

Can I get divorced in England and Wales?

A key question for those looking to divorce in England and Wales is whether you and/or your spouse/civil partner can claim to be habitually resident in England and Wales or if you are domiciled in England and Wales. This is important in determining whether the court has the jurisdiction to deal with your divorce and the consequences of the relationship breakdown including the finances and the arrangements for the children.

What is Domicile?

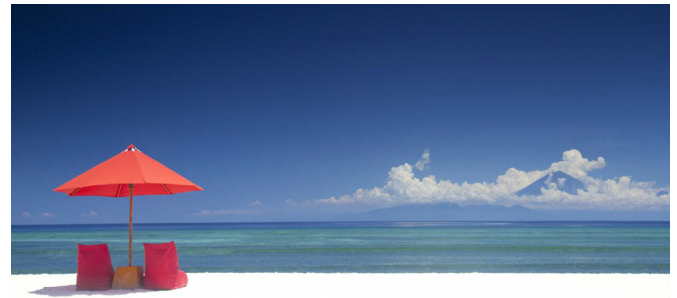
Everyone has a domicile, but you can only have one operative domicile at any one time. A person can lose and acquire different types of domicile which are as follows:

- **Domicile of origin** - this is based upon the country in which you were born. Domicile of origin is never lost but there can be periods of time when it is not operative and this might be in circumstances where, for example, your domicile of choice is operative. Domicile of origin is revived if you lose your domicile of choice until another domicile of choice is acquired.
- **Domicile of choice** - this requires residence in a country other than your domicile of origin and it also requires an intention to remain in that country permanently or indefinitely. There is no single decisive factor when evidencing a domicile of choice, but a number of factors can be taken into account such as an intention to live in that country permanently, the purchase of a home, if you pay tax in that country, if you become a citizen of that country etc.

It is not always easy to work out someone's domicile and it involves a scrutiny and analysis of the available evidence.

What is Habitual Residence?

Habitual residence is different from domicile in that it does not require an intention to make that place your permanent home. Evidencing habitual residence requires a person to establish the "centre of interests" of



a person's life. You can only be habitually resident in one place at any given time.

Can I divorce in England and Wales?

You can apply for a divorce in England and Wales if you meet one of the following criteria:

- When you begin divorce proceedings, both you and your spouse are habitually resident in England or Wales
- Both you and your spouse's last habitual residence was England or Wales and one of you still lives there when divorce proceedings begin
- At the time the divorce proceedings begin, the respondent to the divorce is habitually resident in Wales or England
- For 12 months prior to the start of divorce proceedings, the petitioner applying for the divorce has been habitually resident in Wales or England
- For six months prior to the start of divorce proceedings, the petitioner has been habitually resident in England or Wales, and is also domiciled there
- You and your spouse are domiciled in England or Wales when divorce proceedings begin
- No other court of a "contracting state" to the European Convention known as Brussels II Revised has jurisdiction, and either you or your spouse is domiciled in England or Wales when divorce proceedings start.

For further information, please contact our family team on 0118 977 4045



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