

Glossary

Absent Parent	The parent not living in the same household as the qualifying child as defined by the Child Support Act 1991
Acknowledgement of Service	Form sent by the Court to the respondent (and co-respondent, if any) with the petition, with questions about his or her intentions and wishes in response to the petition; its return to the Court establishes service of the petition
Adultery	Sexual intercourse with a third party prior to the granting of the decree absolute
Affidavit	A written statement containing evidence given on oath or by affirmation. The evidence in the affidavit need not be expressed in any formal way but should be set out in numbered paragraphs in the first person. If the person making the affidavit wishes to refer to any document, this document should be attached ('exhibited') to the affidavit
Ancillary Relief	A financial or property adjustment order made by a Court as ancillary to a petition for divorce or separation.
Answer	The defence to a divorce petition, denying the allegations in the petition or cross petition; strict time limits apply for filing an answer
Application	A document giving details, in broad terms, of the order sought from the Court. All applications within divorce proceedings are started by filing a notice of application. Standard Forms are available at divorce court offices.
Bailiff	a Sheriff's officer who serves writs and summonses, makes arrests and makes sure sentences of the court are carried out.
Bankrupt	any person judged insolvent by the court, their property being administered for the benefit of the creditors.
Barrister	a lawyer who has been called to the Bar and who is qualified to plead in the Higher Courts.
Bigamy	a criminal offence committed when someone still legally married marries someone else.
Bona Fide	true or genuine, given in good faith.

Brief	a document containing all the facts and points of law of a case by which a barrister is instructed by a solicitor to represent a client.
Calderbank Letter	A 'without prejudice' letter making an offer of settlement prior to the case going to hearing. If the offer is rejected by the other party and the Court awards the same or less then there is the risk of having to pay the other party's costs from the date the offer was made as well as one's own.
Care and Attention	A term used to describe an increase in a solicitor's bill which some solicitors apply if a case has been complex or has had to be dealt with especially quickly
Care and Control	An old order pre-dating the Children Act 1989 - care and control orders are no longer made. It means the responsibility for looking after and making everyday decisions about a child and providing the child's main home base
Charge on Property	Security entitling the holder of the charge to be paid out of the proceeds of sale when a house (or other property) is eventually sold
Chattels	A legal term used for personal effects, usually of a house, like furniture, paintings, jewellery and ornaments
Clean Break	A once and for all order that deals with all financial issues between spouses, provides for the dismissal of maintenance claims and is not capable of subsequent variations even if circumstances change.
Cohabitation	Living together when unmarried
Conciliation	A process of mediation to help a couple reach agreement on issues related to divorce; usually about the arrangements for children as opposed to financial issues. Conciliation can be 'in-court' as part of the Court process to try to help parties settle their differences over the children, or 'voluntary' i.e. provided by an independent service for which fees are payable
Conflict of Interest	When a solicitor cannot act for a potential client because he would be unable to discharge his duty to the client because of a pre-existing professional relationship with another client or a duty owed to another
Consent Order	Order made by a Court in terms agreed by both parties
Contact (or Access)	An order under the Children Act for the child to visit or stay with the

parent with whom the child is not living or exchange letters, cards, telephone calls; contact orders may also be made in favour of non-parents, e.g. grandparents

Co-Respondent	The person with whom the respondent has committed adultery
Counsel	Barrister
Cross-Decrees	When a petitioner is granted a decree on the basis of the petition and the respondent on the basis of the answer
Cross-Petition	When the respondent puts forward different reasons for the breakdown of the marriage from the petitioner's, and seeks a divorce on those facts
Custody	The right formerly granted by a court for one parent (or both) to make major decisions for a child, such as education. Custody orders predate the Children Act and are no longer made
Decree Absolute	The order made by the Court dissolving the marriage.
Decree Nisi	Document issued once the Court is satisfied that the grounds of divorce are established, allowing the petitioner to apply to have the decree made absolute after a further six weeks and one day. It does not end the marriage
Directions for Trial	The stage of divorce proceedings when the district judge considers the petition and affidavit in support, and requests further information if required, before giving his certificate for a decree nisi to be granted. Financial proceedings and applications about the children also have a direction for trial stage, when the district judge considers what further evidence will be required and makes orders accordingly
Disclosure	Full information about all matters relevant to any financial application; each spouse has a duty to give full and frank disclosure which if they fail to abide by may render a later Court order invalid.
Discovery	Procedure by which each party supplies to the other a list of documents relevant to an application and allows the other party to inspect them
District Judge	Judicial officer appointed by the Lord Chancellor; responsible for dealing with most applications to a divorce court (formerly called a registrar)

Exhibit	Document referred to in, sworn with, and attached to an affidavit; usually identified by initials and a number
Ex Parte	An application made directly to the court without prior notice to the party or parties
Family Hearing Centre	A County Court with the power to deal with the administrative processes of divorce and any contested applications under the Children Act for relief
Filing	Leaving documents - petition and accompanying documents, affidavits, notices of application etc with the Court Office for sealing, and subsequent service
Hearsay Evidence	A fact reported to a witness, as opposed to being known by the witness; second hand knowledge; hearsay evidence can be accepted by the court in family proceedings
Injunction	Order by the court telling someone what he or she must do or must refrain from doing; the penalty for disobedience can be imprisonment
Intestacy	Dying without a valid will
Matrimonial Home Rights	Rights of occupation of a family home (or a home intended to be occupied as a family home) which last until decree absolute - to be introduced by the Family Law Act 1996
Mesher Order	If this is granted, then the court can order that the sale of the property can be deferred for a certain period of time, for instance until the children are no longer dependent.
Mediation	An alternative form of dispute resolution over issues arising in the wake of separation or divorce. Comprehensive mediation covers problems over both the children and finances; other mediation (or conciliation) services may deal with child related disputes alone. Mediation may be offered by lawyer mediators or family mediators alone or both together.
Minutes of Order	Draft terms of agreement placed before the Court with a request that a consent order be made in those terms
Nominal Order	An order for a nominal amount of maintenance made if, at the time an order for maintenance was made, payment could not be made or was not needed. This is done so that if circumstances change, there is an order on the court's file which can be reviewed and

increased.

**Non
-Molestation**

Order to prohibit one person from assaulting, harassing or interfering with another

Notice of Application

Forms on which applications to the court are made, beginning with the words 'take notice that' and containing full details of what is applied for

Occupation order

Order excluding one spouse from the matrimonial home (or from a part of it)

Parental Responsibility

The bundle of rights and duties that parents have towards their children; mothers and married fathers have parental responsibilities automatically, while non-married fathers may acquire it by formal Parental Responsibility agreement or court order; others (such as guardians) can also acquire parental responsibility

Parent with Care

A term in the Child Support Act 1991 to mean the parent with whom the child has his or her home and who usually provides day to day care for the child

Penal Notice

A warning endorsed on a court order, notifying the recipient that he or she is liable to committal to prison for breach of the order

Pending Suit

While the divorce is still continuing (i.e. before decree absolute)

Petitioner

The person who initiates divorce proceedings by filing the petition

Pleadings

Formal statements or documents containing a summary of the issues in the case

Prayer

Formal request in the petition, or answer, for the courts orders for which the petitioner or respondent seeks; for example, dissolution of the marriage, orders under the Children Act, costs, ancillary relief

Prohibited Steps Order

Court order under the Children Act restricting a person's exercise of parental responsibility (e.g. preventing a parent from removing a child from the country without the other parent's consent or court permission)

Qualifying Child

A term from the Child Support Act 1991 to mean a child under 16 or under 19 and in full time non advanced education - one of his or her parents must be an 'absent parent'

Questionnaire	List of questions delivered by one spouse to the other requiring further information and/or documentation about finances, in accordance with that person's duty of disclosure; also referred to as 'request under rule 2.63', the rule of court permitting such a questionnaire
Recovered or Preserved	Gained or retained (money or property) in the course of legal proceedings
Relevant Child	Child of the family under 16 years of age at the date of the decree nisi or between 16 and 18 years of age receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation (or up to any age if disabled or dependent)
Reply	Document filed by the petitioner in response to an answer and/or a cross petition from the respondent, containing the petitioner's defence
Reserved Costs	When decision on amount of costs to be awarded is deferred until a later hearing
Residence Order	An order under the Children Act which settles the arrangements about with whom a child will live; residence orders can be split between parents (or others) or shared, e.g. in favour of a parent and step parent
Respondent	The spouse who is not the petitioner
Rule 2.63	The rule of court relating to the statement of information which has to be supplied to the court for a financial consent order to be made
Sealing by the Court	The court's stamping of a document when it is filed at the court office or for an order or decree when it is issued
Section 41 Appointment	Or 'Children's appointment' - this was a short hearing before a judge for certificate of satisfaction in respect of arrangements for any relevant children before decree nisi could be pronounced. They are no longer made since the Children Act came into force
Secured Provision	When some income producing asset of the payer is put under the control of trustees and, if necessary, the income diverted to the payee to provide the maintenance
Service	The method by which the petition, notices of application, orders and decrees are supplied to the parties concerned; certain documents need to be served personally, others are served through the post,

some by or on behalf of the person issuing them and some by the court

Special Procedure

In an undefended divorce, the decree can be issued without either petitioner or respondent having to appear (or be represented) at the court; the facts submitted by the petitioner in the petition and verified on affidavit are considered by the District Judge. When he or she is satisfied that the facts in the petition are proved and the grounds for a divorce exists, he or she issues a certificate to that effect and fixes a date for the formal pronouncement of the decree nisi by the Judge. A copy of the decree is sent through the post to both husband and wife by the court office

Specific issue Order

An order under the Children Act resolving some particular dispute about the children's upbringing

Statement of Arrangements

Form which has to be filed with the petition if there are relevant children of the family, setting out arrangements proposed for them in the future; this should be agreed with the respondent and countersigned if possible before the divorce is started

Summons

Demand issued by a court for a person against whom a claim or complaint has been made to appear at the court at a specific time

Undefended Divorce

Where the dissolution of the marriage and how it is to be achieved are not disputed (even if there is a dispute about related matters such as finances or children)

Undertaking

Promise to the court to do or not to do something which is outside the court's powers to order but is incorporated within a court order so that it is enforceable; the court has no power of its own to vary an undertaking

Without Prejudice

Phrase used to prevent communications in the negotiation process being made known to the court if those negotiations fail to produce agreement; however, Calderbank offers and responses to them can be disclosed to the court in evidence over costs