



The online divorce & financial remedy service: How far have we come? And how far can we go?

From 13 September 2021 it will be mandatory for any divorce petition being issued by a solicitor in England and Wales to be issued via the HMCTS online portal. Paper applications will no longer be permitted. The HMCTS online divorce and financial remedy portal has come a long way since its launch in May 2018 and this is yet another important development for the provision of digital solutions in divorce and financial remedy case.

Since the launch of the online divorce and financial remedy portal in May 2018, HMCTS have expanded it to that point that it is now an (almost) complete paperless platform on which all the stages of divorce and financial remedy applications, consented and contested, are conducted. The development of the digital portal is part of the government's £1billion project to update the court system so as to make it a more user-friendly experience for both citizens and representatives. iFLG was the first firm of solicitors to issue an online divorce petition on 6 August 2018 and the firm has continued to participate in the various pilot schemes rolled out by HMCTS.

HMCTS' objectives (per their latest guidance in May 2021) are to:

- Create an improved divorce and finance remedy service that is digital from start to finish
- Place the people that use the service at the heart of the design of the service
- Continue to improve the service based on feedback; and



- Create a better experience for those people going through a divorce

The service offers legal professionals the capability of online issuing of divorce applications and Forms A and online processing of financial remedy consent orders. This is via a secure portal on which legal professionals can manage their own accounts. The progression of applications can be tracked from start to finish online and there are various case management functions. As a result of the ability for real-time monitoring for the progress of applications, there is a reduced need for legal professionals to contact the court by telephone and email for updates.

Capabilities of the portal

Divorce applications

The online divorce pilot was launched for litigants in person on 1 May 2018 and for legal professionals on 31 July 2018. Various extensions were made to the pilots and in September 2019 the end-to-end experience, i.e., from submitting a divorce petition to pronouncement of the decree absolute, was launched. The represented respondent journey for online divorce applications was launched in April 2021. As of June 2021, 86% of all citizen divorce applications and 71% of all solicitor applications were made online. The typical processing time for a divorce application is currently 1-2 weeks.

Financial remedy - consented applications

The online financial remedy consent order pilot scheme was launched in October 2018. On 24 August 2019 it became mandatory for represented applicants to file consent orders online rather than to divorce business centres. Online consent order applications will be dealt with by a bank of District Judge's and Deputy District Judge's at the Family Court local to the applicant. The represented respondent journey became live for financial remedy consent order cases in March 2021. The typical processing time for a consent order application is currently 3-4 weeks although efforts are being made to reduce the time.

Financial remedy - contested applications

The online contested financial remedy pilot scheme was launched in May 2019. The launch of the



online contested financial remedy applications went live in January 2021. The represented respondent journey became live for contested financial remedy cases in March 2021.

Applications not yet available on the portal

The following applications cannot be made online (yet!):

- Divorce applications which become defended Civil partnership dissolutions
- Judicial separation applications
- Nullity applications
- Financial claims on divorce which involve the following applications
- Maintenance pending suit Legal services payment order
- Freezing order or another injunction An order under section 37 Matrimonial Causes Act 1973
- Variation applications (unless the original order resulted from an application on the online portal)
- Financial claims on divorce where personal service on the respondent is required (save for London FRCs) Applications pursuant to Schedule 1 Children Act 1989
- Applications pursuant to Part III Matrimonial and Family Proceedings Act 1984; and
- Applications requiring translation into the Welsh language

HMCTS will be working to digitize some of these applications over the next 12 months and will of course provide updates as and when changes are made to the portal.



The future

Mandatory online divorce - 13 September 2021

As was said at the start of this article, from 13 September 2021 it will be mandatory for all legal professionals to submit divorce applications via the portal. Practice Direction 36X piloting the mandatory use of online divorce is forthcoming. There will be a transition period from 14 September to 5 October 2021 where paper applications will still be accepted to the divorce business centres, but HMCTS has strongly encouraged legal professionals to ensure that their firm is now subscribed to the portal. To subscribe, a firm must have a PBA account to register. The registration period is straightforward but may take up to 3 working days. Any questions regarding registration should be sent to MyHMCTSupport@justice.gov.uk

New divorce law – 6 April 2022 The Divorce, Dissolution and Separation Act 2020 had been anticipated to come into force in the autumn of 2021. It has now been delayed until 6 April 2022. The delay is to allow for time to update the Family Procedure Rules and make required changes to the online portal. The new legislation is highly anticipated as it will of course remove the need for the issuing party to establish fault by the other spouse, thereby making the process more amicable and reducing the impact of conflict on any children of the family. The new divorce process is set to take a minimum of 6 months from start to finish: the issuing spouse will need to wait 20 weeks before applying for the 'conditional order' (decree nisi), then a further 6 weeks on pronouncement of the conditional order before applying for the 'final order' (decree absolute) to officially dissolve the marriage.

The current portal will need to adapt to this new way of working and we can anticipate news of developments in the coming months ahead of the 6 April 2022 launch date.

Annie Boxer

annie.boxer@iflg.uk.com

The International Family Law Group LLP

www.iflg.uk.com

© September 2021