

# The divorce process explained



**Divorce is the legal procedure by which you can end your marriage. To get a divorce, you need to show the court that you've been married for at least a year and that your marriage has irretrievably broken down.**

You prove this by one of five facts:

## **Adultery**

Your spouse has committed adultery with a member of the opposite sex and you find it intolerable to live with them.

## **Unreasonable behaviour**

Due to their behaviour, it's unreasonable for you to have to live with them. Their behaviour doesn't have to seem unreasonable to everyone, however it must be something that affects you to the extent that you can't continue to live together.

## **Desertion**

You spouse has deserted you for at least two years prior to your application.

## **Two years' separation and consent**

You've been separated (i.e. living apart or living separate lives) for at least two years and your spouse consents to a divorce.

## **Five years' separation**

You've been separated for at least five years.

## **What does 'separation' mean?**

You are deemed to be 'separated' when you no longer live together, or you live in the same home but lead separate lives from each other. Your finances should also be separate; however you may both be responsible for joint liabilities, such as your mortgage.

## **Married for less than one year?**

If you've been married for less than one year, you can't apply for divorce now.

Instead you need to wait 365 days and prove that your marriage has broken down by one of the five facts.

## **What is the divorce procedure?**

When divorcing, the spouse who applies for the divorce is referred to as the **Petitioner**. The other spouse is the **Respondent**.

To start the process, we'll send the court a petition and your marriage certificate.

The court will send a copy of the divorce petition to your spouse and they will respond by completing an **Acknowledgement of Service** form, stating that they agree to the divorce.

If the respondent fails to return the Acknowledgement of Service form, steps will need to be taken to prove that service of the petition has actually taken place. One way in which to do this is to have the papers served by a court bailiff.

Once your spouse's acknowledgement is received (or you can prove service), you will need to sign a **Statement in Support**. This confirms that the contents of the petition are true and correct.

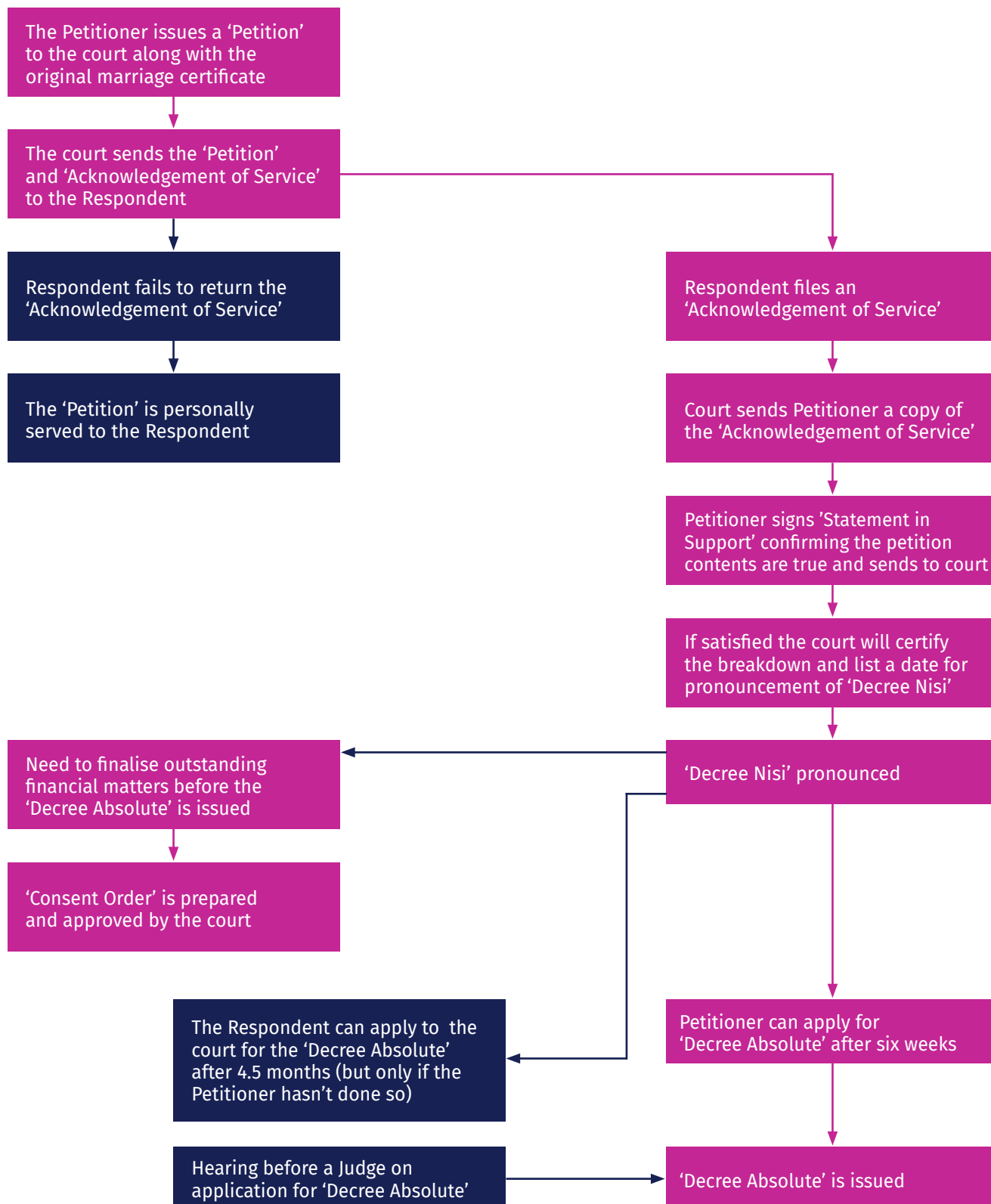
If the court is satisfied with the completed forms, it will certify the breakdown and list a date when it will pronounce a **Decree Nisi**. This is the first order of your divorce.

Six weeks and a day after the Decree Nisi is pronounced, we can apply to the court on your behalf for the **Decree Absolute**.

Your former partner can also apply to the court for the Decree Absolute, however they'll need to wait 4.5 months and can only apply if you haven't already.

It's important to note that if the financial aspects of your marriage aren't settled and you want to apply for an order, the Decree Absolute will normally be delayed until all financial matters have been resolved. Once this is done however, your Decree Absolute is issued. This is the final order of your divorce and legally ends your marriage.

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