



A survival guide to

Divorce or the dissolution of a civil partnership

advicenow

Making sense of the law and your rights



Who is this guide for?

This guide is for people who are facing divorce or the dissolution of their civil partnership. We know that this is one of the most stressful, confusing and painful times people go through. We want to help you find your way through it.

This guide will explain:

- how divorce and dissolution of civil partnerships work,
- what you can expect,
- what you need to think about,
- what the law says,
- how to come to agreements, and
- what help is out there to help you plan for the future.

You may have read or heard in the news that the government is changing the law that deals with divorce and civil partnerships. It is likely that the law will change to enable 'no-fault' divorces and to enable people of the opposite sex to enter into civil partnerships. Neither of these changes have happened yet. This guide deals with the law as it is now.

Getting legal help

Changes to how legal advice is funded mean that now most people cannot get free or subsidised legal help unless there has been abuse within the relationship. We know that many people will not be able to afford to get a lot of help from solicitors. This guide will explain where you really do need to get advice and where you might be able to manage by yourself. We also explain what help is available and the things to think about.

Ex-partner

The word 'ex-partner' in this guide means your husband, wife or civil partner. Most of the law is the same whether you are ending a marriage or a civil partnership, but some of the legal terms are different. Where there is a difference, we'll make it clear.

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It was extremely stressful to start with. I wanted to get everything sorted straight away and couldn't bear the uncertainty of where I would live or how things would work. It all got a bit easier when I accepted that it would take a few months before I would know what the future might look like. **Mark**

Things to understand

Coverage of celebrity divorces often give a false picture of the way that divorce works. Many people assume that the law will do some things that it can't or doesn't. Here are some points to remember:

- You are unlikely to have to go to a court hearing. If you can come to agreements about the children, money and property, it all happens on paper.
- The law isn't biased. It doesn't favour women over men or the other way round. For example, either member of a couple can be ordered to pay maintenance to their ex-partner if their ex-partner has been dependent on them for money. In practice, more men are likely to pay maintenance than women, but this is because men typically earn more than women.
- There are no set formulas for working out who gets what. You need to try to agree between you (on your own or with the help of a mediator or solicitors) what happens to the money or the home. If you do take it to a court hearing, the court looks at what you both need for the future, not what you have put in.
- You can only divide what you have – so most people find they have to get used to having less money.
- You can't apply for a divorce jointly, even if you both agree that the marriage/civil partnership is over. One of you has to divorce the other, and you have to use one of five reasons. Who applies for the divorce does not affect how you divide your stuff or what arrangements you make for any children. (We explain more about this on **pages 12–13**.)
- There are no rewards for good behaviour or punishments for bad. 'Past behaviour' is listed as one of the criteria for deciding how the money is divided, but generally speaking, it doesn't work like that. It only counts if it has been really, really bad or if someone is being dishonest or trying to hide money and assets from the court.
- It's very expensive to fight all the way about things using solicitors in court hearings. When this happens it's not unusual for it to cost around £25,000 each. So it is best to come to agreements where you can and to use solicitors wisely (we explain how on **pages 17–19**) and avoid court where you can.
- You need to have been married or in a civil partnership for a year before you can apply for a divorce or dissolution.
- Divorce or dissolution usually takes at least 6 months. If you cannot agree on how to divide your home and money then it can take a lot longer.

Someone advised me to start writing down how I was feeling when I got really angry with my ex. It was a really helpful outlet and meant I didn't keep dumping all my anger on my friends, or worse, my grown up children. And it was quite uplifting to re-read later, it showed how far I'd come in this difficult process. **Jane**

Do you want to divorce straight away or do you want to just separate for now?

If you have just separated (or are in the process) you may not want to divorce straight away. Maybe you want to see if there's any hope for the relationship or maybe you want to take your time before you have to deal with all the added stress of the divorce process.

You don't have to divorce just to get arrangements for the home and money sorted (or for the children if you have them); you can make a separation agreement. You can get help to make separation agreements from mediators or solicitors and they can deal with as many things as you want. You should get legal advice before you sign them however as they may have long-term legal implications (for example, the decisions you make will be taken into account if you do eventually divorce).

If you are separated for two years before you divorce, one of you doesn't have to blame the other for the end of the relationship in the court papers. This can help avoid a lot of sadness and anger. See **page 13** for more details.

If you don't want to get divorced, (perhaps for example, for religious reasons) or you can't get divorced yet because you have been married less than a year, there is something called a 'judicial separation' or a 'legal separation'. This process works very like divorce (and costs the same) except that it doesn't end the marriage or civil partnership. This means that neither of you can marry again or form another Civil Partnership. For this reason, judicial separation is very rarely used these days.

When does separation start?

Separation starts the moment you decide to no longer live as a couple. Sometimes couples can't afford to move out of a shared home straight away when they split up. But you can share a home and still count as being separated as long as you don't live together as a couple. This means not sleeping in the same bed, not cooking or shopping for each other, not washing each other's clothes, and not paying for things as a couple.

If you are no longer living as a couple like this, you can also claim any benefits or tax credits you might be entitled to as a single person. (See **A survival guide to benefits and living together** for more details.)

When we split up, I wanted to get divorced straight away. I just wanted it over with. But he didn't want to. We agreed to let the dust settle first – and actually I think it made coming to all those agreements a lot easier. **Karen**

Annulment

You may not want to get a divorce for religious or other personal reasons. If so, you may be able to get an annulment, which is another way to end your marriage (or civil partnership). But, in reality, it is very rare that people can meet the legal rules to get an annulment. Reasons you can give include:

- being too closely related,
- already being married, or
- being too young to marry (under 16).

For more information on annulment go to www.gov.uk/how-to-annul-marriage

How divorce works

How divorce works



Many people think of divorce or dissolution as ending the marriage or civil partnership, dealing with issues like how to divide the money or property, and arrangements for the children all in one go. But these are really three distinct processes. They are all dealt with separately, but are often all going on at the same time. At some stages, how far you have got with one bit affects the others. See the table below.

Of course, if you don't have children, or you can agree what arrangements you

are going to make for them (for example, who they are going to live with and when they are going to see the parent who isn't looking after them day to day), then you don't have to worry about the legal process for deciding arrangements for them.

If neither of you have any assets such as property, savings, investments, or pensions, then you don't have to worry about the legal process for dividing money or property.

Arrangements for the children	Ending the marriage/civil partnership	Dividing the money or property
You can start these proceedings at any time before or during the divorce.	<p>The Divorce or dissolution form is given to the court</p> <p>↓</p>	You can only start these proceedings once the application for divorce has been given to the court.
	<p>Decree Nisi/ Conditional order</p> <p>↓</p>	The court can't make a final financial order before the Decree Nisi/Conditional order is issued.
	<p>Decree Absolute/ Final order</p>	The financial order can only take effect after you have been given the Decree Absolute/ Final order.

If you have experienced domestic abuse...

If you have experienced domestic abuse, it is a really good idea to talk to a solicitor about your options as soon as possible. There are things you can do to protect yourself from further abuse, including getting a court order to prevent your ex-partner coming into your home or from harassing you. You can find a family solicitor near you on the Resolution website:

www.resolution.org.uk/findamember

If you call around you may find one who can give you a free first appointment.

Women can also get free advice from the Rights of Women national advice line – **020 7251 6577** (telephone) on Mondays to Thursdays 7pm–9pm and Fridays 12noon–2pm.

Women can also get help from the 24 hour national domestic violence help line – **0808 2000 247** or go to **www.nationaldomesticviolencehelpline.org.uk**

Men can get practical advice and information about accessing specialist help from Men's Advice Line **0808 801 0327** (free from landlines and most mobiles) Monday to Friday 9am–5pm or email **info@mensadvice.org.uk**



What do you need to decide?

On these pages we look at the things you need to decide and on **pages 17–19** we look at ways of deciding them, either on your own, or with the help of solicitors and mediators, or if it cannot be avoided, going to court.

If you have children

If you have children you'll need to agree:

- 1 Where the children will live
- 2 When and how you will ensure they have plenty of time with both parents
- 3 How you will continue to pay for all the things they need.

Sometimes where the children will live and with who is obvious to you both, but often this is a really hard decision. We've produced a separate guide for parents to help you to agree arrangements that work well for everybody, and to help you find a solution if that is not possible. Please see **A survival guide to sorting out arrangements for your children**.

We've also produced a separate guide – **How to apply for a court order about the arrangements for your children without the help of a lawyer**.

I was very against the idea of moving. I didn't see why I should lose my home; it wasn't me that wanted to end the marriage! But looking back on it, I think it helped create the fresh start that I needed. **Lelia**

Money and property

Where you will each live

Some of the things you will need to think about are:

- Will one of you stay in the property or will you both need to move?
- If the home is rented or owned only in your ex-partner's name, it may be that you need to take action to secure your rights to stay. What you need to do depends upon your situation.
- If the family home is going to be sold, how will the money from the sale be divided?
- Will you do it all at once or in stages? Some couples make a short-term and a long-term agreement to fit in with the needs of the family. For example, some couples (who can afford to) agree that one partner will stay in the home with the children until the children have left school, and then sell the house and divide the proceeds.
- Remember even if you move out, if your name is still on the tenancy or the mortgage you are still legally responsible for paying the rent/mortgage.

Housing law is extremely complicated; you should definitely get advice about what your rights to stay are or what the implications of leaving are before you make any decisions or agree to move out. You can get advice over the phone from Shelter's free housing advice line – see **More help and advice**.

What do you need to decide?

How you will divide your money and other property

The first thing to do is to make a full list of:

- Your property, savings, pensions, investments, car etc. that you own jointly and individually,
- What you each earn, and
- Any debts.

Before you start making decisions about how to divide them, including the family home, it is a good idea to get advice from a family law solicitor, even if you are going to do everything else yourself. Take the full list of assets with you.

The solicitor will be able to tell you what you should be trying to negotiate for so that you don't leave something out or make a mistake. It is best to agree how to divide smaller items (like furniture, the TV, the DVD collection and so on) between yourselves. Be aware though, that a family law solicitor will not be able to give you proper advice without seeing all your ex-partner's financial information too.

You can find a good family law solicitor near you who believes in a constructive, non-confrontational approach on Resolution's website (see **More help and advice**). It's ok to phone around and compare prices. Some will offer one-off help for a fixed price; others may offer a first meeting for free.

Some of the things you will need to think about beforehand are:

- How you will divide any joint assets like property, savings, shares, and any pensions.
- If there will be a transfer of property from one of you to the other.
- How you will you divide the contents of the family home.
- What you will do about other assets, such as the car.

- How will you deal with family debts?
- If one of you will pay maintenance to the other. (This wouldn't be common if you have only had a short marriage/civil partnership or if you earn similar amounts.)

Making a Will

If you died tomorrow would you want your ex to inherit everything that you own?



If the answer to that is 'no' or 'I don't know' now is the time to get some advice on making a Will.

If you don't have a Will and you are still married (but separated) anything you own on your death will go to your ex in line with the intestacy rules. For more information see: www.gov.uk/inherits-someone-dies-without-will

If you have a Will that leaves everything you own to your ex this Will apply until you get your Decree Absolute in the divorce process.

If you cannot agree how to share out what you own between you, then see our guide **How to apply for a financial order without the help of a lawyer**.

We sorted out all the smaller stuff and furniture ourselves with the help of a packet of coloured stickers. We took it in turns to choose something so we each got the things that were most important to us. **Simon**

What do you need to decide?

While it's all going on you have to be extra kind to yourself. Give yourself a few treats – they don't have to be expensive. I gave myself a treat every time I'd done something really hard. **Kayla**

How you will ask for a divorce

The last things you need to decide are:

- Who will ask for the divorce
- What reasons they will give in the legal papers.

In England and Wales, you can't get divorced just because your marriage or civil partnership is no longer a happy one. You are only allowed to get divorced because your relationship has broken down and can't be saved for one of five reasons. So you have to fit what happened in your relationship into one of those five reasons (the law calls these 'facts').

Similarly, you can't ask for a divorce together – one of you has to divorce the other. This is difficult because it often feels like one of you is 'blaming' the other for the end of the relationship, and of course these things are rarely all one person's fault (indeed, it's often not really anybody's fault). It is best to bear in mind that this is only for the divorce papers, and that there is no way for the person asking for the divorce to mention their own failings that may have contributed to the end of the relationship. Also remember that what you say when you ask for a divorce rarely makes any difference to how money or property will be divided, or where the children will live. Only you, your ex-partner, the court staff, and any lawyers you use will see the divorce papers.

The law refers to the person who asks for the divorce as 'the applicant' and the other person as 'the respondent'.

You don't need to agree who will ask for the divorce and what they will say about the reasons, but it is best to if you can. It will help your divorce to move as smoothly and quickly (and cheaply) as possible, and removes the possibility of your ex-partner fighting the divorce which would complicate matters and make it far more expensive.

It is particularly useful to show a bit of sensitivity if you are using 'behaviour' as the reason for the divorce. It can all feel very hurtful when written down and people worry about how it looks (even though ordinarily only the people involved in the case see the papers). Use non-inflammatory wording and agree it beforehand if you can. It's not always possible; sometimes people are too angry or upset to discuss it.

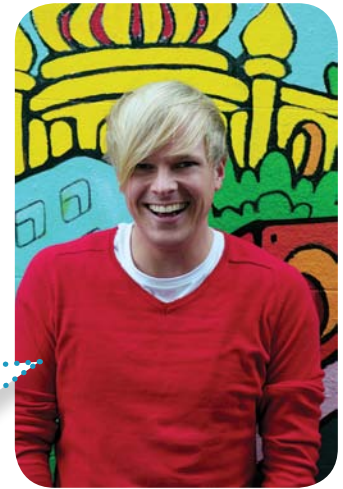


Another option is to make a separation agreement now and divorce based on two years' separation with consent once you have lived apart for long enough. To do this you need to live apart for at least two years and your ex-partner must agree in writing to the divorce. This avoids the need to say anything about adultery or detail one person's behaviour and so can help keep things more amicable. We explain what a separation agreement is on **page 5**.

What do you need to decide?

What do you need to decide?

It's ridiculous that one of you has to 'be divorced' by the other. It felt like he was asking me to take all the blame for the end of the relationship. But you can't write 'we argue all the time and make each other unhappy'. My ex and I discussed flipping a coin for who would ask for the dissolution. In the end, we decided he would divorce me and we agreed that he would say I worked too much, stayed up too late, wouldn't spend time with him or his friends, shouted too much, wasted our money, and didn't do enough housework. It took all the hurt and anger out of it. **Peter**



Reasons for divorce or dissolution

Adultery

This means that your husband or wife has had full sexual intercourse with a person of the opposite sex. If you go on living together for more than six months after you have found out about it you may not be able to use this reason, because you also have to show the court that you find it 'intolerable' to go on living together. You don't name the person like you did in the old days – it just complicates things. This reason is only available to married couples; you cannot end a Civil Partnership using this reason.

Behaviour

This used to be known as unreasonable behaviour, until a big divorce case in summer 2018, and so you may still hear people call it that. If you use this reason, you need to put down examples of your ex's behaviour and explain the impact it had on you. You also need to say why it would not be reasonable for the court to expect you to stay married. There is no set number of examples you need to put in but you could aim for 5–8 examples. This is not to hurt your ex, but to meet the legal requirement so that the Judge who reads the application can approve it. Examples might include your ex refusing to spend time with you, spending money on things you couldn't afford, or being verbally or physically abusive to you. About half of all

divorce applications use this reason. If you feel happy to, it might be a good idea to talk to your ex about the examples you give before you send the form to the court. But, if you have been a victim of domestic abuse of any kind, it will probably not be sensible or even safe to do this.

Desertion

This means that your ex has left you against your will, and you have been living apart for at least two years. As you can get a divorce if you have been living apart for two years and you both agree, this reason is not used very often.

Two years separation, with consent

This means you have been living apart for two years and both agree to the divorce. During the period of separation, you can have had up to six months trying to live together again but it doesn't count towards the two years. Even though you both agree to divorce, one person still has to divorce the other; you can't ask the court for a divorce together.

Five years separation

If you can't get your ex-partner to agree to a divorce and your situation doesn't fit into the other reasons you may have to wait until you have been apart for five years and then use this reason. Your ex-partner may still be able to block it by trying to prove to the court that the divorce would cause gross financial or other hardship, but this rarely happens.

What do you need to decide?

What do you need to decide?

If you disagree with the reasons given for the divorce...

The person who didn't ask for the divorce can refuse to agree to it. This is called 'defending the divorce application'.

This doesn't often happen because it is expensive and usually pointless. After all, it is virtually impossible to argue that your marriage or civil partnership hasn't broken down when your partner has said it has. There are some cases where the person who didn't ask for the divorce feels so strongly that the marriage has broken down as a result of the other person's actions, rather than their own, that they ask for a divorce too and give their reasons. This is called a 'cross-application'.

However, in most cases, it's better to allow the divorce to go ahead no matter how unfair the reasons given. This is because it is cheaper and it doesn't usually matter what reasons are given – it rarely affects arrangements for the children or how the money or property is divided, and usually the papers aren't going to be seen by anybody not involved in the divorce.



Looking to the future

Where are you going to live?

People often want to stay in the home, but it may not be possible. Finding out about something doesn't commit you to it, but it does enable you to make an informed decision about what is going to be best for you.

If you rent your home:

- Look into the cost of renting somewhere else. Could you reduce your costs by moving to a smaller home, or moving to a cheaper area?
- It may be worth seeing if any council housing or housing association accommodation is available in your area. Some housing associations help particular groups, for example families with a low income or single women. Waiting lists are usually very long so it often isn't an immediate solution, but it could help to reduce your costs and give you a secure place to live in the long-term.
- If you have some savings (or will have after the divorce is completed) it may be worth exploring if one of the government's Home ownership schemes would help you. You can read more about them on Gov.uk – www.gov.uk/affordable-home-ownership-schemes/overview

If you own your home:

- Check how much is outstanding on your mortgage including any early redemption fees. Phone your mortgage company and ask them.
- Ask three estate agents to tell you how much your home might sell for if you put it on the market. Then you can take the middle value. Remember that you will need to take off the costs of the sale and the costs of you

both moving to work out what you would be left with.

- Check out your local property market to work out how much another home would cost.
- Consider what is available to rent as well.
- Investigate the possibility of getting a new mortgage. How much would you be able to borrow by yourself and what would it cost you?
- Remember that purchasing any residential property in England over £125,000 will incur Stamp Duty Land Tax (SDLT) which needs to be budgeted for. For more help with this go to the government's stamp duty calculator at: www.tax.service.gov.uk/calculate-stamp-duty-land-tax/#/intro In Wales a different tax, called Land Transaction Tax, applies. For more help with this, go to: <https://beta.gov.wales/land-transaction-tax-calculator>

Budgeting

Stretching your joint finances to cover the cost of two homes is going to be tricky. Both of you are likely to end up (at first) poorer than you were. If you are still at the stage where you are considering your options it will be helpful to think through the money side of things.

- Do you know how much you spend, and on what? Most people only have a hazy idea. Use our **Family budget sheet** at the back of this guide to help you work out where it all goes. You may need to keep all your receipts for a few weeks to check what you are spending on all the little things that mount up.

Looking to the future

- Council tax will be reduced by 25% if you are the sole adult in the household. You will need to contact your council tax office for the reduction.
- Check if you might be entitled to benefits or tax credits now you are a single person. Turn 2 Us have a very helpful benefits calculator on their website: <https://benefits-calculator.turn2us.org.uk/AboutYou>
- Work out how much child maintenance you might be paid or be expected to pay using the calculator on www.familylawpartners.co.uk/what-we-do/child-maintenance-calculator
- Work out where you could cut your costs. You might rearrange some of your debts, spend less on some things, or find extra ways of earning money.
- If your debts are a problem, see if you can get debt advice from your local advice agency, National Debtline <http://nationaldebtline.org.uk> or Step Change <http://stepchange.org.uk> Step change also have a useful online tool called Debt remedy. See More help and advice.



While I was going through my divorce I started to take lots of regular exercise, for the first time in my life – it made me feel much less stressed and helped me to sleep. **Esme**

Your future career

If you have been working part-time or not working up till now you may need to think about getting back into the job market. Now is a good time to think about what you want to do.

- Think what you will want to do in five years time. Do you need some new skills?
- Do you want to change your career path?
- What training or qualifications will you need?

If you need to plan for this, or budget for it, now is the time to do it. Your local Jobcentre plus adviser can tell you about what help is available for you to find new work and any financial help you could get with moving back into work. Gingerbread has some useful factsheets about going back into work or further education here: www.gingerbread.org.uk/information/factsheets-a-z

How to agree

If you want the divorce over with as quickly and smoothly as possible, it's best to come to as many agreements as you can rather than take each issue to court. In fact, before you can go to court over the money or property or arrangements for the children, you have to show the court that you have met with a mediator first and considered mediation, or tried to. This is because the government thinks it is usually better that you decide these things between yourselves if you can. See **A survival guide to using family mediation after a break up**.

You can come to agreements:

- 1 between yourselves, or
- 2 using a family mediation service, or
- 3 using solicitors to negotiate on your behalf.

You can of course use different methods to agree different things. Many people can agree arrangements for the children between them, but need help from solicitors to agree what to do about money and property.

However you do it...

- you will both need to compromise.
- it is sensible to both take a bit of legal advice first, even if you will be doing everything else yourself. (If asking for advice about how to divide the money and property, you need to be able to tell the solicitor, exactly what you and your ex-partner own, jointly and individually.) See **More help and advice** for details of how to find a good family law solicitor.

Option 1

Agreeing it yourselves

Agreeing things without help is far from easy. To start with, one or both of you may be too upset and angry to discuss it. You will need to find ways to discuss the issues without your emotions getting in the way. It may not be possible to agree a fair outcome by yourselves for example if you feel bullied or controlled by your ex.

We suggest:

- 1 Agree in advance with your ex-partner how and when you will try to come to agreements. For example, will you find a date to meet on neutral territory, do it over email, or will you use a family mediation service? Nobody likes to feel ambushed and you have a much better chance of agreeing something if you both arrive at it feeling that you have chosen this approach and you want it to succeed. Arranging a time to talk in advance also gives you time to better plan what you want to say.
- 2 If you have a lot to discuss, try and agree what is urgent and deal with that first. You may have different priorities, but dealing first with the things that are most worrying for each of you can make things go much more smoothly.
- 3 If you have to discuss arrangements for the children and finances consider dealing with them separately – maybe at separate meetings.
- 4 Many people just want to sort everything out immediately so at least they don't have to deal with the uncertainty. But things often go more smoothly if you take a little bit of time. For example, it can take time to get all the information you need,

How to agree



How to agree

to be able to agree what to do about the house or other money. The best outcome will take some time to sort out.

- 5 Before you discuss it, think about the outcome you would like and where you can be flexible. If you know what your ex-partner might feel about that, think if there's anything you can do to make it more appealing for them.
- 6 Try to stick to the point as much as you can. If you are meeting in person, having the main points written down on a piece of paper can be helpful and can give you something to focus on if you feel yourself starting to get upset or angry, or if your ex-partner strays from the point.
- 7 If you try to do it over email, do bear in mind that it is even easier to take offence when you can't see expressions or hear tone of voice, so keeping yourself calm and sticking to the point is even more important.

My ex and I sorted out quite a lot of stuff over email. The best piece of advice I was given was to take two days before replying to any email. That gave me time to get really angry and calm down again before I said anything. **Colvin**

Option 2 Using Family Mediation

This is where you meet together with your ex-partner and a mediator, who has been properly trained to help you put your feelings aside and focus on the issues that need to be sorted out. The mediator won't take sides or decide what is fair for you – they are simply there to help your discussions.

Mediation is almost never suitable for couples where there has been domestic abuse in the relationship. A mediator can help you with this.



Many people say that a positive side-effect of mediation is that it helps them to communicate again. This is extremely valuable if you have children together.

Most people have to pay for family mediation. Prices start at around £80 each for each session and most people come to the agreements they need in 2–4 sessions.

When you are looking for a mediator, don't be afraid to phone around and compare prices. (Whilst the fees are usually charged per person, it is open to you and your ex to decide who will actually pay or how the cost will be shared.)

If you are entitled to legal aid (that is help from the government to pay for legal advice) you can get mediation, and a small amount of legal advice alongside it, for free. You can find out if you are likely to be able to get it by using the legal aid checker – www.gov.uk/check-legal-aid

If you make progress with your ex in mediation, it would be very sensible to get legal advice on the agreement, if you can, so you can be sure it would result in a fair outcome for you. Remember, the mediator can't tell you what is fair. The mediator is there to try and help you both reach an agreement not say if it is fair for you or your ex.

Agreements between you made in mediation are not legally binding so you can change your mind. But, if you stick to the agreement for some time and then change your mind you may struggle to get your ex to agree to changes. You may need to go back to mediation to work out a new agreement.

For more information about Family Mediation and how to find a good mediator, see **A survival guide to using family mediation after a break up**

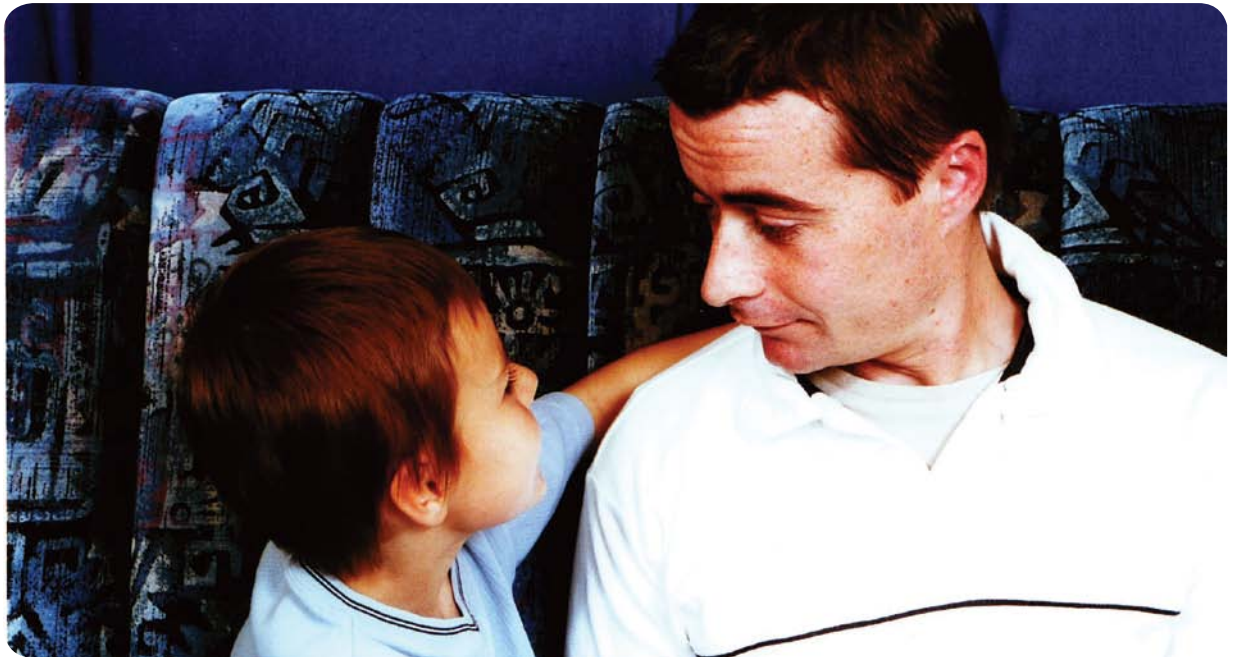
Option 3 Using Solicitors to negotiate for you

Your other option is to use a solicitor to negotiate on your behalf. This is likely to be quite a bit more expensive than mediation. It can still be relatively quick and avoids all the expense and stress of going to court. It can feel a lot safer to have an expert on your side, making your case for you. If you decide to use a solicitor, it is essential that you find a solicitor who specialises in family law. You can find good family law solicitors who believe in a constructive approach on Resolution's website: **www.resolution.org.uk/findamember** Don't be afraid to phone around and compare prices.

If you are entitled to legal aid (that is help from the government to pay for legal advice) it will be much cheaper or even free in certain circumstances. You can find out if you are likely to be able to get it by using the legal aid checker – **www.gov.uk/check-legal-aid**

How to agree

When you have reached agreements...



When you have reached agreements

When you have reached agreements about any children you have, it is useful to write down what you have both agreed. If you have had the help of a mediator or solicitor they will record what you have agreed for you in a 'Memorandum of Understanding', a written agreement you both sign, or a simple letter. You won't usually need to do anything more formal – you just keep to the agreement. If arrangements aren't working for any reason, you just negotiate changes. You both need to be prepared to be flexible as, particularly as the children get older, you will have to move things around to fit in with new clubs they want to join or social events they don't want to miss.

When you have come to agreements about your money and property, it is best for each of you to see a solicitor separately. She or he will check the agreement for you, and help you ensure that neither of you can make another claim in the future. They will usually advise you to turn it into a court order, which is legally binding.

If you can't agree on some issues...

If there are issues around money and property or arrangements for the children that you really can't agree on, you may have to ask the court to decide. Sometimes starting the court process helps to get your ex-partner talking and focussed on the need to make agreements.

Remember that the court will almost always want evidence that you have met with a mediator first and considered mediation, or tried to, before they will consider making a decision for you. See **A survival guide to using family mediation after a break up** for more details about these rules.

If you need to go to court you have the option of:

- Getting a solicitor to help you make your case (if you can afford to), or
- Doing it yourself.

These days many people find they cannot afford to have a solicitor with them at court.

The difficulty is that using solicitors to take matters to court can be very expensive. The legal fees can quite easily end up being more than the value of what you are arguing about. Even if the matter does end up in court, the judge will still encourage you to agree the issues with your ex-partner at each stage as this is always the preferable solution.

If you do end up going to court you may well find you cannot afford a solicitor or can only afford to ask the solicitor to help with certain bits of the process. It is sensible to think carefully about what you ask the solicitor to help with. The more you are able to agree with your ex the more money you are both likely to save on fees.

Doing it yourself is unfortunately not easy because it is quite a complicated procedure.

We explain how to apply for a court order about the arrangements for your children without the help of a lawyer in our guide **How to apply for a court order about the arrangements for your children without the help of a lawyer**.

We explain how to apply for a financial order without the help of a lawyer in our guide **How to apply for a financial order without the help of a lawyer**.

I learned to block the endless replays of what happened in my head. You have to police your thoughts. It is difficult to do at first, but it comes with practice and it is a great help for moving on. **Murray**



If you can't agree on some issues

If you can't agree on some issues

If you are using a solicitor

Cut your costs by:

- Reading our guides that you can find on **Advicenow**.
- Shopping around to compare prices. If you are looking at fixed price packages, check what they include and if they are suitable for your circumstances. Check whether prices quoted include VAT.
- Being organised – ensure you don't waste time by having all the information your solicitor needs to hand (information about your finances etc)
- Preparing for conversations – have a list of everything you need to discuss and avoid going off the point.
- Avoiding sending letters, emails or telephoning your solicitor unnecessarily. If you are not on a fixed price package, solicitors will charge for receiving all calls, letters and emails from you as well as the calls, emails and letters they make and send.
- Use your solicitor sparingly by agreeing what tasks you can do and what your solicitor is going to do. For example, people usually divide up the contents of the home or arrange the details of when the children will see the parent they don't live with, between themselves.
- Making sure you are clear if there will be any expenses you'll have to pay on top of solicitors fees and court fees (for example, for any expert reports or for a barrister's fee for representing you in contested court hearings).

How to get the divorce – do you need help?

There's quite a lot of complicated legal paperwork involved in getting a divorce (see **The Process** for who sends what where). You have some options about what kind of help you use.

Option 1

Use a family law solicitor

This is probably the easiest route but of course many people will struggle to afford one or would prefer to save their money.

Some people on a low income who have been hurt or abused by the partner they are divorcing may be able to get help to pay for legal help. Check if you are likely to be able to get it by using the legal aid checker – www.gov.uk/check-legal-aid

Some solicitors have changed how they work and now offer to help you with the paperwork for a fixed fee rather than charge you by the hour (this is often only available for less complex cases). This makes it easier to work out how much it will cost in total. If you are the person asking for the divorce, you have to do the bulk of the paperwork and so should expect any fixed fee you have to pay to be substantially higher than a fixed fee service for the person who is being divorced.

Some solicitors offer a fixed fee service, which does it all using email or over the phone, which reduces your costs further and better suits some people.

Beware of non-solicitor divorce websites

There are websites that offer cheap help with your divorce because a 'case manager' helps you, rather than a solicitor. They may have no qualifications, no experience, and, importantly, no insurance. They often cannot give you legal advice (so they cannot help you avoid mistakes that could have serious long-term consequences) and you also cannot complain about them to the Solicitors Regulation Authority or the Legal Ombudsman. So if it all goes wrong or they act dishonestly it is hard to do anything about it. They are usually easy to spot because the website will talk about 'your Case manager' or something similar rather than 'your solicitor', and won't say that they are regulated by the SRA (Solicitors Regulation Authority). Other services suggest that they are free or very cheap, but only provide very basic information for free and then charge for anything more helpful – make sure you are clear what is included in any service and what you will have to pay extra for.

You may also come across McKenzie friends online. McKenzie friends can offer practical help and support with legal problems but are not legally trained. So, they cannot give legal advice on your case. They are allowed to charge for their services and can attend court but not speak on your behalf. They are not regulated by the Solicitors Regulation Authority. So, if it all goes wrong or they act dishonestly it is hard to do anything about it.

How to get the divorce – do you need help?

Option 2

Do it yourself

If you are doing it yourself, use Advicenow's free step by step guide **How to get a divorce or end a civil partnership without the help of a lawyer.**

Court fees

Remember that even if you do everything yourself, one expense most people cannot avoid is the court fees. For information about Family Court fees, when to pay them and how much they are, see: **www.gov.uk/government/publications/fees-in-the-civil-and-family-courts-main-fees-ex50**

You may not have to pay a fee at all or you may only have to pay a reduced fee under the 'help with court and tribunal fees' system (also sometimes called by its old name the 'fee remission system').

You will not pay anything if you can prove that you get Income Support, income-based Jobseeker's Allowance, Pension Credit guarantee credit, Universal Credit with gross annual earnings of less than £6,000 or income-related Employment and Support Allowance as long as your savings or other capital don't exceed certain limits. You apply for 'fee remission' by completing form EX160A. You can find this form at:

www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees

On the same page you can find form EX160A – a guide for filling in EX160 and form EX160C – a calculator to see if you can get help.

If your local court has a Public Support Unit (PSU) you can go there for face-to-face help with getting and filling in this form. Remember to take your paperwork about your income and outgoings with you. You can find your nearest PSU here: **www.thepsu.org**



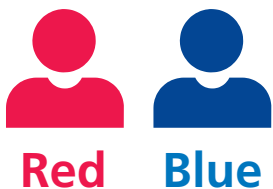
How to get the divorce – do you need help?

The process

Whether you are using a solicitor or doing it yourself, it's useful to have an understanding of the process so that you can see how you are progressing through it.

No matter what reason you are giving for the end of the marriage or civil partnership, the process is always the same (provided that the other person doesn't try to defend the divorce, refuse to agree to it or ask for a divorce themselves for different reasons).

In this case, Red and Blue have decided to get a divorce. They have agreed that Red will ask for the divorce and will use the reason of behaviour. They have agreed what examples Red will give of Blue's behaviour and Blue has agreed not to defend it. If Red and/or Blue have solicitors, some of the steps below will be taken by their solicitor, and some of them will need to be dealt with by Red or Blue personally. This is how the process works, step by step.

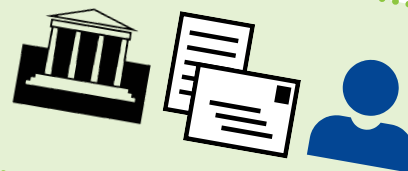


START

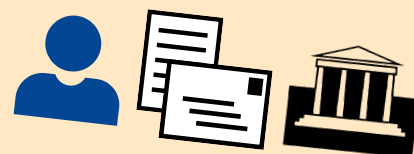
1 Red (or Red's solicitors) sends or takes the divorce petition to the Court, and pays a court fee. (If Red has no solicitor Red can now do this part online.)



2 The Court checks the papers, gives the case a number, and sends the papers to Blue.



3 Blue completes the answers to the questions on the acknowledgement of service form and sends it back to the Court. This confirms that Blue has received the divorce petition and says whether they're going to object to it or not.



The process

4 The Court photocopies the acknowledgement of service form and sends Red a copy.



5 Red (or Red's solicitors) completes the correct form to ask the case to go ahead. This is called the statement in support.



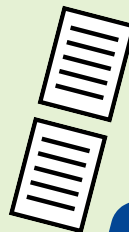
6 The forms are sent to the court and Red asks the court to fix a date for the Decree Nisi (or Conditional order if it is a civil partnership).



7 The District Judge reads the file. If it is all in order, the court fixes a date for the Decree Nisi/ Conditional order.



8 Letters confirming this go to Red and Blue.

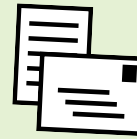


The process

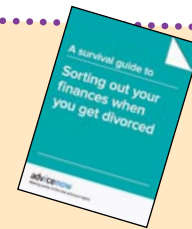
9 The Decree Nisi/Conditional order is issued. A copy is sent to both Red and Blue.



10 Six weeks and one day after the Decree Nisi/Conditional order was issued, Red can apply for the Decree Absolute (or Dissolution order if it were a Civil Partnerships) by sending a form to the Court. If Red does not apply for the Decree Absolute/Final order within 3 months, Blue can apply. Red has to be told about this and can oppose it.



11 If there are finances to sort out it is sensible to get legal advice before applying for the Decree Absolute or see our Guide 'A survival guide to sorting out your finances when you get divorced'



12 The Court checks the file and issues the Decree Absolute or Final order, sending a copy to both Red and Blue.



13 They are finally divorced.



FINISH

The process



Whether you have a solicitor or not you will need to be organised.

- Keep the case number allocated by the court safe and handy – you will need to quote it every time you communicate with the court.
- Get a ring binder and stick all the letters, emails, notes of phone conversations you receive about the divorce in it, in the order they come.
- Keep copies of any letters or emails that you write in there too.
- Get a separate folder to keep your court documents in. Again, keep them in the order they come. You can get an official copy if you lose them, but you'll have to pay for it.
- Put key dates in your diary or calendar to remind you what to do and when.

Dealing with your feelings

Divorce and separation, like bereavement, take a long time to get over. You need to get used to no longer being part of a couple and your future looking different. It won't come right overnight.

People often expect you to bounce back once you've got your divorce sorted but feelings don't fit tidily into legal processes. For most people it takes about one to two years before they start feeling okay again. Bit by bit it should start getting better. Children will also need time to adjust.

My ex-partner and I made a pact to try not to criticise each other in front of our children. I think it helped them to feel that they didn't have to get involved – and, in truth, I think it helped us. **Khal**



There are lots of places where you can get some help to recover from the effects of divorce and separation. You can't always do it on your own. Some of the places you might turn to are:

- Your friends.
- Your GP. They may be able to offer you counselling or put you in touch with local self-help groups.
- Local counselling services, online or ask for recommendations.
- If you are religious, you may find very helpful groups connected to your faith community.
- If you have small children, your health visitor should be able to put you in touch with local services that may help you.
- Local supportive groups. These might be for lone parents, or divorced or separated adults. Gingerbread (www.gingerbread.org.uk) has local groups all over the country for lone parents.
- Online forums and websites – for example Gingerbread, Divorce Club or the divorcemagazine.co.uk.

Dealing with your feelings

Things you can do to help your children

- Explain to the children that this is between the adults. It is not their fault and they don't have the power to change what is happening. Explain that you know that this is hard for them and you are sorry. (Depending on the age and understanding of your children you may need to say this again and again)
- Remind them that you both still love them and you will always be their family.
- It's easier said than done, but try not to blame the other parent or talk about them in an unhelpful way in front of your children. Find other ways to blow off steam.
- Try to keep to normal routines as much the same as possible. It's tempting to try to make it up to the children with extra treats, but in the long run, this isn't going to help much. Extra cuddles might though.
- Let the children's schools and anyone else who looks after them know – they are likely to need a bit of extra care and attention from everybody for a bit.



Loose ends

If you have a Will you need to change it. If you were to die without changing it, the rest of your Will would still stand, but the law would treat your ex as if they had died on the day the divorce or dissolution was completed. If you don't have a Will it is really important to make one.

If you changed your name when you got married or civil partnered, you may wish to change it back again. You may be able to do this by showing record holders your:

- Marriage certificate and decree absolute, or
- Civil partnership certificate and final order.

But some organisations will not change your name back without a deed poll. For information about how to get a deed poll, see www.gov.uk/change-name-deed-poll/make-an-adult-deed-poll

You can also ask a solicitor to do a change of name deed (deed poll) for a small fee. Make sure you ring around and check prices.

Things you can do to help your children

After we split, we got a big year planner and a lot of stickers and sorted out when the kids would be seeing their dad, and grandparents, and cousins on his side of the family, so the kids could see what was happening. **Megan**

More help and advice

Relate

Relate offers relationship support. You can access a trained counsellor for free via their live chat service. They also have lots of information on a range of problems that can arise in relationships and families.

www.relate.org.uk/relationship-help/help-separation-and-divorce

How to find a family mediator

Ask friends and family for a recommendation or your solicitor if you have one. Or use the family mediation finder to find one near you. See: www.familymediationcouncil.org.uk

Some people feel safer with a mediator who is also a qualified solicitor. They can't give you legal advice but they are obliged to tell you if you are about to make an agreement that is very different to what a court would order. If you want a mediator who is also a solicitor, use the search on Resolution's site. In the results it specifies how long the mediator has been a family law solicitor. www.resolution.org.uk/findamember Don't be afraid to phone around and compare prices.

How to find a good family law solicitor

Ask friends and family for a recommendation. You can also search here:

- www.resolution.org.uk/findamember
- <http://solicitors.lawsociety.org.uk>
- find-legal-advice.justice.gov.uk

It's ok to phone around and compare prices. Some will offer help for a fixed fee, others may offer a first meeting for free.

Help with understanding your housing rights

Shelter

Shelter can provide housing advice over the phone or in a housing advice centre.

You can find your nearest advice centre here:

http://england.shelter.org.uk/get_help/local_services

Helpline (for callers from England):
0808 800 4444

Open 8am–8pm Monday–Friday,
8am–5pm Saturday–Sunday

Calls are free from UK landlines and main mobile networks.

Shelter Cymru

Helpline: **0345 075 5005**

Open 9.30am–4pm Monday–Friday

For less urgent problems they ask you to contact your nearest housing advice surgery. Find yours here:

www.sheltercymru.org.uk/get-advice/advice-near-you

More help
and advice



Debt advice

National Debtline

National Debtline can offer you free advice over the phone.

Helpline: **0808 808 4000** – open Monday–Friday 9am–8pm, and Saturday 9.30am–1pm

They also have a useful online tool called my money steps – **www.mymoneysteps.org**

Step Change

Helpline: **0800 138 1111** – open Monday–Friday 8am–8pm, and Saturday 8am–4pm

Step change also have a useful online tool called Debt remedy – **www.stepchange.org/debtremedy.aspx**

Help and support for single parents

Gingerbread

Gingerbread's Single Parent helpline offers support and expert advice on anything from dealing with a break-up, to going back to work or sorting out maintenance, benefit or tax credit issues.

Helpline: **0808 802 0925**.

They also provide lots of information and support forums on their website: **www.gingerbread.org.uk**

OnlyMums

OnlyMums offers online support to parents going through divorce or separation. The site has a free web chat facility and email exchange service. OnlyMums and OnlyDads run the Family Law Panel, which links you up to specialist family law solicitors, barristers or mediators near you for a free initial conversation either on the phone or by email to help you work out how to go forward.

www.onlymums.org

OnlyDads

OnlyDads offers online support to parents going through divorce or separation. The site has a free web chat facility and email exchange service. OnlyMums and OnlyDads run the Family Law Panel, which links you up to specialist family law solicitors, barristers or mediators near you for a free initial conversation either on the phone or by email to help you work out how to go forward.

www.onlydads.org

More help
and advice

What does it mean?

We have tried not to use legal jargon in this guide. However, you are likely to come across it in the course of dealing with your divorce. Here is our quick guide to what it all means.

Acknowledgement of Service form – this is the form the person who does not start the divorce/dissolution proceedings uses to confirm that they have received the petition and to tell their ex-partner whether they're going to object to it or not.

Annulment – this is an alternative way to end your marriage or civil partnership if you don't want to divorce for religious reasons. But you can only apply for an annulment in very limited circumstances.

Answer – the name given to the formal reply to the divorce petition from the ex-partner who did not start the divorce or dissolution proceedings.

Applicant – (used to be called the petitioner) the name given to the person who starts proceedings in ending a marriage or civil partnership.

Application for a decree nisi/conditional order – this is the form the person who is asking for the divorce/dissolution uses to ask for a decree nisi or conditional order.

Certificate of entitlement to a decree – this tells you the date and time when the judge will grant your decree nisi.

Co-respondent – a person named in a divorce petition as having committed adultery (had full heterosexual sex) with the person who is being divorced. It is very unusual to name the other person these days as it just complicates matters.

Conditional order – a court order confirming that you are entitled to the dissolution of your civil partnership. It is the first of the two decrees you need before your civil partnership is at an end. A conditional order is not the final decree and does not end a civil partnership.

Decree absolute – the final step in getting a divorce. It is a court order that proves you are divorced and free to remarry.

Decree nisi – a court order confirming that you are entitled to a divorce. It is the first of the two decrees you need before you are actually divorced. A decree nisi is not the final decree and does not end a marriage.

Dissolution – the legal ending of a civil partnership.

Divorce – the legal ending of a marriage.

Fact – the reason you rely on to prove your marriage or civil partnership has broken down and cannot be saved.

Filing – this just means giving a legal form or document to the court.

What does
it mean?

Final order – a court order that proves your civil partnership is dissolved and you are free to register a new civil partnership.

Judicial separation – is a process that confirms you are separated and no longer have to live together. It doesn't end a marriage or civil partnership like divorce or dissolution.

Mediation Information and Assessment Meeting (MIAM) – a meeting with a qualified family mediator to see if mediation is suitable for your situation. If you want to go to court over a family problem (like how to divide money or property after splitting up or where the children should live, for example) you have to show the court that you have met with a mediator first and considered mediation, that you have tried to, or that you are exempt. See **Sorting out arrangements after you have split up – Could Family Mediation help you?** for more details.

Notice of application for decree nisi to be made absolute or conditional order to be made final – this is the form the person who asked for the divorce uses to ask the court to make a decree nisi, absolute or a conditional order, final.

Petition – A 'petition' is an old fashioned word for asking for something. It's also the old name given to the form you use to apply for a divorce or the dissolution of a civil partnership.

Petitioner – the old name given to the person who starts proceedings to end a marriage or civil partnership.

Proceedings – is another name for court action. If you 'bring proceedings' you have started a court case to sort out a dispute.

Respondent – the name given to the ex-partner who does not start the divorce or dissolution proceedings or the proceedings relating to financial or children arrangements.

Serve – delivery of court documents, usually by hand or post.

Statement in support of divorce – this is the form that confirms the details are still the same as in your petition (or allows you to change them). It also asks you to confirm that what you say is true. If you give false information you risk being in contempt of court and could face prison or a fine.

Statement of case – this is the details the person who asks for the divorce submits which briefly outline the reasons the marriage or civil partnership broke down irretrievably. For example, if they are asking for the divorce because of 'unreasonable behaviour' it will outline a few examples of unreasonable behaviour.

What does it mean?

Family budget sheet

To get a monthly figure from weekly figures, multiply by 4.33.

Item	£ per month
Accommodation costs	
Mortgage/Rent	
Endowment policy linked to mortgage	
Council tax	
Water rates	
Electricity	
Gas	
Service charge	
Ground rent	
Oil/Solid fuel	
Household expenses	
Food/housekeeping	
Buildings insurance	
Contents insurance	
T.V. licence	
Telephone/cable/internet	
Car	
Insurance	
Road tax	
Maintenance	
Petrol	
Loan for car purchase (will end 20__)	
Children	
School expenses	
Travel to school	
School dinners/packed lunches	
Uniform	
Outings and trips	
SUBTOTAL	

Item	£ per month
Other school expenses (contributions to cooking etc)	
Clubs and classes	
Out of school	
Clothes and shoes	
Nappies/wipes/creams	
Childcare (gross cost)	
Hairdressing	
Books and toys	
Christmas and birthdays	
Presents for their friends' birthdays	
Personal expenses	
Mobile phone	
Clothes and shoes	
Hair	
Dentist	
Optician	
Prescription charges	
Dry cleaning	
Entertainment	
Travel to work	
Lunches at work	
Holidays	
Subscriptions – e.g. Netflix etc.	
Other items	
TOTAL	

The information in this guide applies to England and Wales only. The law may be different if you live in Scotland or Northern Ireland.

The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested. The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

advicenow.org.uk

If you would like this guide in another format please email guides@lawforlife.org.uk

Advicenow would like to thank Jessica Mant of Cardiff University for her assistance in reviewing this version of the guide and all those who have provided feedback and took part in the pilot.

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The Litigant in Person Support Strategy



Ministry of JUSTICE

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