



GOV.UK

# Get a divorce

Notes

## 1. Getting a divorce

You can get a divorce in England or Wales if you've been married at least a year and your relationship has permanently broken down.

You must have a marriage that's legally recognised in the UK - this includes same-sex marriage. You must usually also have a permanent home in England or Wales.

If your permanent home isn't in England or Wales, check the ['D8 notes' guidance](#) to find out if the court has 'jurisdiction' to deal with your divorce.

Getting a divorce is different in [Scotland](#) and [Northern Ireland](#).

### How to get a divorce

You must send paperwork to a court to ask for permission to end your marriage.

Separate from the paperwork, you and your ex-partner need to work out:

- [arrangements for looking after any children](#)
- [child maintenance](#) payments for any children

You also need to [divide your money and property](#). There's a deadline if you want to make this legally binding.

You can usually avoid going to court hearings if you agree about children, money and property and the [reasons for ending your marriage](#).

### Get help agreeing on issues

You can use a [mediator](#). Check if you can [get legal aid](#) to help pay for mediation.

You can also get advice on making agreements from:

- [organisations near you](#)
- [Citizens Advice](#)

### Get your divorce paperwork approved

There are 3 main steps to asking a court to approve your divorce paperwork.

1. File a divorce petition. You have to apply to the court to get a divorce, and show reasons why you want the marriage to end.
2. Apply for a decree nisi. If your spouse agrees to the petition, you'll get a document saying you can apply for a decree nisi.
3. Apply for a decree absolute. This legally ends your marriage. You need to wait at least 6 weeks after the date of the decree nisi before you can apply. You can remarry when you have the decree absolute.

## **2. Grounds for divorce**

You can give 1 of the following 5 reasons for a divorce - the court calls these 'facts'.

### **Adultery**

Your husband or wife had sex with someone else of the opposite sex, and you can no longer bear to live with them.

It doesn't count as adultery if they had sex with someone of the same sex. This includes if you're in a same-sex marriage.

You can't give adultery as a reason if you lived with your husband or wife for 6 months after you found out about it.

### **Unreasonable behaviour**

Your husband or wife behaved so badly that you can no longer bear to live with them.

This could include:

- physical violence
- verbal abuse, such as insults or threats
- drunkenness or drug-taking
- refusing to pay for housekeeping

### **Desertion**

Your husband or wife has left you:

- without your agreement
- without a good reason
- to end your relationship
- for more than 2 years in the past 2.5 years

You can still claim desertion if you have lived together for up to a total of 6 months in this period.

## **You have lived apart for more than 2 years**

You can get a divorce if you've lived apart for more than 2 years and both agree to the divorce.

Your husband or wife must agree in writing.

## **You have lived apart for more than 5 years**

Living apart for more than 5 years is usually enough to get a divorce, even if your husband or wife disagrees with the divorce.

# **3. File for divorce**

Read the '[D8 notes](#)' [guidance](#) then fill in a [divorce petition form](#) to start a divorce.

You must include your:

- full name and address
- husband or wife's full name and address
- marriage certificate - the original certificate or a [copy from a register office](#)

You can include the names and dates of birth of any children (no matter how old they are), but you don't have to.

If you name the person your husband or wife was unfaithful with, they will get copies of the paperwork.

## **Pay the fee**

You must pay a £550 fee to start a divorce.

Pay the divorce centre when you send your forms - you can pay:

- by phone with a debit or credit card
- in person with cash
- by post with a cheque made out to 'HM Courts and Tribunals Service'

You may be able to get [help with fees](#) if you're on benefits or a low income.

## **Send the forms**

Send 3 copies of the divorce petition forms to [your nearest divorce centre](#).

You need to send 4 copies if you named someone your husband or wife had an affair with.

Keep your own copy of the forms.

## 4. Respond to a divorce petition

If your husband or wife has started divorce proceedings against you, the divorce centre will send you a 'divorce petition'.

You will also get:

- a notice of proceedings form
- an acknowledgment of service form

Keep the notice of proceedings form, which tells you the case number and what you should do next.

You need to respond by filling in the acknowledgment of service form.

In most cases, if you don't respond within 21 days, your husband or wife can continue with the divorce as if you've agreed. Contact the [divorce centre](#) or [get legal advice](#) to if you're not sure.

### Agree with the divorce

To agree with the divorce petition, fill in and return the acknowledgment of service form to the divorce centre within 8 days, and the divorce will go ahead.

### Disagree with the divorce

To disagree with the divorce petition fill in the acknowledgment of service form and return it within 8 days. Fill in the part that says you're defending the divorce.

The divorce centre will send copies to your husband or wife.

After you return the form, you have up to 21 days to say why you are defending the divorce. This is called 'giving an answer'.

To do this, fill in the [answer to a divorce petition](#).

You may have to pay a £245 [fee](#).

### Start your own divorce proceedings

After receiving a divorce petition you may then decide to start your own divorce against your husband or wife - for example if you have evidence of their adultery or unreasonable behaviour. To do this, fill in a [divorce petition form](#).

You may have to pay a £550 [fee](#).

## **Court hearing**

When a divorce is defended or both sides file divorce petitions, a court will usually hold a hearing to discuss the case.

You and your husband or wife will usually have to attend to try to come to an agreement over the divorce.

[Get legal advice](#) if there's going to be a court hearing.

## **5. Apply for decree nisi**

You can apply for a decree nisi if your husband or wife doesn't defend your divorce petition.

A decree nisi is a document that says that the court doesn't see any reason why you can't divorce.

If your husband or wife doesn't agree to the divorce, you can still apply for a decree nisi. However, you'll have to go to a court hearing to discuss the case, where a judge will decide whether to grant you a decree nisi.

## **Fill in application form**

To get a decree nisi, [read the guidance](#) and then fill in the [application for a decree nisi](#).

If your husband or wife is defending the case, fill in section B of the form, saying you want a 'case management hearing' before the judge - there's a £50 fee.

You must also fill in a statement confirming that what you said in your divorce petition is true.

There are 5 statement forms - use the one that covers the reason you've given for your divorce:

- [adultery statement](#)
- [unreasonable behaviour statement](#)
- [desertion statement](#)
- [2 years' separation statement](#)
- [5 years' separation statement](#)

Attach a copy of your husband or wife's response to the divorce petition.

## **Getting a decree nisi**

If the judge agrees, the court will send you and your husband or wife:

- a certificate of entitlement to a decree
- a decree nisi

You then need to wait at least 6 weeks before you can apply for a ‘decree absolute’ to end the marriage.

## **Your application is rejected**

You may be sent a ‘notice of refusal of judge’s certificate’ form, saying why you can’t divorce.

The form will tell you what to do next. The judge may want more information in writing, or you may have to go to a court hearing.

[Get legal advice](#) if there’s going to be a court hearing.

## **6. Apply for a decree absolute**

The decree absolute is the legal document that ends your marriage.

You need to wait at least 6 weeks after the date of the decree nisi before you can apply for a decree absolute.

Apply within 12 months of getting the decree nisi - otherwise you will have to explain the delay to the court.

If you want a legally binding arrangement for [dividing money and property](#) you must apply to the court for this before you apply for a decree absolute.

### **Fill in application form**

To apply for a decree absolute, fill in the [notice of application for decree nisi to be made absolute form](#).

A decree absolute costs £50. This fee won’t apply if you started your divorce after 1 July 2013, as it’s now part of the fee for starting the divorce.

### **If your husband or wife started the divorce**

If your husband or wife started the divorce, but they haven’t applied for a decree absolute, you can apply.

You’ll have to wait an extra 3 months, on top of the standard 6-week delay, before you can do this.

To apply, fill in an [application notice form](#).

You'll have to pay a £155 fee and go to a court hearing with your husband or wife.

## Getting the decree absolute

The court will check that:

- time limits have been met
- there are no other reasons not to grant the divorce

The court will then send you both a decree absolute.

Once you get the decree absolute, you are divorced, no longer married and free to marry again if you wish.

Keep the decree absolute safe - you will need to show it if you remarry or to prove your marital status.

## 7. If your husband or wife lacks mental capacity

You can apply for a divorce if your husband or wife [‘lacks mental capacity’](#) and cannot agree to a divorce or take part in the divorce case.

Your husband or wife will need someone to make decisions for them during the divorce. The person who acts on their behalf is called a [‘litigation friend’](#). It can be a family member, close friend or someone else who can represent them.

### Your husband or wife doesn't have a litigation friend

If there's no one suitable and willing to be their litigation friend, you can apply to the court to appoint a litigation friend.

The Official Solicitor may agree to act as your husband or wife's litigation friend when there's no one else to do this ('litigation friend of last resort').

### How to apply

1. Check there's nobody else suitable or willing to act as your husband or wife's litigation friend.
2. Check that there's money available for any costs the Official Solicitor has to pay. Your husband or wife may be able to get [legal aid](#).
3. Give the details of your husband or wife's doctor or other medical professional to the court so it can ask for a certificate of capacity.

### After you apply

If the Official Solicitor agrees to act as litigation friend for your husband or wife, you'll be able to [file for divorce](#).

## Contact the Official Solicitor's staff

Email or call the private family law team if you have an enquiry about divorcing someone who lacks mental capacity. They can't answer general questions about divorce.

**Official Solicitor - private family law team** [ospt.dsm@offsol.gsi.gov.uk](mailto:ospt.dsm@offsol.gsi.gov.uk)

Telephone: 020 3681 2754

[Find out about call charges](#)

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