



DIVORCE FACTSHEET

The Divorce, Dissolution and Separation Act 2020

The Divorce, Dissolution and Separation Act 2020 (DDSA 2020) came into force on 06 April 2022.

DDSA 2020 is regarded the biggest reform of divorce law in England and Wales for 50 years. It has removed the requirement to establish one of the 'five facts' contained in the Matrimonial Causes Act 1973 to establish irretrievable breakdown of the marriage and allows married couples to divorce without assigning blame. The aim of the changes is to reduce the impact that conflict and allegations can have on families, in particular on any children.

DDSA 2020 has introduced a new minimum overall time-frame of six months (26 weeks). This is comprised of a 'minimum period' of 20 weeks in divorce and dissolution proceedings between the start of proceedings (when the court issues the application) and when the applicant(s) may apply for a conditional order and the minimum time-frame of six weeks between the conditional order and when the order can be made final.

What are the main changes introduced by the Divorce, Dissolution and Separation Act 2020?

- The requirement to prove evidence of one of the 'five facts' specified under the Matrimonial Causes Act 1973 (adultery; unreasonable behaviour; two years' separation with consent; five years' separation; desertion) has been replaced with a simple requirement to provide a statement of irretrievable breakdown of the marriage.
- The possibility of defending a divorce has been removed and the court dealing with the application must take the statement that the marriage has broken down irretrievably as conclusive evidence and make a divorce order.
- The only grounds on which a divorce may now be disputed involve either the validity of the marriage or the jurisdiction of the court to entertain the proceedings.
- For the first time, a joint divorce application can be filed.
- Once the application has been issued, there is a minimum 20-week period from the date on which the application was issued before the applicant, or joint applicants, can apply for a conditional order. This gives both parties time to reflect on the decision to divorce and to try to resolve arrangements involving children and finances.



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Terminology changes

DDSA 2020 has introduced simpler language to describe aspects of the divorce process:

Old Terminology	New Terminology
Petition	Application
Petitioner	Applicant
Decree Nisi	Conditional Order
Decree Absolute	Final Order
Decree of Nullity	Nullity of Marriage Order
Decree of Judicial Separation	Judicial Separation Order
Defended Proceedings	Disputed Proceedings

Applying for a divorce

To apply for a divorce, you must have been married for at least a year. It doesn't matter where in the world you were married, but you can only apply for a divorce in England & Wales if either you or your spouse meet certain residence conditions or are domiciled here. Speak to your family lawyer about this if you are in any doubt.

The divorce process is largely administrative which means that, in the vast majority of cases, neither spouse needs to see a judge to obtain a divorce. If you and your spouse are not in agreement regarding arrangements for children and finances these issues will be dealt with separately from your divorce.

How much does it cost to apply for a divorce?

A court fee is payable at the point of applying for a divorce. Details of court fees and information about help with fees can be found on the [government website](#). As of March 2022, the fee for filing a divorce application is £593.



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Starting divorce proceedings: sole applications

Under the new law, you can apply for a divorce jointly or individually. Although joint applications are encouraged, there are some circumstances where it might not be appropriate to do so e.g., where one party has experienced domestic abuse from the other party.

Standard applications made by one applicant are referred to as a 'sole application'. In a sole application, the person applying is known as the 'applicant' or 'sole applicant', and their spouse is known as the 'respondent'. Sole applicants cannot change their application to a joint application, so the decision about whether to apply solely or jointly must be made at the start.

Sole applications can be made online through the digital service or on paper using the D8 form, but the paper application is likely to be slower. Where the applicant is represented by a solicitor, the digital service must be used to make the application. Sole applications can be made by citizens representing themselves (known as litigants in person) or by a solicitor on behalf of the applicant.

Sole applicants can apply for Help with Fees where they have little or no savings and are in receipt of certain benefits or have a low income.

In a sole application, the respondent can dispute the application in certain situations. Respondents are not able to dispute whether the marriage has broken down. They can only dispute the application because:

- they dispute the jurisdiction of the court in England and Wales to conduct the proceedings
- they dispute the validity of the marriage
- the marriage has already been legally ended

It is also possible to challenge proceedings for reasons such as fraud and procedural compliance.

The applicant can apply to serve the application on the respondent themselves, but usually the court serves the application on the respondent. If an email address has been provided for the respondent, the application is served by email and a postal notification (explaining that an application has been made) is also sent to the respondent. The email contains a link to the digital service where the respondent can view the application. If an email address has not been provided, the court serves the application by post. The respondent then submits an acknowledgement of service.



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Starting divorce proceedings: joint applications

In joint applications, both parties apply for their divorce together and parties are equally responsible for the application. The two parties are known as applicant one and applicant two, rather than applicant and respondent as in sole applications. The joint option allows couples to apply together, reducing complexity.

Joint applications for divorce can be made digitally or on paper and can be made by citizens representing themselves (known as litigants in person) or by a solicitor or solicitors on behalf of one or both parties. Where either one of both joint applicants have instructed a solicitor, the application must be made by the solicitor through the digital service, unless there is one solicitor acting for both applicants (in this instance the paper forms must be used).

Joint applicants agree between themselves how they are going to pay the fee for the application. Please note that if you are using the digital service, applicant one pays the court fee. When submitting paper applications, either applicant can insert their details on the court fee page. Joint applicants can apply for Help with Fees if both applicants have little or no savings and are in receipt of certain benefits or have a low income. Where this is only the case for one applicant, Help with Fees is not available for joint applicants.

Switching from a joint to a sole application

Applicants who have started a joint application but find themselves in a situation where they are unable to continue (due to the further deterioration of the relationship with the other party, or where the other party is not taking the necessary action to progress the application) can switch the application from joint to sole. This is only possible at conditional and final order application stage. In a paper application process, applicants need to complete form D84 to proceed solely at conditional order stage, and form D36A to proceed solely at final order stage. Where a joint applicant wishes to proceed as a sole applicant at final order stage, the applicant must give 14 days' notice to the other party of their intention to give notice to the court that they wish the conditional order to be made final. Online applicants need to follow the guidance provided by the digital system.



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Which documents do I need to apply for a divorce?

To apply for your divorce, whether online or on paper, you will need your original marriage certificate or a certified copy (a photocopy will not be accepted). If your certificate is not written in English, an approved translation is required.

If you are applying via paper, the court will scan your paperwork into the electronic system and keep your submitted documents. Paper application forms and accompanying documents should be sent to: HMCTS Divorce and Dissolution Service, PO Box 13226, Harlow, CM20 9UG.

Using the digital service

If you are making your application via the digital service, you need to create an account or sign in to begin. After the application is issued, all parties are provided with a reference number and an access code to sign into the digital service (this is the case for sole and joint applicants and respondents).

Applicants are requested to upload supporting documents e.g., their marriage certificate, during the application process and those with access to the digital system have permission to view all documents and orders uploaded in relation to their case. Both parties can keep their contact details private from their spouse if required.

Respondents can respond to the divorce digitally (where the initial application is digital); they are provided with access details (a 16-digit reference number and an 8-character access code) in the email and letter they receive inviting them to the application.

How long does the divorce process take?

For most people, the divorce process takes a minimum of 26 weeks (six months). A minimum period of 20 weeks is required between the start of proceedings and applying for a conditional order of divorce. An additional six-week period follows between conditional order and final order. Other arrangements in relation to finances and children may take longer to resolve.



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Will implications

When you divorce, certain provisions in your will might not work as you previously intended them to. You need to make a new will as soon as possible after you receive the final order to ensure your wishes are carried out in the event of your death.