

JOHN HODGE SOLICITORS: LEGAL GUIDESHEET – Divorce: The Procedure

Divorce is a legal process, which is carried out by the civil courts. The procedure begins with a petition and ends with a decree absolute, which dissolves the marriage. The timescale to complete the process differs from case to case. Separate but related issues arising from divorce that need to be resolved often include practical arrangements for the care of any children and future financial arrangements between the couple concerned. Those issues may in practice take precedence over the actual divorce itself.

After one year of marriage either spouse may start the divorce. He or she is referred to as the "Petitioner". The application for the divorce (the Petition) is completed and then sent to the Court together with the marriage certificate and court fee.

Within a few days of sending the petition to the Court it sends a copy of the Petition and any Statement of Arrangements for any children to the other spouse referred to as the "Respondent". A copy is also sent to anyone else named in the petition.

From the date the documents are received the Respondent has strict time limits to observe. Within 8 days he or she should send to the Court a form called an "acknowledgement of service". The form asks the Respondent whether it is intended to defend the petition, whether any claim for costs is disputed.

Within 29 days of receipt, whether or not an acknowledgement has been filed, the Respondent must, if he or she intends to

defend the petition, file a Defence. Provided he/she does not contest it:

- You then confirm that all the details are true and the court grants a Decree Nisi if satisfied that the ground for divorce is established
- After six weeks it can be converted into a Decree Absolute, which marks the end of the marriage.
- If the spouse who issues the divorce does not apply for the Decree Absolute after the six week period, the other spouse can after a further three months apply for a court hearing to get it. However, in some circumstances the divorce can be held up until financial matters are agreed.
- The petitioner can stop the process at any time before the Decree Nisi and if both parties agree it can be stopped after Decree Nisi provided that it is before Decree Absolute

If the divorce is defended, the position is much more complex.

You will also need to settle financial matters relating to the family home, maintenance, pensions, and any savings and investments.

The time it takes to get a divorce will vary according to the complexity of each case and the practice of the particular court. Even the most straightforward divorces can take between four and eight months.