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Divorce Procedure: Joint Application

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Why should you apply for a divorce jointly?

From a legal perspective there is no difference in outcome should you apply for a divorce on a joint or sole basis. A sole application will allow one person to have autonomy over the process, to some extent and it may be more appropriate in a high conflict situation or where it's necessary to file divorce proceedings without the other person knowing. Sometimes one party makes a sole application just because they think the other person will be difficult to engage.

However, it is preferable for divorce proceedings to be applied for jointly. This sets the scene moving forward that you will be working, together and resolving matters jointly and pragmatically.

How do you start proceedings jointly?

Before issuing the joint application, the draft application is sent to your spouse or their solicitors to check over and add any details that are necessary. The application is then sent back to you or your solicitors to review any additions. The draft application can go back and forth in this way before it is finally submitted to court to be issued. Usually, the solicitors for each applicant discuss the contents to avoid the application going back and forth.

When the joint application has been finalised, it is submitted to court together with an image of your original marriage certificate and payment of the court fee. A statement of truth is included in the application for both you and your spouse. This confirms that each of you attests that the contents are true and that you each understand you could be held in contempt of court if in fact something is not true and you knew it not to be true when you gave the statement of truth.

What happens once the joint application is issued?

On issuing the application, the court produces a notice of proceedings. This is sent to each applicant or to their solicitors. Each applicant must acknowledge receipt of the notice of proceedings within 14 days from the application being issued.

Applying for the first stage divorce order (conditional order)

A divorce order is made in two stages.

20 weeks after the divorce application was issued, you and your spouse can apply for the first stage of the divorce order, called the conditional order. In the application for the conditional order, you must each confirm that you wish to proceed with the divorce, and that everything in the divorce application remains unchanged or, if not, what has changed.

If one of you no longer wishes to apply for divorce or simply refuses to progress the divorce proceedings, the other applicant can make the application for a conditional order on a sole basis. The application then becomes a sole application and that applicant can then make the application for a final order of divorce. The spouse who is no longer participating in the proceedings is called the respondent from this stage of the proceedings.

Applying for the final order of divorce

Once six weeks have passed from the day the conditional order was made, you and your spouse can apply for the final divorce order. This brings your marriage formally to an end. However, it is usual to wait to apply for the final divorce order until any application for financial orders has been resolved or agreement has been reached about financial matters, and this has been made into a court order.

If financial matters have been resolved, but one of you at this stage no longer wishes to apply for divorce or simply refuses to progress the divorce proceedings, the other applicant can apply for a final divorce order. However, that applicant must first formally inform the other spouse of their intention to make the application. They can only apply for the final divorce order 14 days after they have informed their spouse of their intention to apply. This is to allow the other spouse an opportunity to apply to court to prevent the final divorce order being made until financial matters have been resolved.



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