

Civil Partnership

HOW DO I ENTER INTO A CIVIL PARTNERSHIP?

The Civil Partnership Act 2004 came into force on 5th December 2005 and made it legal for a same-sex couple to enter into a Civil Partnership. This was extended to all couples from 2nd December 2019. The purpose of the Act is to provide couples with the same legal relationship, rights, and responsibilities as those who are married. Under a Civil Partnership, civil partners assume legal rights and responsibilities with regard to each other.

A Civil Partnership can only be ended by dissolution or annulment or by the death of one of the partners.

You can enter into a Civil Partnership if:

- you are over 18 years old, or you are 16-17 years old and have permission from those with parental responsibility for you;
- you are not already in a Civil Partnership or married; and
- you are not closely related to the person you want to enter into the Civil Partnership with.

If you and your partner meet the necessary requirements, you then need to follow the correct procedure to enter into a Civil Partnership. First, you must give notice to the Register Office for the area in which you live. You must have resided in that area for at least seven days. If you want to do this in another area, please ensure you contact that local Register Office. You will be required to prove your name, date of birth, address, and nationality as well as your relationship status (ie single or divorced and have the relevant paperwork to prove this). After a further 29 days, you can then enter into your Civil Partnership (up to any time over the following year). Please be careful to check your timeline here.

On the day that you enter into your Civil Partnership, you will be required to sign the Civil Partnership document. This document must be signed by you and your partner in the presence of a registrar and two witnesses who must also sign the document. You must make sure you enter the Civil Partnership at approved premises (ie the Register Office or eg an approved hotel or other venue). Thereafter, you will be provided with your Civil Partnership Certificate. It is possible to enter a Civil Partnership abroad, but you should contact the Embassy and/or High Commission concerned in the first instance.

WHAT ARE THE LEGAL CONSEQUENCES OF ENTERING INTO A CIVIL PARTNERSHIP?

Once you have entered into a Civil Partnership you are in a very similar position to a married couple, for example:

- A Civil Partnership can only be ended by death, dissolution or annulment;
- You will be under an obligation to make reasonable provisions for each other;
- You can apply for financial provision on the dissolution of the Partnership;
- You will have rights of occupation to your home;
- You can acquire parental responsibility for your partner's children;
- If your partner dies intestate (without a Will) you will be in the same position as a spouse;
- You can acquire their Pension benefits upon death; and
- Post application for Dissolution, you can apply for financial relief (see below).

HOW DO I BRING MY CIVIL PARTNERSHIP TO AN END?

In order to bring your Civil Partnership to an end, you will need to apply to the Court for a Dissolution Order which has the same effect as a Final Order on divorce.

There is only one ground for the dissolution of a Civil Partnership and that is that the partnership has irretrievably broken down.

As of 6th April 2022, England and Wales has a new divorce law – The Divorce, Dissolution and Separation Act 2020 introduces no-fault Divorce. It covers Marriage, Civil Partnership, and Nullity.

It is the most significant change in this area of law since 1969. The new system aims to update the divorce process into the 21st Century, with the aim of trying to avoid confrontation where possible and reducing its damaging effect on children. As well as introducing an entirely new basis for obtaining a divorce and a new timetable, the new Legislation introduces all new language surrounding the procedure for Dissolution. Formerly, you would have been required to prove the irretrievable breakdown of the Civil Partnership. This was evidenced through one of the following facts being proven:

- **Unreasonable behaviour**
- **Desertion by one party**
- **Two years separation with the consent of the spouse; or**
- **Five years separation without consent.**

The new Act removes all this. There is now only one ground, that being that the Civil Partnership has irretrievably broken down. The Act removes the need to show that the other partner was in some way at 'fault' or 'blame' for the partnership breaking down. The intention is that the new process will assist with resolving issues, with less confrontation between the parties, as well as less Court involvement. It is hoped that the Act will make for a more efficient and collaborative approach between couples and solicitors, with less conflict.

Parties are now able to apply either individually or jointly. There will be a need for one or both applicants to sign a **sole or joint statement** that the civil partnership has broken down and cannot be saved. This statement will be conclusive evidence provided to the Court of the irretrievable breakdown of the relationship. The statement will be sufficient to allow the Court to make an order for dissolution. Importantly, this **statement will also stop one spouse from contesting a Dissolution.**

There is now an in-built timetable for the process of 26 weeks and this is explained further below.

You cannot apply for a Dissolution Order until one year after the commencement of your partnership.

WHAT IS THE PROCEDURE/PAPERWORK THAT IS NEEDED TO OBTAIN A DISSOLUTION ORDER?

How the new Legislation is used will have different consequences for the Applicant and the Respondent. It allows joint applications to be made for the first time. It must be noted that the decision whether to apply jointly needs to be made at the start of the process. If a sole application is made, it will not be possible to turn this into a joint application. It is possible, however, for a joint application to then move forward as a sole application only.

In joint applications, both parties will apply for their dissolution together. Parties will be equally responsible for the application. They will be known as Applicant 1 and Applicant 2. This differs from sole applications where the parties are referred to as Applicant and Respondent as in sole applications. This option allows couples to apply together, reducing complexity. Whilst joint applications are strongly encouraged, there are some instances where it might not be appropriate to do so, for example, where a party has experienced domestic abuse from the other party. In these circumstances, sole applications are still available as set out above.

Joint applications for dissolution can be made digitally or on paper and can be made by the parties representing themselves (known as litigants in person) or by a solicitor or solicitors on behalf of one or both parties. Where either one or both joint applicants have instructed a solicitor, the application must be made by the solicitor through the digital service, unless there is one solicitor acting for both Applicants – in this instance the paper forms must be used.

Along with the usual methods of service (ie by first class post to last known address; personal service; service upon your solicitor), the new rules provide for email as the primary service method (although if email is used as the default method of service of the application for dissolution, a notice confirming service must be sent to the Respondent's postal address, by first class post or other service that provides for delivery on the next business day). In any event, dissolution itself is now an almost entirely online process.

If we represent you in these proceedings, we must use the digital system to make the application. The usual is that the Court will serve the application (in the UK). If served by email, then a postal notification that service has taken place via email, must be sent. This is in letter format to the Respondent's postal address to advise that an application has been made to the Court. There is a link to the application in the email serving the application. If the application is served by the Sole Applicant, the rules are more complicated. The rules make provision for the application to be served within 28 days of issue; it is possible to make an application to Court to extend the time for service in certain cases and we can advise you in that regard. It is essential, however, to pay attention to the time scales now applied to such applications and these are explained more fully below.

We will prepare your Dissolution application. To do this, we will need to take some personal details about you and your spouse, and any relevant children. We will also need your original civil partnership certificate, which is sent to the Court. Your civil partnership certificate will not be returned by the Court. If you don't have it, we can apply online to obtain a duplicate for a small fee.

I'VE BEEN IN A CIVIL PARTNERSHIP FOR LESS THAN ONE YEAR BUT WANT TO SEPARATE, IS THERE ANYTHING I CAN DO?

You can apply for a Separation Order. This will mean that you will remain in a civil partnership but that you can now apply for financial provision from your partner. Once a year has passed you can then apply for a Dissolution Order.

This process will be as costly as moving through a Dissolution and you may prefer to have a Separation Agreement drawn up by us for you and then signed as a Deed by both parties. This will allow you to rely upon the Agreement for certain agreed terms (ie payment of joint debts; mortgage; finances etc) until you formally begin the Dissolution process.

HOW LONG WILL IT TAKE TO GET A DISSOLUTION ORDER?

From the date that the Applicant files the application, a 26-week time frame begins. This is only applied to the Applicant. As soon as the application has been issued, the Applicant cannot apply for the Conditional Order until 20 weeks have passed since issue. This is now being referred to as the 'cooling off period' designed to allow parties a time for reflection and, importantly, to coordinate practical arrangements for the children and begin the process of financial settlement. We will assist you throughout this process. Please also refer to the flow charts provided for further information.

Once 20 weeks have passed, an application is made to the Court, thereafter a Conditional Order is granted by the Court. This Order confirms that you are entitled to a Dissolution of Civil Partnership. Once this has been granted, a further six weeks and one day must pass before the Final Order may be applied for.

Problems may arise if and where the Applicant delays in serving the Application, and there may well be valid reasons to do this. We can advise you accordingly. In normal circumstances, after service has been effected, the Respondent has 14 days from service to acknowledge the proceedings. The application may be made by one or both parties and the next orders may be applied for jointly or individually. There are procedures that must be accorded to and we can advise you upon these.

As with the old procedure, whilst it will take 20+ weeks to get to the Conditional Order stage, it is still anticipated that the Final Order will not be applied for until there has been settlement of any Financial Proceedings. To protect the parties' future individual financial positions post Dissolution etc, it is still vitally important to secure the Financial Remedy Order to extinguish any financial claims, deal with dissolution/sharing of pensions etc before the Final Order in the Dissolution is granted.

So, whilst it is fair to say that there is a 26-week period from application to Final Order, each case will very much turn on its own facts. It will be necessary to engage in financial disclosure so as to deal with settlement of the finances in the usual way. The warning remains to delay the Final Order if the finances remain unresolved, because whilst one remains in a civil partnership with the other party, they could inherit any death in service benefit if the other partner died, which, once the Final Order is granted, they almost certainly would not. If you are the Respondent in Dissolution proceedings, you should not enter into another civil partnership until the finances have been resolved to your satisfaction and a court order confirming the agreement reached has been granted. This is because the law limits the claims that a Respondent can make to the Court after a new civil partnership has begun.

CAN I CLAIM FINANCIAL RELIEF FROM MY PARTNER ON DISSOLUTION OF OUR CIVIL PARTNERSHIP?

You can claim for the following Financial Orders:

- Lump-sum;
- Periodic payments;
- Property Adjustment;
- Pension Sharing.

When deciding whether to grant a Financial Order, the Court will have regard to the welfare of any children of the relationship who are under 18. It will also take into account the following factors:

- The income and earning capacity, property, and financial resources each partner has or is likely to have in the foreseeable future;
- The financial needs, obligations, and responsibilities each partner has or is likely to have in the foreseeable future;
- The partners' standard of living;
- The age of the partners and the duration of the partnership;
- Any physical or mental disability of either partner;
- Any contributions a partner makes or is likely to make for the welfare of the family;
- The conduct of either partner, if it would be inequitable to disregard it; and
- The value of any benefit that a partner will lose on dissolution of the partnership.

In order to advise you on any financial matters, we would need to have full financial disclosure from you and your partner. Once we have this we can then enter into negotiations with your partner's solicitors, refer you to mediation, or make an application to the Court. Whichever route you choose to follow, full disclosure of your financial circumstances will be required.

WHAT RIGHTS DO I HAVE IN RELATION TO ANY CHILDREN OF THE PARTNERSHIP?

If you are the birth mother of any children of the relationship, you will automatically have parental responsibility for them. If you are the father of the children and are on the birth certificate, you, too, will have parental responsibility.

If you are neither and are in a same-sex Partnership, then Parental Responsibility will need to be considered based on the facts, such as whether the child was conceived via surrogacy, artificial insemination, or adoption. We can advise more fully upon this.

You can acquire parental responsibility either by agreement with the mother or by obtaining a Parental Responsibility Order. There are further Orders that you may be able to apply for in respect to the children and we can advise you accordingly.