

Divorce: The Big Disconnect

The right advice when you need it most

Divorce is the legal dissolution of a marriage by a court. It sounds cold, but divorce in the eyes of the law is a legal process, in which the court will treat you both fairly and equitably. Around 42% of marriages end in divorce in the UK so, it is important to know your rights and how to get the right divorce for you.



What do I need to get Divorced?

You have to have been married for at least a year before you can apply for a divorce. To obtain a divorce you have to prove that your marriage has broken down “irretrievably”. This means that either one or both of you must feel that it's impossible to stay married to each other. To do this you must satisfy the Court on one of these 5 grounds:

1. Your wife or husband is guilty of adultery and you find it intolerable to live with them.

2. That your wife or husband's behaviour is so unreasonable it means you cannot reasonably be expected to live with them.
3. That your wife or husband has deserted you for a continuous period of at least 2 years immediately before you issue the divorce petition. You did not consent to your spouse's withdrawal from cohabitation and your spouse did not have reasonable cause to withdraw from the cohabitation.
4. That the parties of the marriage have lived apart for a continuous period of at least 2 years immediately preceding the presentation of the petition and your husband or wife consents to a decree being granted.
5. The parties have been living separately for a period of more than 5 years.

Stages of Divorce and Representation

There are 4 stages to a divorce: the divorce petition, the acknowledgement of service, the decree nisi and the decree absolute.

For more information on family law, please contact us:

 **0808 129 3320**

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 www.simpsonmillar.co.uk/family

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There may be issues with the acknowledgment of service if the other party does not send it back voluntarily to the Court. Our experts will be able to assist you if this happens and further assistance is required.

If the other party wishes to defend the divorce then you will have to go to court and a Judge will decide whether the facts in the petition have been proven and the divorce can be granted.

Some people choose to represent themselves. When you represent yourself, commonly known as being a 'litigant in person', you may not be familiar with the process. Consider this, you walk into court with your speech prepared, assuming the other party is representing themselves as well. Then you get a shock when their solicitor steps forward to provide representation? How would you feel? Knowing when to submit forms is one thing, but knowing how to negotiate, how to deal with the situation emotionally, and how to get yourself a fair deal, are all things you will have to do if you [represent yourself](#).

There are resources available to get you started, but having the expert advice and guidance of a family law solicitor can really help you to navigate the process.

Do I Have to Go to Court?

All couples must first try mediation before they proceed to the court to request that they deal with financial or children matters – except in situations where there has been domestic violence or if there is an emergency.

You can get a referral from a solicitor or simply approach a mediator yourself. Resolution, a national organisation of family solicitors can connect you with a well-trained mediator. They encourage good practice and only admit the best solicitors to their database, including Simpson Millar LLP.

A successful mediation takes on average 3 – 5 sessions, but you can discuss this further with your mediator in the initial session. Depending on how many issues you have to work through, and your budget, mediation can be as long or as short as you need it to be.

One of the benefits of mediation is that you are in the driving seat. There are no deadlines except the ones you make. This approach allows you the time, and sometimes the space you need to properly think through what is best for you and your children without pushing you to act on impulse or when emotions are high. Mediation can be used to resolve financial and/or children disputes.

Any Children Involved?

When couples divorce, how finances are split is always a contentious issue. However, if there are children involved, they can often be forgotten in the crossfire or used as weapons against each other. The children and their residence is not considered as part of any divorce proceedings and the Court prefers parents, if possible, to agree between themselves the arrangements for their children. If you cannot agree the living and visiting arrangements for the children and mediation has been unsuccessful then either party can make an application to the Court for a Child Arrangements Order.

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Our family law solicitors are experienced in relation to all aspects of children law and will be able to advise you and help you with this process.

Just because you have fallen out of love with each other, it does not mean your children should get a raw deal, this includes taking care of them financially. The Court does not consider child maintenance when dealing with divorce or Child Arrangements Orders unless in unusual circumstances. Child Maintenance is dealt with by the [Child Maintenance Service](#).

What about our Money?

Most people when they divorce will have some kind of property or finances that will need to be split. There is a common misconception that everything will be split 50/50, and on that basis, many people think they can conduct their divorce themselves. This is not the case, each scenario is different and the court takes into account various factors when deciding what is a fair split of matrimonial assets. Once a financial settlement has been rubber stamped by the Court it is a binding agreement so it is important to get it right the first time.

In the majority of cases, both sides are adult enough to disclose what property and assets they have to be split upon separating. In the case where this does not happen, or you believe your former partner is hiding something from you, you will need the help of a solicitor to get them to disclose their finances. Without this information, money that should rightfully be split between the 2 of you could be concealed or 'lost'.

What are the Legal Costs?

Younger couples still have the highest rate of divorce overall, indicating that the first 10 years of marriage are the most vulnerable. For younger couples, it may be difficult financially for them to secure the funding they both need to initiate a divorce.

All age brackets may find it hard to divorce based on their financial circumstances, but there are solicitors that offer good, sound advice and a wide range of services for affordable prices.

Simpson Millar LLP offers fixed fee packages for a range of Family Law services, including:

- Divorce
- Financial Disputes
- Child Contact Disputes

We also offer an Access to Justice Scheme which may be suitable as an alternative to Legal Aid.

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