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The Divorce Process - A Guide

This guide is intended to provide only a brief outline of the divorce process (undefended) in England & Wales. It should not be relied on as a substitute for taking our expert legal advice in the particular circumstances of your case.

For more detailed information and to find out more about how we at Chambers Fletcher can help you please contact Peter Wilkinson on 01606 780400.



The Process

Step 1

The first step in the divorce process is for one party (either the husband or the wife) to file a divorce Petition with the court. The party who files the Petition is called the Petitioner. The other party is called the Respondent. Where there are children involved the Petitioner must also file a form of Statement of Arrangements for Children. The Petition must be based on either: adultery, unreasonable behaviour, desertion, 2 years separation with consent or 5 years separation. We can advise you as to the most appropriate one in your case.

Step 2

Next the court will issue the Petition and post a copy of it to the Respondent, together with a copy of the Statement of Arrangements for Children.

Step 3

When the Respondent receives the divorce papers they should complete and return to the court an Acknowledgement of Service form in which they must state whether they intend to defend the case. There is action the Petitioner can take if the Respondent doesn't do this.

Step 4

The court will send a copy of the Acknowledgement of Service form to the Petitioner.

Step 5

If the Respondent has stated that they do not intend to defend the case the next step is for the Petitioner to file with the court an Affidavit in support of their Petition and a Request for a Decree Nisi date. If the Respondent has stated that they do intend to defend the case then they must file a defence (known as an Answer), but defended divorce proceedings are beyond the scope of this guidance note. For advice regarding defended divorce proceedings please contact us.

Step 6

Next a Judge will consider all of the papers and if he is satisfied that everything is in order the court will issue a Certificate of Entitlement and fix a date for the pronouncement of a Decree Nisi.

Step 7

After the Decree Nisi has been pronounced the next and last step in the divorce process is for the Petitioner to apply for a Decree Absolute, but this application cannot be made until at least 6 weeks and 1 day after the Decree Nisi has been pronounced. The Decree Absolute is basically a certificate of divorce and it's important to bear in mind that you are not actually divorced until the Decree Absolute is made. There may be good reasons (perhaps financial) why the Petitioner might not or should not make the application straight away and we can advise more specifically about this in the particular circumstances of your case.

And finally

Remember, the actual divorce itself does not deal with any financial claims which either party maybe be entitled to make against the other. There is a separate process for this and a separate court order is needed for this.

Please see our guide to financial claims on divorce and/or contact Peter Wilkinson on 01606 780400.