

Frequently Asked Questions

Divorce

How long will it take?

The average time to complete an undefended divorce is about 6 months. There will be cases which are very straightforward and are processed more quickly by the court. However, some cases can take longer than 6 months – common reasons for different time scales include difficulties with the arrangements for any children of the family, financial requirements which mean that the divorce cannot be completed until a financial settlement is reached or where the Respondent to the proceedings avoids dealing with the divorce papers which means that there is a delay, and extra costs.

Under the current system, there is a requirement that the Petitioner takes every step that can reasonably be taken to draw the Respondent's attention to the fact that a petition for divorce has been filed. In addition to the above, there are also inbuilt timings that have to be considered – for example, the Respondent has 7 days to respond to the petition once it is received and there is a statutory period of 6 weeks and one day from the pronouncement of the Conditional Order (formerly Decree Nisi) before the Petitioner is able to apply for the Final Order (formerly Decree Absolute). If the Petitioner does not apply for the Final Order then the Respondent is not permitted to do so for a further three months from the date at which the Petitioner could have first applied.

Do I have to go to Court?

Rarely, you may have to go to the court office to process documents during the case, but you should not have to appear in court in front of a judge. An undefended divorce is a "paper exercise". The court processes the divorce documents and sends out the paperwork to you. You may be required to attend court if there is a dispute about who is going to pay for the divorce or if the judge has a query about the petition and requests that you attend. This is an unusual situation and most people never go into a courtroom about their divorce although they may go to court about concerns and disagreements over the care of children or money, these are separate proceedings from the divorce itself.

What is the basic process?

The petition is completed and signed by the Petitioner or a solicitor instructed by the Petitioner and with the original marriage certificate and Court fee are filed with the court. The court then issues the papers and gives the Petitioner a reference number.

The Court then serves the Respondent by post with a copy of the petition together with an acknowledgement form. Please note that the Petitioner is not permitted to personally serve the Respondent with the papers. When received, the Respondent should consider seeking legal advice.

The Respondent should complete the acknowledgement form and return this to the court. The purpose of the form is to ensure that the court is aware that the Respondent knows about the proceedings.

The court will send the Petitioner a copy of the acknowledgement form and the Petitioner is then required to complete a statement confirming that the contents of the petition are true and that the signature on the acknowledgement is that of their husband or wife (unless signed by a solicitor in their place). The Petitioner then files the statement together with an application for a Conditional Order with the court.

The Judge will then consider the paperwork that has been filed and if he/she is satisfied that the petition and other documents are in order will give a date for the pronouncement of the Conditional Order. The court notifies the Petitioner and Respondent and there is no need to attend court unless there is a dispute as to who is paying the costs of the petition.

A Conditional Order is made by the court on the date given and confirmation is sent by post to the Petitioner and Respondent. The Petitioner can then apply for the Final Order six weeks and one day after the date of the Conditional Order. This is again a paper application and the Petitioner does not need to attend court. The judge will make the Final Order and again the documents will be sent out by post to the Petitioner and Respondent.

Will my spouse pay my costs?

The Petitioner can apply to the court for an order that the Respondent to the divorce pays the costs. This includes the court fees and the cost of preparation of the petition and the subsequent work that must be done if a solicitor is instructed. However, often the parties agree to share the costs – often the court fees are shared on a 50/50 basis and there is an agreement that the Respondent will contribute towards the Petitioner's costs of preparation. If an agreement cannot be reached then both parties may be required to attend court at the time when the Conditional Order is considered by the judge so that the judge can also consider who is to pay the costs of the proceedings. This can add to costs, so it is advisable to reach an agreement if possible.

Do you offer fixed costs for family legal services?

WBW offers a variety of fixed-fee packages which are intended to meet the needs of our clients; these are based upon the type of case, its complexity and how much assistance a client may need or want.

How do I decide which is the right package for me is?

This will depend upon a number of factors such as whether your husband or wife intends to contest the divorce, whether there are any complicating factors to your separation such as disputes over children or money, how easy you find it to fill in forms and deal with official documents yourself.

A free initial consultation with one of our experienced family solicitors will help you decide which is the best option for you. During this time, we will explain details of likely costs, whether your concern is in relation to a divorce, children, finances, or a combination of all three. During that meeting, we will give you information about the process but there is unlikely to be enough time to give detailed advice. If you think you will need or it would help to have more detailed advice rather than just information, we can offer what we call a diagnostic meeting for a set fee which will also enable you to make such decisions with confidence.

Will I get legal aid if social services are involved?

Legal aid is still available in many cases where social services become involved with your children, either if they wish to place your children on the at-risk register, or they want to make an application to the court for a care or supervision order. WBW can offer you legal aid if social services do become involved.

I have heard that legal aid is still available if I have been a victim of domestic abuse?

Legal Aid is available to victims of domestic abuse in certain circumstances. There are certain criteria to be met for anyone to be eligible which includes producing evidence that within the last 5 years you have suffered from domestic abuse, this evidence could include police proceedings, medical evidence or an injunction made to protect you. You would also need to be financially eligible. WBW can offer legal aid providing eligibility criteria can be met.

For further information, or to arrange an initial consultation, please email lawyer@wbw.co.uk or complete our get in touch form and we will be delighted to help you.