

## The respondent has replied to my petition - what must I do?

If you have children, make sure you read leaflet D185 (Children and divorce) as well as this leaflet.

### What do I do with the copy of the respondent's (and any co-respondent's) form D10 (acknowledgement of service)?

Check the answer the respondent (and any co-respondent) has given to the question 'Do you intend to defend the case?'

If the answer is 'No' you can ask the court to consider whether:

- you have grounds for a divorce; and
- if the arrangements you propose for any children are satisfactory.

This is called "applying for directions for trial".

If the respondent answers 'No' to the question 'Do you agree with the statement of the petitioner as to the grounds of jurisdiction set out in the petition?', the court will let you know if it is necessary for you to see the Judge. If you need to come to court, you should ask a solicitor to help you.

### What should I do if the respondent (or any co-respondent) says they intend to defend the case?

Wait to see whether you receive a copy of the defence, (known as an 'answer'). The respondent (or co-respondent) must provide the court with the answer within 21 days after the time limit for giving notice of intention to defend expires, which is in turn 7 **working days** after the petition was received by that person. (A 'working day' is any day that is not a Saturday, Sunday, Christmas Day, Good Friday or Bank holiday.)

You should therefore wait for 29 days from the date that the respondent (or co-respondent) says they received your petition. However, this time period may be slightly longer if, for example, a bank holiday occurs between the date the petition was served and the end of the following 29 days.

If you do not receive a copy of the defence, (called an 'answer'), within the above period, you can apply for directions for trial.

If you do receive a copy of the respondent's (or any co-respondent's) answer, you should ask a solicitor to help you.

The court may be able to help you calculate the first date on which you may apply for directions for trial.

## **How do I apply for directions for trial?**

You will need copies of form D84 (application for directions for trial) and form D80 (affidavit of evidence) from the court office. They are free.

When you ask for form D80, make sure you tell the court the grounds for your divorce. There is a different version of form D80 for each of the five grounds.

Fill in form D84 and form D80, and send or take them to the court office. This is called 'entering your case in the special procedure list'.

You must not return these forms to the court until 9 days have passed since the respondent (and any co-respondent) say they received your petition.

You must answer all the questions on form D80.

Form D80 is an affidavit. This is a statement you must swear is true in front of a person approved to witness you doing this.

You must not sign form D80 until the person witnessing tells you to. You must not send it to the court unless it has already been sworn and witnessed.

## **Who can witness the swearing of my affidavit?**

- an officer of a county court or of the Principal Registry, or
- a solicitor.

## **Will I have to pay a fee to the witness?**

Not if the witness is an officer of the court or the Principal Registry. A solicitor will make a charge.

## **What documents will I need to exhibit to the affidavit?**

You must provide documents which show:

- that the respondent (and any co-respondent) have received the petition;
- that the respondent (and any named co-respondent) admit to having committed adultery if this was a ground;
- that the respondent consents to a divorce where the grounds are that you have lived apart for two years; and
- that the respondent agrees with the arrangements proposed for the children.

In almost all cases a copy of the form D10 (acknowledgement of service) filled in and signed by the respondent will show all of these things. The form D10 should be exhibited to the affidavit.

## **What will the court do with the forms D84 and D80?**

Court staff will place the papers with your case file and pass it to the Judge.

The Judge will look at your petition and affidavit of evidence and decide if you can have a divorce. You will not have to come to court when this is done.

The Judge will also consider the arrangements for the children by looking at your form D8A (statement of arrangements for the children) and the respondent's form D10 (acknowledgement of service).

## **What will happen if the Judge says I can have a divorce?**

The court will send you and the respondent (and any co-respondent) a form D84A (certificate of entitlement to a decree).

Form D84A will tell you the time and date when the Judge will grant your divorce. This is called 'pronouncing the decree nisi'. There is no need for you to come to court on that date.

If there are no children of the family, form D84A will come with form D84B (notice of satisfaction with the arrangements for the children) which will confirm that there are no children.

A decree nisi is the first of two decrees you must have before you are finally divorced and free to re-marry. Leaflet D187 (I have a decree nisi - what must I do next?) will tell you how to get your final decree (called a 'decree absolute').

## **What will happen if the Judge says I cannot have a divorce?**

The court will send you form D79 (notice of refusal of Judge's certificate).

The form will tell you why the Judge has decided your case is not in order. In most cases, the court will need further information. You will be told what extra information is needed.

If the Judge feels your case cannot be decided from the written information supplied, there may have to be a court hearing. This is called 'removing your case from the special procedure list and entering it in the undefended list'. You will have to come to the hearing. The hearing will take place in court.

If your case is entered in the 'undefended list', you should ask a solicitor to help you.

Leaflet D187 (I have a decree nisi - what must I do next?) will tell you how to get your decree absolute.

Leaflet D185 (Children and divorce) will tell you what may happen if the court says you cannot get a decree absolute until satisfactory arrangements are made for the children.