



Ministry
of Justice

Divorce, Dissolution and Separation Act 2020

Information pack

updates, additions and revisions

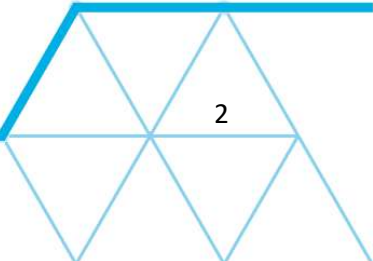
6th April 2022

Contents

Introduction..... 3

Additional information 4

Corrections/Amendments..... 8



Introduction

The information pack on the Divorce, Dissolution and Separation Act 2020 was circulated on the 24th February 2022.

The new law will come into effect on 6th April 2022. To facilitate this reform, a new digital service has been built and paper application forms have been revised, so the process for applying for a divorce, dissolution or separation has changed.

The February pack aimed to assist both citizens and legal representatives to prepare for the changes and to answer the most common questions. The information pack **is not** a guide on how to complete an application for divorce, this guidance can be found on the paper application forms and digital application service.

We are grateful to those who reviewed the pack and suggested amendments and raised queries. We have prepared this follow up document to respond to these points.

This update document is to be used alongside the original version of the information pack and is not a replacement.

Additional information

Below is a list of information in addition to what was already provided in the pack:

1. How do joint applicants give the 14-day notice to the other joint applicant that they wish to proceed solely at final order stage?

If the joint applicants are using the digital service to proceed with their divorce or dissolution, the digital service will provide the other applicant with the 14-days' notice that the other side wishes to proceed solely.

If the joint applicants are using the paper forms to proceed with their divorce or dissolution, whilst there are not prescribed rules about this, we anticipate that the general course of action would be to serve the draft D36A, but any form of notice which gives the required information should be sufficient.

2. What is the definition of the 'usual email address' to be provided for the respondent?

The email address provided for the respondent should be their 'usual email address'. This is generally considered to be the email address actively used by the respondent for personal emails and business email addresses should be avoided where possible (see Practice Direction 6A paragraph 4A). Generally, if the applicant provides an email address, the application will be served on the respondent by email, with a notice confirming this has been done by post.

3. On the digital system, which applicant in a joint application has to apply for conditional order and final order?

Either joint applicant can apply for conditional order and final order by logging into the digital system. Both times, the other applicant will be asked to confirm that they also wish to apply.

4. Can the divorce still be defended on the basis that a person does not want the divorce?

No. Divorce applications can no longer be defended on the basis that a person does not agree with the 'facts' relied on to establish the irretrievable breakdown of the marriage as there is no longer a requirement for the applicant to provide a fact for the divorce. In a sole application, the respondent can dispute the application in limited circumstances. 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. For example, where neither party lives in or has any other connection with England and Wales

- they dispute the validity of the marriage or civil partnership. For example, if the parties have not entered into a legally valid marriage
- the marriage or civil partnership has already been legally ended. For example, if the marriage has already been brought to an end in proceedings outside of England and Wales.

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

5. Where the applicant has chosen to serve the application on the respondent, there is a timeframe of 28 days for the relevant step to be taken by the applicant to serve the application. Due to the backlog in the family courts, will there be a delay in the acknowledgment of service form being sent to the applicant to serve in this scenario, and therefore potential issues with the 28 day timeframe?

No. When the application is issued by the court, the application along with all of the necessary documents to serve on the respondent will be sent to the applicant on issue.

6. What is the deadline for a respondent to respond to an application when the respondent is overseas?

Rule 6.42 (Period for acknowledging service or responding to an application where application is served out of the jurisdiction) states:

(2) Where the applicant serves an application on a respondent in –

(a) Scotland or Northern Ireland; or

(b) a Hague Convention country within Europe,

*the period for filing an acknowledgment of service or an answer to an application is **21 days** after service of the application.*

*(3) Where the applicant serves an application on a respondent in a Hague Convention country outside Europe, the period for filing an acknowledgment of service or an answer to an application is **31 days** after service of the application.*

*(4) Where the applicant serves an application on a respondent in a country not referred to in paragraphs (2) and (3), the period for filing an acknowledgment of service or an answer to an application is set out in **Practice Direction 6B**.*

Practice Direction 6B can be found at the following link:

https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06/pd_part06b

7. How can the application be amended when it was submitted digitally?

Amending an application for divorce or dissolution will need to be done by marking up your application on paper and submitting by post or email to the court alongside a

D11 and paying a fee. If approved the amended application will continue on paper, and applicants will need to apply for their conditional order and final order using the paper forms (D84 and D36 respectively).

8. Where will the court forms be available? Will they be on the same pages they are now?

You'll be able to access an up to date list of all the forms at the following link:
<https://www.gov.uk/government/collections/divorce-and-civil-partnership-dissolution-forms>.

Where possible, the updated versions of the forms will be published at the same web address that they currently appear on. Where there is a need to retain two versions of the same form (for example, a version of the D84 for applications issued before April 2022 and a version for new applications), this has been made clear on the page hosting the form, and we have signposted to both versions.

9. How can parties keep their address confidential from the other side on the paper forms?

This will be made clear on each individual form which asks for an address. For example, on the D8 (Application for a divorce or dissolution form), the applicant will be asked to tick the box at question 2.2 to confirm that they wish for their address to be kept confidential, and this will ensure that their address is redacted from any documents shared with the respondent. However, on other forms such as the D8S (Application for (judicial) separation), the usual C8 confidential contact details form will be required. This is due to the different ways these forms are processed by the court.

10. If the applicant issues online but wants to arrange service on the respondent, will the 16-digit reference number only be sent to the respondent by the applicant when they serve the respondent? There is a concern that a respondent or their lawyer can access the online service to check if there is any entry involving their client's name?

Respondents will be able to respond to the divorce/dissolution application digitally (where the initial application is digital). Respondents will be provided with access details (a 16-digit reference number and an 8-character access code) in the email and letter they receive which invites them to the application. They will only have access to the portal as the respondent to the proceedings when they are served with the application. A respondent in person is unable to access the online service without these details and a respondent's solicitor is only access the service once the papers have been served on the respondent solicitor and the case has been 'confirmed as served.'

11. What is the difference between the terms 'respondent' and 'applicant 2'?

A 'respondent' is the other party to a sole application. This is where an applicant issues the application on their own, and the application is served on the other side

(the respondent). This applicant will proceed to apply for the conditional order and final order individually.

An 'applicant 2' is the second applicant to a joint application. This is where the two parties to the marriage apply for their divorce jointly and therefore are both applicants in the proceedings. So that each applicant can be identified easily throughout the proceedings, they will be known as 'applicant 1' and 'applicant 2'. It does not matter which applicant is applicant 1 or applicant 2, except that applicant 1 will be asked to pay the fee for the application on the digital service.

12. Where the application is disputed but was started on the digital portal, will the case need to proceed on paper application forms after this point due to needing to file the answer form on paper?

No. The case will remain digital after an answer is filed on the paper form (D8B).

13. When can I apply for a financial order under the new law?

The court is not able to make a financial order relating to a divorce or dissolution until after the conditional order is pronounced. The new 20-week between the issuing of the application and conditional order will allow a period of time for these arrangements to be resolved where needed. Financial orders cannot be implemented until the final order has been made.

14. Can a joint application be part online, part offline?

No. Both applicants will need to either use the digital service or D8 application form to make their joint application. The system cannot support each applicant using a different method to apply.

Corrections/Amendments

- 15. Page 3 (first bullet point)** – the statement of irretrievable breakdown only applies to divorce and dissolution proceedings. For judicial separation, the applicant(s) will be required to provide a statement that they seek to be judicially separated from the other party to the marriage or civil partnership.
- 16. Page 13 sub-para 1** – where the fee for a judicial separation application is shown, please instead refer to fee leaflet EX50 Civil and Family Court Fees
<https://www.gov.uk/government/publications/fees-in-the-civil-and-family-courts-main-fees-ex50>