

# Divorce and dissolution of civil partnership process in England and Wales (undefended)

## Considerations prior to commencing the divorce/dissolution process

An application for divorce or dissolution cannot be filed until one year has elapsed from the date of marriage/partnership.  
The court must have jurisdiction to deal with the divorce/dissolution.

## Grounds for divorce/dissolution

**Ground:** Irretrievable breakdown of the marriage.

## Divorce / Dissolution application

The applicant(s) will complete the application. The parties may apply jointly, or one party may apply in their sole name.

As a matter of good practice, consideration should be given to providing the respondent with notice of the proposed divorce application before it is filed at court.

The application will then be filed at court with the marriage/partnership certificate and the applicant will pay the relevant court fee unless exempt.

## Acknowledgment of service (AOS)

The respondent will be served with the application within 28 days of the application being issued (or an extension of time should be sought in advance) and an AOS which must be completed and returned to the court within 14 days.  
(Different rules and timeframes may apply if the respondent is overseas.)

The respondent will complete the AOS to confirm whether they accept the basis for the proceedings and whether they will be defended.

If the respondent fails to acknowledge service, other options to demonstrate service are available including personal service and deemed service.

## Conditional order

The applicant(s) can apply for the conditional order once the AOS has been received or once the date for filing the AOS has passed if service can be proved, provided that a minimum period of 20 weeks from the date the application was issued has passed.

The court will consider the application and if approved send both parties notice of a future date on which the conditional order will be pronounced.

If costs are sought, a separate application must be made to the court.

## Final order

The applicant(s) can apply for the final order six weeks and one day after the conditional order is pronounced.

The respondent is also able to make an application.

The court will then pronounce the final order.

### Proceedings issued prior to 6 April 2022

The divorce / dissolution will continue to be dealt with under the legislation / procedure applicable prior to the change in the law to no fault divorce.

### Online court portal

The online portal introduced in January 2020 allows proceedings to be dealt with electronically.  
Note: The portal cannot be used for all cases.

### Financial arrangements

Agreements for financial arrangements can be converted into a court order once the conditional order has been pronounced.

Applying for a financial order (by consent or otherwise) is a separate process to the divorce or dissolution process.

Financial arrangements should usually be concluded in a court order before an application for a final order is made.

Consideration may need to be given to an application for a final order to be delayed pending a financial settlement.

Legal advice may be needed to consider this.

## Definitions

**Applicant(s):** The person who files the application. There may be two applicants if an application is made jointly for a divorce/dissolution and slightly different processes apply. An application by a sole applicant cannot be converted to a joint application, but a joint application can be converted into a sole application.

**Application for Conditional Order:** The form used to apply for a conditional order (previously called Decree Nisi), which must be accompanied by a Statement of Truth. It may be made by a sole applicant, both applicants or by a sole applicant if a joint application is no longer pursued (and who must send a copy of their application to the other party in those circumstances).

**Application for divorce/dissolution:** The form used to apply for a divorce or dissolution (previously called a petition).

**Application for Final Order:** The form used to apply for a final order. It may be made by a sole applicant, both applicants (on a joint application) or by a sole applicant (if a joint application is no longer pursued, subject to 14 days' notice being given to the other party of the intention not to pursue a joint application). The respondent can also make the application.

**Costs Order:** The court has a discretion whether to make an order that the Respondent contributes to the applicant's costs. A separate application form must be filed.

**Court fee/exemption:** The applicant(s) could be exempt from meeting the court fee if they meet financial eligibility requirements.

**Final Order:** The legal document that ends a marriage or civil partnership (previously called Decree Absolute).

**Conditional Order:** Provisional decree of divorce/dissolution pronounced when the court is satisfied that a person has met the legal and procedural requirements to obtain a divorce/dissolution (previously called Decree Nisi).

**Divorce centre:** Should the online court portal not be appropriate, the paper application for divorce or dissolution should be submitted to the following address: HMCTS Divorce and Dissolution Service, PO Box 13226, Harlow, CM20 9UG.

**Family Procedure Rules:** Rules that govern the practice and procedure followed in family proceedings in the High Court and family court.

**Jurisdiction:** The Court in England and Wales will have jurisdiction to deal with proceedings if one of the following criteria are satisfied, set out in Domicile and Matrimonial Proceedings Act 1973 (DMPA 1973) (for civil partnership CPA 2004, s 225):

- The applicant and the respondent are both habitually resident in England and Wales
- The applicant and the respondent were last habitually resident in England and Wales and one of them continues to reside there
- The respondent is habitually resident in England and Wales

- The applicant is habitually resident in England and Wales and has resided there for at least one year before the divorce application is presented
- The applicant is domiciled in England and Wales and has been habitually resident in England and Wales for at least the six months before the divorce application is presented
- The applicant and the respondent are both domiciled in England and Wales
- Either party is domiciled in the jurisdiction on the date when the application is issued

**Online court:** The link for the online divorce centre can be found here: <https://www.gov.uk/apply-for-divorce>

**Respondent:** The person or people receiving the application.

**Service:** Unless the applicant requests otherwise, the court will arrange to serve the respondent by email if an email address is provided and the post, or by first class post if no email address is provided. Other options include personal service, when the court documents are delivered to the respondent by hand, or deemed service, when the applicant can provide evidence that the respondent has had notice of the proceedings.