

FAMILY NOTE: Divorce 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.

The purpose of this fact sheet is to provide a broad outline of the divorce process and to deal with some of the most frequently asked questions.

After one year of marriage

Either spouse may start the divorce. He or she is referred to as the "Petitioner". The Petition and Statement of Arrangements about any children are completed and then sent to the Court together with the marriage certificate.

Within a few days of sending the petition to the Court

The Court sends a copy of the Petition and any Statement of Arrangements 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 and whether orders affecting the children are sought.

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. The petition then becomes defended and the procedure outlined below does not apply. Defended divorce proceedings are very rare. However, a delay in finalising the divorce is inevitable.

Within a few days of receiving the acknowledgement of service from the Respondent.

The Court sends to the Petitioner's solicitor a copy of the form of acknowledgment of service. If the Respondent is not defending the petition, the Petitioner can apply for the Decree Nisi to be pronounced. The Petitioner's solicitor prepares a Statement (affidavit) for the Petitioner to swear confirming the contents of the petition are true and it will then be sent to the Court.

On receipt by the Court of the Affidavit

The District Judge looks through the papers and, if they are in order, gives a certificate for the Decree Nisi to be pronounced. Both the Petitioner and the Respondent are then advised of the date fixed for the Decree Nisi. That date is likely to be a few weeks after the affidavit is lodged. The couple do not have to attend Court.

What normally happens with regard to the children?

If agreement has been reached, the District Judge is unlikely to interfere and no orders will be made.

If the arrangements in relation to the children are settled between their parents.

6 weeks and 1 day after the date of Decree Nisi has been granted The Petitioner may apply for the final decree ("Decree Absolute") by sending the appropriate form to the Court. This step is not automatic. This Decree will be processed and may be available as quickly as the same day.