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Your questions answered

WHAT CAN I DO IF MY SPOUSE IGNORES THE DIVORCE APPLICATION?

This Stowe client guide explains your options if your spouse ignores your divorce application.

If you find yourself in a situation where the court has issued your divorce application, but your spouse refuses to respond, what are your legal options?

Deciding to divorce is a long and often painful process, so someone refusing to acknowledge the application can be extremely frustrating.

Issuing a divorce application

Once the divorce application has been filed, the court sends out a copy of the application and an Acknowledgment of Service form to the respondent.

This is generally done by email.

They are given 14 days to complete this and return to the court.

The Acknowledgment of Service form confirms to the court that the respondent has received the application.

If they consent to the divorce being pronounced, the divorce process can move on to the next stage, applying for the Conditional Order.

In rare cases, the divorce may be disputed, and if so, directions will be made for the matter to be heard before a judge to decide.

What can I do if my spouse doesn't respond to divorce papers?

There are several options open to people if their spouse does not return the Acknowledgment of Service to the court.

If your spouse fails to respond, as a first option, contact your spouse and inform them that the Acknowledgment of Service needs to be returned to the court within 14 days and ask them to now do so.

It may be that there is a logical explanation for why they have not completed the Acknowledgment of Service in the

time frame, such as they forgot, are seeking legal advice or have already provided their form to the court without giving you a copy.

If, however, they are still ignoring you or refusing to complete the Acknowledgment of Service, you have different options available to you.

Personal service by court bailiff or process server

Personal service is an option if your spouse has not returned their Acknowledgment of Service to the court within 14 days and you have a reasonable belief that they are still living at the address set out in the application.

This can be arranged by a court bailiff (if you do not have legal representation) or a Process Server (if you have a solicitor acting for you) to physically serve the documents on your spouse at their address or an alternative address, like their work address.

The server can make several attempts, if necessary, to serve your spouse with the divorce papers.

Once your spouse has been served, the process server or court bailiff will file a certificate of service to confirm their successful service.

If the court is satisfied that your spouse has been correctly served and is aware of the proceedings, it is then possible to go on to the next stage and apply for the Conditional Order without requiring your spouse to complete their Acknowledgment of Service.

Application for deemed service

If you have correspondence or evidence that your spouse did receive the issued application in the post or via email, you can make an application for "deemed service".

You will need to provide a detailed account of any conversations you have had with your spouse and as much evidence as possible with your application (for example, emails and text messages) to satisfy the court that your spouse has received, and is aware of the divorce proceedings.

Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit www.stowefamilylaw.co.uk

Once the court has approved your application, you can proceed to apply for the Conditional Order without waiting for the respondent to complete the Acknowledgment of Service.

If options 1 and 2 fail, you could also consider 'Substituted/Alternative Service' where you request permission from the court to notify your spouse of the divorce proceedings using a different method. For example, this could include serving it via an employer or relative.

Application to dispense with service

In exceptional cases, the court may allow you to dispense with service. However, this can only be when it is impossible to serve the divorce application at all; for example, you cannot locate your spouse.

In this application, you need to evidence your extensive efforts to try and locate your spouse, including all the enquiries you have made. This may include speaking to friends, family, their employer etc.

The court will only make this application in limited circumstances when all other options have been exhausted.

Please note that you may be able to seek a cost order against your spouse for any additional fees you have incurred due to having to make any of the above applications.



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