

A Glossary of Divorce Terminology

Access – Now renamed as “Contact”

Adultery - Sexual intercourse that takes place while you are married, with someone of the opposite sex who is not your husband or wife.

Affidavit -A formal statement, sworn on oath.

Answer -The formal defence to a divorce petition

Application for Financial Remedy – Relates to the financial orders that a court can make in addition to a petition for divorce or Judicial Separation.

CAFCASS - The Children And Family Court Advisory And Support Services. You will meet a CAFCASS officer if you apply to the court for any order affecting your child, for example Contact or Residence.

In chambers -This is when the Judge considers an application in private and is less formal than open court.

Charge - A charge on a property is like an additional mortgage. The holder of the charge has security as he/she must be paid out of the proceeds when the house is eventually sold.

Civil Partnership - The Civil Partnership Act 2004 came into operation in December 2005 and enables a same-sex couple to register as civil partners. It provides same-sex couples who form a civil partnership with an equality of treatment in a wide range of legal matters with those opposite-sex couples who enter into a civil marriage.

Clean break - A one-off order that deals with all the finances in a divorce. There can be no further claim for any maintenance even if circumstances change.

Collaborative Law – An approach built upon round-table meetings where both parties and their lawyers agree to work together to negotiate an agreement without going through the court process

Conciliation - A type of mediation usually in court which helps couples to sort out arrangements for children.

Consent order – A court order of terms agreed by both parties.

Contact - (previously “Access”). The arrangement for the child/children to visit or stay with the parent who no longer lives with them. Indirect contact is the exchange of letters, phone calls or gifts. They can also be made in favour of others such as grandparents.

Co-respondent -The person with whom your spouse (the respondent) has committed adultery. It is no longer legally required for this person to be named.

Counsel – An alternative name for a Barrister.

Cross-petition -This is when the Respondent argues different grounds for the divorce from those of the Petitioner.

Custody – The old term for “Residence”

Decree Nisi - A provisional order showing that the court is satisfied.

Decree Absolute - This is the final court order and brings the marriage to an end.

Disclosure – The full financial details about a person’s capital, income, assets and liabilities. It is either done voluntarily, or by order of the court.

District Judge - A judge responsible for dealing with most aspects of divorce including the financial matters.

Equity -Refers to the net value of a property after mortgages or other charges are paid off.

Financial Dispute Resolution Appointment (FDR) - This is the second court appointment within Ancillary Relief proceedings where the judge considers all offers made including those on a without prejudice basis.

First Appointment (FA) –This is the first court appointment within Ancillary Relief proceedings where the judge considers what other information is needed to determine financial matters.

Form E – This is a financial statement containing details about your capital, income, assets and liabilities. Form E’s can either be exchanged voluntarily or as part of Ancillary Relief proceedings.

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Injunction - A court order which tells someone to refrain from doing something.

Judicial Separation – This involves a court procedure which is virtually identical to divorce. The essential difference is that the court pronounces a decree of Judicial Separation rather than a divorce. This means that you and your spouse would remain married.

Liquid Assets - Cash assets or assets easily convertible into cash such as net equity in any property(s), savings, shares, ISA's or endowment and other policies.

Litigant in Person - is an individual, company or organisation that is not represented in court by a solicitor or barrister, but nevertheless has rights of audience (this is, the right to address the court in person).

Lump sum – A payment of a capital amount of money.

Maintenance - Money one spouse pays to the other for ongoing financial support on a regular basis, either just for the spouse or for children too.

Maintenance pending suit - If the divorce may take some time, temporary maintenance can be requested pending the end of the divorce.

Matrimonial home - A property where the married couple lives or have lived together. It can either be rented or owned.

Mediation – A process in which an impartial third person assists those involved in a family breakdown to reach their own agreed and informed decisions about some or all of the issues relating to or arising from the separation, divorce, children, finance or property.

Minutes of order - This is when draft terms of agreement go before the court with a request that a consent order be made in the same terms.

McKenzie Friend – A person who can support and be an advocate for a Litigant in Person in court

Non-molestation Order - This order is to prohibit someone using or threatening violence against you or intimidating, harassing or pestering you.

Occupation Order - An order which regulates occupation rights to the matrimonial home. A spouse can be excluded from the home or from a certain part of it.

Pension Sharing - The division of a pension fund between two spouses.

Periodical payments - Another term for non-lump sum maintenance which can be paid weekly, monthly or annually.

Petition - This is the document requesting a divorce or a Judicial Separation.

Petitioner - The person who starts the divorce proceedings by filing a divorce petition at court.

Post-nup - The aim of a pre-marital agreement is usually to protect the wealth of one or both spouses and, if prepared properly, should be binding. If you are considering a pre-nup you should seek specialist advice immediately. You can also take steps to protect your position after the wedding, which may involve a post-nup/mid-nup. These are the same as a pre-nup, but made at any time after the marriage ceremony

Prayer - The part of the Petition or Answer which asks the court to make orders in favour of the Petitioner or Respondent.

Pre-nup - A pre-nuptial agreement is made in contemplation of marriage, most commonly setting out the terms which are to apply between the spouses in the event of separation or divorce. Sometimes they can deal with arrangements during the marriage, upon separation or divorce and upon death.

Relevant child - A child of the marriage under 16 at the time of the decree nisi or between 16 and 18 if in full-time education or training for a trade. A disabled and dependent child of any age is considered.

Request for directions - An application to the court for a Decree.

Residence order - A court order which determines where a child or children will live.

Respondent - The spouse who receives and responds to the petition for divorce or Judicial Separation.

Separation agreement - A document which sets out the agreement reached in financial matters arising out of a separation without involving the court at all.

Special procedure - When a divorce is undefended, the decree can be issued without either spouse having to appear at court.

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