



# Separation & Divorce

Your complete guide to separation and divorce



**verisonalaw**

# Introduction

The process of divorce and separation can be a complex and emotional experience that will see you make unprecedented decisions regarding your finances, children and assets. This guide aims to provide you with the information you need to make the right decisions for you and your family.

## You should know...

- In the UK, neither party can remarry until a divorce is completed
- You can still be financially tied to someone after you divorce i.e liable for their debt
- Following divorce, you ex-partner may still be eligible to your estate should you pass away

Verisona Law's solicitors have been supporting individuals and families through separation for over 10 years. We are dedicated to getting the best possible outcome, whilst remaining a consistent and compassionate advisor for our clients.

Instructing Verisona Law means that you have the legal support you need, judgement-free.



## Sara Fildes

### National Head of Family Law

Sara is an established senior solicitor with over twenty years' experience in all aspects of family law.

Sara specialises in advising on all matters relating to relationship break down and family disputes and has particular experience in dealing with high net-worth separations, complex financial affairs and sensitive issues regarding children.

“*Verisona Law was professional , friendly, and set my mind at ease*”

Pat  
Family Law Client

# Getting a divorce

## What is the legal basis for getting divorced?

In order to get a divorce in England and Wales, you must firstly show that you have been married for 12 months (or two years in Northern Ireland) and that the marriage has irretrievably broken down for one or more of the following reasons:

- Adultery
- Unreasonable behaviour
- Your partner has deserted you for at least two years
- You have been separated for at least two years, and you both agree to the divorce
- You have been separated for at least five years, with no need for your partner to agree to the divorce.

You must also be living in the country when you apply for a divorce, or have been living in the country during the year before the application is made.

**A Separation agreement** - With the growing acceptance of divorce proceedings in recent years, a Separation Agreement is becoming less common. This is a process whereby you formalise your separation and includes details such as financial support and living arrangements for children. You remain married and cannot re-marry until you go through the divorce process. This might be more appropriate for those who can't afford to divorce yet.

## What is the process?

1. Divorce Petition - you must apply to the Family Court with a document called a 'Divorce Petition'.
2. The Court will then respond by sending this document to your spouse, who in turn must send back an 'Acknowledgement of Service' form to the Court.
3. You are then permitted to apply for the 'Decree Nisi', which is confirmation that the statutory criteria for a divorce has been met.
4. After six weeks and one day, you can apply for the 'Decree Absolute', which is the final Court order formally ending your marriage.

This process takes between four and six months, but can vary depending on individual circumstances and any financial claims that need to be settled or disputes that may arise.

# Your options

## Mediation, Arbitration and Collaborative Law

There are a number of different ways of getting a divorce that minimise the likelihood of court.

### Mediation

Mediation is a popular method of alternative dispute resolution (ADR) where an independent, professionally trained mediator helps you and your spouse to work out an agreement. It can be less stressful than going to court and is usually much cheaper.

We can advise and assist you through the mediation process and formally draw up any agreement reached into a Consent Order or separation agreement.

### Arbitration

In arbitration, an independent third party considers the dispute and makes a decision. The arbitration process is flexible (meaning that you can control the process and the timescale), confidential and can be very informal.

When agreeing to arbitration, both parties sign up to the rules of the arbitration scheme and agree to be bound by the arbitration award. You may nominate your own arbitrator or you can ask the Institute of Family Law Arbitrators (IFLA) to choose an arbitrator for you.

We can assist in a number of ways, either by assisting you through the Arbitration or by referring matters to an appropriate Arbitrator.

### Collaborative Law

The collaborative law process requires both parties to have a collaborative lawyer and endeavours to resolve any disputes during a series of meetings.

The process requires the parties and their solicitors to sign up to an agreement promising to try to reach an amicable agreement on all issues without going to court. If agreement cannot be reached then the parties cannot continue to instruct their collaborative lawyers and must instruct another solicitor to represent them in subsequent court proceedings. This encourages all parties involved to make the process work.

You're free to choose the process that best works for you and your spouse, if you'd like any further information on your options, or would like to discuss the process in more detail, then please don't hesitate to contact us.

## Childcare decisions

Generally speaking, parents usually come to a decision about the welfare of their children outside of Court. However, if the parents cannot agree, either parent can apply to the Court and the Courts will decide.

The Court's primary concern will be that of the children, and a new Child Arrangements Programme was introduced on the 22 April 2014 to help parents try to resolve any disputes over how much time the child spends with each parent. It is very unlikely children will have to attend Court even if disputes arise. For example, in England, the interests of the children are represented at Court by the Children and Family Court Advisory and Support Service.

## Child support

Both you and your partner are expected to continue to pay towards the cost of bringing up children after you separate. Often, that means one parent will pay the other. You can agree this between yourselves and a Solicitor will formalise or, if you can't agree, the Child Maintenance Service will be able to calculate the amount. However, the Court still deals with issues of capital paid for a child's benefit.

There are several things to take into account when calculating child support payments:

- How many children you have
- The income of the paying parent
- How much time they spend with the paying parent
- Whether the paying parent is paying child maintenance for other children

Deciding upon financial arrangements, especially when children are involved, can be a complex area and again we can assist in this matter by liaising with the other party and ensuring a fair agreement is made for your family's future.



## Step-children

It is possible for a step-parent to gain and continue contact with a step-child. Step-parents have the legal right to make decisions regarding the child's welfare such as medical treatment, relocation and education.

An application will need to be made to the court for a child arrangement order. A child arrangement order specifies the living and contact arrangements regarding a child. Often the judge will focus on the impact it would have on the step-child if the relationship with the step-parent does or does not continue.

It is important to be aware that a step-parent may also gain financial obligations towards the step-child after a divorce. Although, the child maintenance service (CMS) cannot force payment of child maintenance from a step-parent, the court can request continuation of financial provision for the child.

## Grandparent's rights

It's not uncommon for grandparents to want access to their grandchildren after Divorce. We can help discuss the access rights and visitation with grandparents at the time of Divorce, if you feel it might cause friction in the future.



“*Verisona Law were brilliant in helping me go through a draft order. Ever so friendly and personable.*”

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**Justine**  
Family Law Client

# Property and Assets

## Personal possessions

We generally advise that spouses should try to agree how to divide personal property. Where items are of significant value (i.e. jewellery, art and antiques), they are often negotiated with the help of a lawyer as the value of these assets may be a significant percentage of the marital estate.

## Gifts

You may have been given gifts or inherited significant sums of money from loved ones during your marriage. Whether a particular asset can be divided as part of a divorce settlement typically depends on how it is classified – is it considered separate property or marital property?

Separate property is often referred to as:

- Property owned by either spouse before the marriage, or obtained by either spouse after the Date of Separation.
- inheritances received by either spouse.
- Gifts to either spouse from a third party.
- Payments for pain and suffering in personal injury lawsuits.
- Property designated as separate property in an existing pre- or post-nuptial agreement.

## Property

We will consider your individual circumstances and advise on the best way to proceed. If you have children, we would suggest that you and your spouse consider what is in the best interests of the children when deciding on property arrangements.

We will advise on the best way to resolve issues over the family home as well as any other financial property matters, businesses and pensions.

 *Very prompt appointments. Very professional and sympathetic.*

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**Jill**  
Family Law Client

# Costs

## Who pays for the divorce costs?

It is open for parties to decide themselves before the 'Acknowledgement of Service' stage.

Regardless of how you choose to file for divorce, be it with a local solicitor or you go alone and do it yourself; there is still a court fee to pay.

If you want to obtain a legally binding financial order, which will separate you both financially, there is an additional court fee to pay, which is outlined below;

- £550 is the court fee to apply for a divorce
- £50 is the court fee to apply for a consent order

We offer a free telephone consultation where we can discuss your circumstances and give an outline of cost.

## Financial Support

Whether you are eligible for financial support will depend on a number of factors, such as how long you have been married, whether you have dependent children and your future earning capacity.

All your circumstances will be taken into consideration. Financial matters can be addressed alongside divorce proceedings and the parties should try to resolve these claims before a final divorce decree is granted.







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