help with your divorce because a 'case manager' helps you, rather than a solicitor. They may have no qualifications, no experience, and, importantly, no insurance. They often cannot give you legal advice (so they cannot help you avoid mistakes that could have serious long-term consequences) and you also cannot complain about them to the Solicitors Regulation Authority or the Legal Ombudsman. So if it all goes wrong or they act dishonestly it is hard to do anything about it. They are usually easy to spot because the website will talk about 'your Case manager' or something similar rather than 'your solicitor', and won't say that they are regulated by the SRA (Solicitors Regulation Authority). Other services suggest that they are free or very cheap, but only provide very basic information for free and then charge for anything more helpful – make sure you are clear what is included in any service and what you will have to pay extra for.

How to get the divorce – do you need help?

Option 2

Do it yourself

If you are doing it yourself, use Advicenow's guide **How to get a divorce or end a civil partnership without the help of a lawyer** to help.

Court fees

Remember that even if you do everything yourself, one expense most people cannot avoid is the court fees. For information about Family Court fees, when to pay them and how much they are, see:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex050-eng.pdf>

In some circumstances you may not have to pay a fee at all or only a reduced fee.

The system for deciding whether you are eligible to pay a reduced court fee or none at all is called the 'fee remission' system. For example, you will not pay anything if you can prove that you get Income Support, income-based Jobseeker's Allowance, Pension Credit guarantee credit, Universal Credit with gross annual earnings of less than £6,000 or income-related Employment and Support Allowance as long as your savings or other capital don't exceed certain limits. You apply for 'fee remission' by completing form EX160A. You can find this form in the leaflet Court and Tribunal fees – Do I have to pay them? You can find this at:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex160a-from-07-october-eng.pdf>

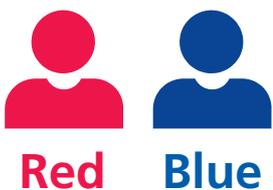


The process

Whether you are using a solicitor or doing it yourself, it's useful to have an understanding of the process so that you can see how you are progressing through it.

No matter what reason you are giving for the end of the marriage or civil partnership, the process is always the same (provided that the other person doesn't try to defend the divorce, refuse to agree to it or ask for a divorce themselves for different reasons).

In this case, Red and Blue have decided to get a divorce. They have agreed that Red will ask for the divorce and will use the reason of unreasonable behaviour. They have agreed what examples Red will give and Blue has agreed not to defend it. If Red and/or Blue have solicitors, some of the steps below will be taken by their solicitor, and some of them will need to be dealt with by Red or Blue personally. This is how the process works, step by step.



START

1 Red (or Red's solicitors) sends or takes the divorce petition to the Court, and pays a court fee.

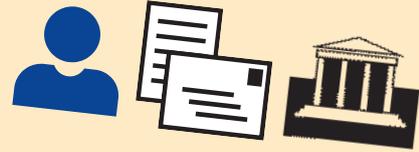


2 The Court checks the papers, gives the case a number, and sends the papers to Blue.

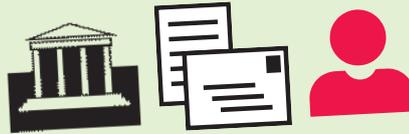


The process

3 Blue completes the answers to the questions on the acknowledgement of service form and sends it back to the Court. This confirms that Blue has received the divorce petition and says whether they're going to object to it or not.



4 The Court photocopies the acknowledgement of service form and sends Red a copy.



5 Red (or Red's solicitors) completes the correct form to ask the case to go ahead.



6 The forms are sent to the court and Red asks the court to fix a date for the Decree Nisi (or Conditional order if it is a civil partnership).

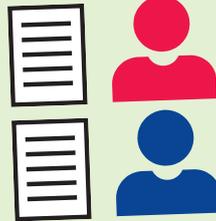


7 The District Judge reads the file. If it is all in order, the court fixes a date for the Decree Nisi/ Conditional order.



The process

8 Letters confirming this go to Red and Blue.



9 The Decree Nisi/Conditional order is issued. A copy is sent to both Red and Blue.



10 Six weeks and one day after the Decree Nisi/Conditional order was issued, Red can apply for the Decree Absolute (or Dissolution order if it were a Civil Partnerships) by sending a form to the Court. If Red does not apply for the Decree Absolute/Final order within 3 months, Blue can apply. Red has to be told about this and can oppose it.



11 The Court checks the file and issues the Decree Absolute or Final order, sending a copy to both Red and Blue.



12 They are finally divorced.



FINISH

The process

Whether you have a solicitor or not you will need to be organised.

- Keep the case number allocated by the court safe and handy – you will need to quote it every time you communicate with the court.
- Get a ring binder and stick all the letters, emails, notes of phone conversations you receive about the divorce in it, in the order they come.
- Keep copies of any letters or emails that you write in there too.
- Get a separate folder to keep your court documents in. Again, keep them in the order they come. You can get an official copy if you lose them, but you'll have to pay for it.

Dealing with your feelings

Divorce and separation, like bereavement, take a long time to get over. You need to get used to no longer being part of a couple and that your expectations of your future have changed. It won't come right overnight.

People often expect you to bounce back once you've got your divorce sorted but feelings don't fit tidily into legal processes. For most people it takes about one to two years before they start feeling okay again. Bit by bit it should start getting better. Children will also need time to adjust.

My ex-partner and I made a pact to try not to criticise each other in front of our children. I think it helped them to feel that they didn't have to get involved – and, in truth, I think it helped us. **Khal**



There are lots of places where you can get some help to recover from the effects of divorce and separation. You can't always do it on your own. Some of the places you might turn to are:

- Your friends.
- Your GP. They may be able to offer you counselling or put you in touch with local self-help groups.
- Or you could look for information about local counselling services in the yellow pages or at your local library.
- If you are religious, you may find very helpful groups connected to your faith community.
- If you have small children, your health visitor should be able to put you in touch with local services that may help you.
- Local supportive groups. These might be for lone parents, or divorced or separated adults. Gingerbread (www.gingerbread.org.uk) has local groups all over the country for lone parents.
- Online forums – for example ones on the Wikivorce or Gingerbread websites.

Dealing
with your
feelings

Things you can do to help your children

- Explain to the children that this is between the adults. It is not their fault and they don't have the power to change what is happening. And that you know that this is hard for them and you are sorry. (Depending on the age and understanding of your children you may need to say this again and again)
- Remind them that you both still love them and you will always be their family.
- It's easier said than done, but try not to blame the other parent or talk about them in an unhelpful way in front of your children. Find other ways to blow off steam.
- Try to keep to normal routines as much the same as possible. It's tempting to try to make it up to the children with extra treats, but in the long run, this isn't going to help much. Extra cuddles might though.
- Let the children's schools and anyone else who looks after them know – they are likely to need a bit of extra care and attention from everybody for a bit.



Loose ends

You need to change your will. If you were to die without changing it, the rest of your will would still stand, but the law would treat your ex as if they had died on the day the divorce or dissolution was completed.

If you changed your name when you got married or civil partnered, you may wish to change it back again. You may be able to do this by showing record holders your:

- Marriage certificate and decree absolute, or
- Civil partnership certificate and final order.

But some organisations will not change your name back without a deed poll. For information about how to get a deed poll, see www.gov.uk/change-name-deed-poll/make-an-adult-deed-poll

After we split, we got a big year planner and a lot of stickers and sorted out when the kids would be seeing their dad, and grandparents, and cousins on his side of the family, so the kids could see what was happening. **Megan**

Things you can do to help your children

More help and advice

How to find a family mediator

Ask friends and family for a recommendation or your solicitor if you have one. Or use the family mediation finder to find one near you. See: www.familymediationcouncil.org.uk

Some people feel safer with a mediator who is also a qualified solicitor. They can't give you legal advice but they are obliged to tell you if you are about to make an agreement that is very different to what a court would order. If you want a mediator who is also a solicitor, use the search on Resolution's site. In the results it specifies how long the mediator has been a family law solicitor. www.resolution.org.uk/findamember Don't be afraid to phone around and compare prices.

How to find a good solicitor

Ask friends and family for a recommendation. You can also search here:

- find-legal-advice.justice.gov.uk
- <http://solicitors.lawsociety.org.uk>
- www.resolution.org.uk/findamember

It's ok to phone around and compare prices. Some will offer help for a fixed fee, others may offer a first meeting for free.

How to find a collaborative lawyer

You can find your nearest collaborative lawyer on Resolution's website too: www.resolution.org.uk/findamember

Help with understanding your housing rights

Shelter

Shelter can provide housing advice over the phone or in a housing advice centre.

You can find your nearest advice centre here: http://england.shelter.org.uk/get-advice/advice_services_directory

Helpline (for callers from England): **0808 800 4444**

Open 8am–8pm Monday–Friday, 8am–5pm Saturday–Sunday

Calls are free from UK landlines and main mobile networks.

Shelter Cymru

Shelter Cymru asks that callers in Wales only use their helpline if it is an urgent problem. For less urgent problems they ask you to contact your nearest housing advice surgery. Find yours here: www.sheltercymru.org.uk/get-advice/advice-near-you-3

More help
and advice

Debt advice

National Debtline

National Debtline can offer you free advice over the phone.

Helpline: **0808 808 4000** – open Monday–Friday 9am–9pm, and Saturday 9.30am–1pm

They also have a useful online tool called my money steps – www.mymoneysteps.org

Step Change

Helpline: **0800 138 1111** – open Monday–Friday 8am–8pm, and Saturday 8am–4pm

Step change also have a useful online tool called Debt remedy – www.stepchange.org/Contactus.aspx

Help and support for single parents

Gingerbread

Gingerbread's Single Parent helpline offers support and expert advice on anything from dealing with a break-up, to going back to work or sorting out maintenance, benefit or tax credit issues.

Helpline: **0808 802 0925**.

They also provide lots of information and support forums on their website: www.gingerbread.org.uk

Families Need Fathers

Families Need Fathers' helpline offers support and a listening ear to dads, mums, grandparents and other members of the family.

Helpline: **0300 0300 363**.

They also provide factsheets and online support through forums on their website:

www.fnf.org.uk

Both Parents Matter Cymru

Both Parents Matter Cymru runs monthly support meetings across Wales. Check their website for details: www.fnf-bpm.org.uk

Helpline: **08456 004446**.

Help with the divorce process or dividing your possessions

Wikivorce

Wikivorce provides free support, information, forums and a calculator to help you work out how to divide your money and property.

www.wikivorce.com/divorce

Helpline **0800 4488 66 44** (for calls from landlines) or **01202 80 50 20** (for calls from mobiles)

Open 9am–11pm, Monday to Friday and 2pm–11pm, Saturday and Sunday.

What does it mean?

We have tried not to use legal jargon in this guide. However, you are likely to come across it in the course of dealing with your divorce. Here is our quick guide to what it all means.

Acknowledgement of Service form – this is the form the person who does not start the divorce/dissolution proceedings uses to confirm that they have received the petition and to tell their ex-partner whether they're going to object to it or not.

Answer – the name given to the formal reply to the divorce petition from the ex-partner who did not start the divorce or dissolution proceedings.

Application for a decree nisi/conditional order – this is the form the person who is asking for the divorce/dissolution uses to ask for a decree nisi or conditional order.

Certificate of entitlement to a decree – this tells you the date and time when the judge will grant your decree nisi.

Co-respondent – a person named in a divorce petition as having committed adultery (had full heterosexual sex) with the person who is being divorced. It is very unusual to name the other person these days as it just complicates matters.

Conditional order – a court order confirming that you are entitled to the dissolution of your civil partnership. It is the first of the two decrees you need before your civil partnership is at an end. A conditional order is not the final decree and does not end a civil partnership.

Decree absolute – the final step in getting a divorce. It is a court order that proves you are divorced and free to remarry.

Decree nisi – a court order confirming that you are entitled to a divorce. It is the first of the two decrees you need before you are actually divorced. A decree nisi is not the final decree and does not end a marriage.

Dissolution – the legal ending of a civil partnership.

Divorce – the legal ending of a marriage.

Facts – the reason your marriage or civil partnership has broken down irretrievably.

Fee remission – this is the name given to the system for deciding whether you are eligible to pay a reduced court fee or none at all.

Filing – this just means giving a legal form or document to the court.

Final order – a court order that proves your civil partnership is dissolved and you are free to register a new civil partnership.

What does
it mean?

Judicial separation – is a process that confirms you are separated and no longer have to live together. It doesn't end a marriage or civil partnership like divorce or dissolution.

Mediation Information and Assessment Meeting (MIAM) – a meeting with a qualified family mediator to see if mediation is suitable for your situation. If you want to go to court over a family problem (like how to divide money or property after splitting up or where the children should live, for example) you have to show the court that you have met with a mediator first and considered mediation, that you have tried to, or that you are exempt. See **Sorting out arrangements after you have split up – Could Family Mediation help you?** for more details.

Notice of application for decree nisi to be made absolute or conditional order to be made final – this is the form the person who asked for the divorce uses to ask the court to make a decree nisi, absolute or a conditional order, final.

Petition – A 'petition' is an old fashioned word for asking for something. It's also the name given to the form you use to apply for a divorce or the dissolution of a civil partnership.

Petitioner – the name given to the person who starts proceedings to end a marriage or civil partnership.

Proceedings – is another name for court action. If you 'bring proceedings' you have started a court case to sort out a dispute.

Respondent – the name given to the ex-partner who does not start the divorce or dissolution proceedings or the proceedings relating to financial or children arrangements.

Serve – delivery of court documents, usually by hand or post.

Statement in support of divorce – this is the form that confirms the details are still the same as in your petition (or allows you to change them). It also asks you to confirm that what you say is true. If you give false information you risk being in contempt of court and could face prison or a fine.

Statement of case – this is the details the person who asks for the divorce submits which briefly outline the reasons the marriage or civil partnership broke down irretrievably. For example, if they are asking for the divorce because of 'unreasonable behaviour' it will outline a few examples of unreasonable behaviour.

What does it mean?

Family budget sheet

To get a monthly figure from weekly figures, multiply by 4.33.

Item	£ per month
Accommodation costs	
Mortgage/Rent	
Endowment policy linked to mortgage	
Council tax	
Water rates	
Electricity	
Gas	
Service charge	
Ground rent	
Oil/Solid fuel	
Household expenses	
Food/housekeeping	
Buildings insurance	
Contents insurance	
T.V. licence	
Telephone/cable	
Car	
Insurance	
Road tax	
Maintenance	
Petrol	
Loan for car purchase (will end 20)	
Children	
School expenses	
Travel to school	
School dinners/packed lunches	
Uniform	
Outings and trips	
SUBTOTAL	

Item	£ per month
Other school expenses (contributions to cooking etc)	
Clubs and classes	
Out of school	
Clothes and shoes	
Nappies/wipes/creams	
Childcare (gross cost)	
Hairdressing	
Books and toys	
Christmas and birthdays	
Presents for their friends' birthdays	
Personal expenses	
Mobile phone	
Clothes and shoes	
Hair	
Dentist	
Optician	
Prescription charges	
Dry cleaning	
Entertainment	
Travel to work	
Lunches at work	
Holidays	
Subscriptions	
Other items	
TOTAL	

The information in this guide applies to England and Wales only. The law may be different if you live in Scotland or Northern Ireland.

The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

advicenow.org.uk

If you would like this guide in another format please email guides@lawforlife.org.uk

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