
DISSOLUTION OF CIVIL PARTNERSHIPS

To assist those of our clients who may be contemplating a dissolution of their civil partnership we set out below some general information about the process.

The statute governing civil partnerships is the Civil Partnership Act 2004. The purpose of this Act was to enable same-sex couples to obtain legal recognition of your relationship, given that same sex partners (unlike heterosexual cohabitants) do not have the option of marriage.

Under a civil partnership, civil partners assume legal rights and responsibilities with regard to each other and third parties including the State.

Whilst same sex couples acquire many of the legal rights and benefits currently enjoyed by married couples, the Act does not create same-sex marriage. Civil Partnership is a distinct institution with specific statutory rights and responsibilities. However, in terms of the conditions of entering into and dissolving a civil partnership, the Act adopts a model closely based on marriage.

At present, only a limited number of Courts have the jurisdiction to deal with civil partnership proceedings: Birmingham, Brighton, Bristol, Cardiff, Chester, Exeter, Leeds, Manchester and Newcastle and the Principal Registry in London. We can act for you in your matter regardless of where you live or which Court is selected.

A civil partner may ask the Court for a dissolution order once 1 year has passed from the date of the formation of the civil partnership. Either party may then apply to the Court stating that the civil partnership has irretrievably broken down. The party asking for the dissolution order (the Petitioner) must prove irretrievable breakdown by citing one or more of four factors.

These are set out below.

Unreasonable behaviour

- (a) That the Respondent has behaved unreasonably and that the Petitioner cannot reasonably be expected to live with the Respondent.

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Two years separation

- (b) That the parties have lived apart for at least two years immediately prior to the application and both consent to a dissolution order.

Five years separation

- (c) The parties have lived apart for at least five years immediately prior to the application and there is no compelling reason why a dissolution order should not be made.

Desertion

- (d) The Respondent has deserted the Petitioner for a continuous period of at least two years.

A civil partnership ends only on death, dissolution or annulment.

The original civil partnership certificate or a certified copy must be filed together with the petition, Court fee if payable (presently £300), Statement of Arrangements for Children (if minor children of the partnership or family) and a Certificate of Reconciliation (if instructing a solicitor).

The dissolution petition is usually served upon the Respondent through the ordinary course of post by the Court. The Respondent has 14 days after receipt to respond to the petition by completing and returning to the Court an Acknowledgment of Service form.

The relevant completed Acknowledgment of Service form is sealed by the Court and sent to the Petitioner (or solicitors). Where the Respondent intends to defend an answer may be filed and the petition proceeds to trial to determine whether the civil partnership has indeed broken down. If the form states the Respondent's intention not to defend, the dissolution can proceed by effectively by post.

On an undefended petition an Affidavit must be sworn by the Petitioner to verify the petition and Directions for Trial by Special Procedure sought. A District Judge considers the application and if satisfied the partnership has irretrievably broken down and that the arrangements for any minor children are satisfactory, gives certificates to that effect and fixes a date for pronouncement of the first order.

A dissolution is in two parts: a conditional order made by the Court upon a fixed date confirming partnership breakdown and final order made (usually) a minimum of 6

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weeks and 1 day later which finalises the dissolution and dissolves the partnership. At that point either party is free to enter into another civil partnership.

The Court can also determine whether there should be any adjustment of property and/or finances by way of ancillary relief claims. Such claims are initially made in the dissolution petition itself and it is customary to use the time period between orders to negotiate settlement of such claims if possible.

There is a formal procedure to be followed for claims settled consensually or determined by the Court. Please ask for our focus on ancillary relief claims for more information.

If you need advice in your particular case or would like to instruct us to act for you please contact Hilary Messer in the first instance by telephone or direct by email on hilary@rwp-solicitors.co.uk

rwpsolicitors

Meadow House
22 Reading Road
Pangbourne
RG8 7LY

Tel: 0118 9842266 **Fax:** 0118 9845133

Email: pangbourne@richard-wilson.co.uk

Web: www.rwp-solicitors.co.uk

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