lejacie

CLIENT RESOURCE · DEMONSTRATION PROTOTYPE

Thinking about divorce?

What it changes, what it doesn't, and what to discuss at your first appointment. This guide explains the main questions about divorce and helps you prepare for a first conversation with a family lawyer. It does not tell you whether you are eligible or what you should do in your circumstances. Numbers in brackets point to the sources on the last page.

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THIS GUIDE IS FOR YOU IF

- You may have decided the marriage is over
- You may still be living together
- You may have received divorce papers and feel unsure what they mean
- You are preparing for a first conversation with a family lawyer

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BEFORE YOU START

What it changes, what it doesn't

You may have decided the marriage is over. You may still be living together. Or you may have received divorce papers and feel unsure what they mean.

You do not need to arrive with every document or know all the legal terms. This guide helps you understand the main questions and prepare for a conversation about your circumstances.

12 months and one day

The minimum time you must have been separated before applying for a divorce **[4]**

1 month and one day

How long after a divorce is granted it usually takes to become final, unless the court orders otherwise **[4]**

Do not wait to ask about finances

A time limit, generally 12 months after a divorce becomes final, applies to property and spousal maintenance applications. You can seek advice before divorce. Tell your lawyer about any divorce order and check your dates **[3, 6]**

Already received divorce papers? Tell the firm when and how you received them, send a copy securely and ask whether you need to take any action before a particular date. Do not assume this guide covers the steps required in your situation.

Need a safe way to communicate? Before sharing details, tell the firm if calls, messages, emails or posted documents could put you at risk. Section 9 has more on this. If you are in immediate danger, call 000.

FIRST, THREE THINGS THAT ARE DIFFERENT



Separation

One or both people decide to stop being a couple. There is no application or certificate needed to become separated.

You can be separated while living in the same home.



Divorce

A court order legally ends the marriage.

Separation alone does not end a marriage.



Arrangements for children and finances

Parenting, property and financial-support issues must be addressed separately.

A divorce does not automatically resolve these issues.

These distinctions matter because you may need advice about your children, home or money before you are ready or eligible to apply for divorce [2]. **You do not have to wait for a divorce to seek help with those questions** [3].

1 "Can I apply yet?"

There must have been enough time since separation

The court must be satisfied that the marriage has broken down and there is no reasonable likelihood of getting back together. Its application guidance says you must have been separated for at least 12 months and one day before applying [4]. You do not have to prove that either person caused the marriage to end. Australia's divorce system is based on the breakdown of the marriage, rather than fault [1].

Tell your lawyer if:

- You are unsure when separation began.
- You disagree about the separation date.
- You got back together for a period.
- You continued living in the same home.

These details can affect how the separation period is established. A short reconciliation does not necessarily mean the whole period starts again, but the dates need checking [1].

There must also be a sufficient connection to Australia

Eligibility depends on your or your spouse's citizenship, domicile or residence. You do not necessarily need to have married in Australia. If citizenship, visas, overseas residence or an overseas marriage are relevant, ask your lawyer to check the requirements and evidence needed [1]. This guide cannot determine your eligibility.

2 "We're separated, but neither of us can move out."

Separation under one roof can count. However, the court needs additional evidence explaining how the relationship changed during that time. This usually involves an affidavit, which is a written statement sworn or affirmed to be true, and supporting evidence from another person [4].

For your appointment, think about:

- When the relationship ended and how that was communicated.
- What changed in your living arrangements.
- Changes to finances, household activities and social life.
- Who knew you were separated.

These are starting points for a discussion, not a test you must pass yourself. Living arrangements are considered in context [1]. Do not change your living arrangements simply to match a checklist. Ask what evidence is relevant to your circumstances.

3 "My spouse won't agree. Does that stop me?"

Your spouse does not have to agree to the divorce. You can apply on your own, called a sole application, or together, called a joint application. Different obligations apply to each [2].

Sole application

- You apply on your own. Your spouse does not need to sign the application.
- The documents generally need to be formally served on your spouse.

Joint application

- Both spouses review and sign the application.
- Formal service on the other spouse is not required.

"Service" means formally giving the required documents to the other person and providing evidence that the service requirements have been met [1]. Do not assume you can hand the documents to your spouse yourself. Ask how service must be arranged. The court's guidance says you cannot serve the divorce documents on your spouse yourself [7].

If you cannot locate your spouse, or contact raises safety concerns, tell your lawyer before trying to arrange service. The court has procedures for applications seeking an alternative form of service or permission to dispense with it. Approval is not automatic [4].

4 "What about the children?"

If there are children of the marriage under 18, the divorce application asks about their arrangements, including housing, schooling, health, contact and financial support [4]. Providing this information does not mean the divorce application determines a parenting dispute. Parenting orders are a separate matter [2].

At your appointment, explain both:

"These are the current arrangements."

and:

"These are the concerns I need advice about."

If safety is an issue, raise it at the beginning, not only when completing the section about children.

5 "Will the divorce divide our money and property?"

No. Divorce does not divide property or decide financial support. These require separate consideration [2]. You do not need to wait for a divorce to get advice about them.

Timing matters. For married couples, applications for property orders generally need to be made within 12 months after the divorce becomes final [3]. The same general time limit applies to applications for spousal maintenance [6]. If that period has passed, additional requirements apply; get advice rather than assuming nothing can be done.

Tell your lawyer if a divorce has already been granted, even if your appointment is mainly about property.

6 Prepare what you can, not everything

For a first discussion, useful information includes:

- Your marriage date and where you married.
- Your best estimate of the separation date.
- Any periods of reconciliation or separation under one roof.
- Whether either person lives overseas.
- Whether there are children under 18 and their current arrangements.
- Any existing court documents, orders or approaching dates.
- Whether divorce papers have already been filed or received.

Your marriage certificate is needed for the application. If you cannot find it, explain that. The court provides guidance on replacement certificates, translations and circumstances where a certificate cannot be obtained. Missing it does not mean you cannot start seeking advice [4].

Before sending documents, ask the firm how to provide them securely.

7 Questions to ask before agreeing to work

- What issues does this appointment cover?
- Are you advising only about divorce, or also children and finances?
- What work would you do, and what would remain my responsibility?
- What are the legal fees, court fees and possible additional costs?
- Could a reduced court filing fee be available?
- Do I need to attend a hearing?
- What should happen next, and who will do it?

Court filing fees are separate from a firm's legal fees. Reduced filing fees may be available in eligible circumstances. Hearing attendance requirements also depend on the application and circumstances, so check rather than assuming you must, or need not, attend [4].

8 "When am I actually divorced?"

A divorce is not usually final on the day it is granted. It generally becomes final one month and one day later, unless the court makes a different order. The final divorce order is available through the Commonwealth Courts Portal [4].

Before making plans to remarry, confirm that the divorce has become final.

9 If you feel unsafe or cannot speak freely

At the start of any enquiry, you can say:

> **"Before we discuss the details, I need to explain how you can safely contact me."**

Explain whether messages, emails, posted documents or callbacks could create a risk. Ask what communication arrangements the firm can provide.

If you are in immediate danger, call 000. Victoria Legal Aid's My safety tool provides information about common separation issues, support services and safety planning [5].

10 Leave the appointment with a clear next step

Complete this with your lawyer. A separate sheet with more writing space is available if you prefer to print it.

WHAT WE AGREED	YOUR NOTE
The issues being addressed	
What the firm has agreed to do	
What I need to do or provide	
Any date I need to act by	
Agreed costs or where to find them	
How we will communicate	
What to do if the next step cannot happen	

If you cannot obtain a document, use the online system or complete an agreed step, contact the firm and explain the difficulty. Ask what alternatives are available rather than guessing.

ABOUT THIS RESOURCE

Where this guide comes from

About this resource. General information for an initial family-law conversation, not advice about your eligibility, evidence, deadlines or likely outcome. Reading it does not mean a firm has agreed to act for you. Adapted from The Law Handbook's "Divorce" chapter, contributed by Rebecca Dahl and marked current at 1 September 2024, and checked against current Victoria Legal Aid and Federal Circuit and Family Court of Australia guidance on 22 October 2026. Not commissioned or endorsed by those organisations [1]. Demonstration prototype by Lejacie. Not yet reviewed by a family lawyer.

SOURCES

	SOURCE	WHERE TO FIND IT
[1]	Divorce, The Law Handbook (Fitzroy Legal Service), contributed by Rebecca Dahl, current at 1 September 2024	thelawhandbook.org.au/41-marriage-and-divorce/divorce
[2]	Divorce, separation and marriage annulment, Victoria Legal Aid	legalaid.vic.gov.au/divorce-separation-and-marriage-annulment
[3]	Divorce, Family Relationships Online, Australian Government (used for the property time limit only)	familyrelationships.gov.au/separation/divorce
[4]	How do I apply for a divorce?, Federal Circuit and Family Court of Australia	fcfcoa.gov.au/fl/divorce/apply
[5]	My safety tool, Victoria Legal Aid	legalaid.vic.gov.au/my-safety
[6]	Financial support from an ex-partner, Victoria Legal Aid	legalaid.vic.gov.au/financial-support-from-an-ex-partner
[7]	How do I serve a divorce application?, Federal Circuit and Family Court of Australia	fcfcoa.gov.au/fl/divorce/serve-divorce

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Feedback. If something is wrong, out of date or hard to understand, email **info@lejacie.com** with the page number.

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