

Briefing Note: Dissolution of Civil Partnerships – Frequently Asked Questions

Introduction

This guide sets out the framework of the dissolution process, highlighting key areas and placing the various issues arising into a legal context. It serves as a general introduction. For specific advice tailored to your own circumstances you should consult a specialist family solicitor.

Background

The Civil Partnership Act

The Civil Partnership Act 2004 came into force on 5 December 2005 and enables same sex couples to obtain legal recognition of the relationship. It has since been extended to include opposite sex couples as well. Couples who form a civil partnership achieve a new legal status of "Civil Partners" acquiring significant rights in a wide range of legal matters (e.g. tax, including Inheritance Tax), state and occupational pensions, protection for domestic violence etc). Those rights include a right to claim financial provision upon dissolution of the Civil Partnership. By and large Civil Partners will enjoy the same rights on dissolution as married couples do upon divorce.

1. Can I dissolve my Civil Partnership?

If you have been in a civil partnership for at least a year you can apply to dissolve the civil partnership.

You or your civil partner must be habitually resident in England and Wales or if this condition is not met there are alternative provisions relating to "domicile".

2. How can I apply to dissolve my Civil Partnership?

There is only one ground for dissolution and that is that the relationship has irretrievably broken down.

You can apply for a dissolution on your own, or jointly with your partner.

The documents that need to be filed with the Court are:

1. The Civil Partnership Dissolution Application;
2. A certified copy of the Civil Partnership Certificate;
3. The Court fee which is currently £593.

The Court then sends copies of these papers to your partner together with an acknowledgement form which your partner must complete, sign and return to the Court. Once that document has been received, and 20 weeks have passed from the date of the application, you can then make an application for a Conditional Order.

Briefing Note

Summary:

A general introduction to the framework of the civil partnership dissolution process, including frequently asked questions.

For detailed advice on family matters please contact:

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Six weeks after this has been granted you can apply for a Final Order.

3. Which Court should be used?

At present, there are only a limited number of Courts which handle dissolutions of civil partnerships.

4. What if my partner wants to defend?

Disputed proceedings of this nature are only possible in very rare circumstances, on limited technical grounds. It is not possible to defend the application for dissolution.

Before proceedings are issued we would recommend that you obtain legal advice.

5. How long will the proceedings take?

The minimum length of time from the date of the formal dissolution proceedings are issued to the Final Order being granted is 26 weeks.

If there are financial issues arising from the dissolution of the civil partnership it is generally advisable to delay the application for the Final Order until these issues are resolved.

Furthermore, even if you want to proceed your partner may apply to delay the Final Order until financial issues have been resolved.

6. What is the position if we have children?

Dissolution of Civil Partnership proceedings only apply to dissolving a civil partnership.

If parties do have children they are advised to try and reach agreement regarding their children rather than formal Court proceedings being issued. However, if this is not possible then it will be for either party to make an application to the Court for a Child Arrangements Order which determines “with whom a child is to live, spend time or otherwise have contact” and “when a child is to live, spend time or otherwise have contact with any person”, under section 8 Children Act 1989.

For further information or specific advice from one of our specialist family law solicitors, please contact:

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