



Civil partnership dissolution—client guide

This document provides general guidance regarding procedure for dissolving a civil partnership. Your family lawyer will be able to provide specific advice based on your circumstances.

How do I apply for a dissolution?

To apply for a civil partnership dissolution (the civil partnership terminology for divorce) your civil partnership must have been entered into at least a year prior to the application for dissolution. It doesn't matter where in the world you formalised your relationship, but you can only apply for a dissolution in England and Wales if either you or your civil partner meet certain residence conditions or are domiciled here. You should speak to your family lawyer about this if you are in any doubt.

The dissolution process is generally administrative. This means that usually neither of you will need to see a judge to get a dissolution, as it is almost always agreed by a judge on the paperwork. The process is simple as long as your partner does not ask the court not to grant your dissolution. When this happens there is a different process, but defended proceedings are costly and thankfully very rare.

If you and your partner are not in agreement regarding arrangements for any children of the family and/or finances these will be dealt with separately (but at the same time) from the dissolution process.

Starting dissolution proceedings

The document that starts the dissolution is called a petition. The law in this country still requires one civil partner to 'petition' against the other, even if both of you agree that there should be a dissolution. Your family lawyer will need to have your original (or an official copy) civil partnership certificate to file the petition and also an approved translation of what it says if it is in a language other than English. There is a court fee payable of £410 to start the process (this includes the fee for the final dissolution order).

To start a dissolution, you (or your family lawyer, on your behalf) must file a petition at court. The petition is a form that gives the court information about you and your civil partner, and tells the court that you feel your civil partnership has irretrievably broken down. You must briefly set out evidence that your civil partnership has broken down by supplying certain details in one of the following four categories:

- that your civil partner has behaved unreasonably
- that your civil partner has deserted you for two years
- that you have lived apart for two years and your civil partner consents to the dissolution, or
- that you have lived apart for five years

The person starting the dissolution is called the petitioner and the other civil partner is called the respondent. Because of a legal technicality, it is not possible to ask for a dissolution on the basis of adultery, but the same circumstances can form the substance of a behaviour-related petition.

Children and finances

For the purposes of any financial or children arrangements that need to be made, it doesn't matter in most cases who starts the dissolution and why. You can ask the court to make orders about money and about children if necessary during (or after) the dissolution, but these legal processes are completely separate from the dissolution itself. (This guide only deals with the dissolution procedure, see our guides to arrangements for children and financial arrangements for more information on these areas.)

Procedure

Agreeing the contents of the petition

The Law Society says that a family lawyer acting for someone who wants a dissolution should usually send a draft copy of the dissolution petition to the other civil partner at least seven days before it is filed at court. This gives the other civil partner (the respondent) the opportunity to obtain legal advice, and to raise an objection if there is anything in the petition they find particularly offensive. It tends to be better to agree what is in the

dissolution petition if possible, as disputes about what goes in can have implications for the smooth progress of the rest of the dissolution arrangements.

Filing the petition

The petition is filed at court with the court fee and your original (or an official copy) civil partnership certificate.

Serving the dissolution papers

The court, or your family lawyer, sends the petition out to ('serves') the respondent together with a form for them to fill in called the acknowledgement of service. In this form the respondent has to say whether or not they intend to defend the dissolution. The form has to be returned to the court. If the respondent has no intention to defend the dissolution that is the end of their part in the dissolution process and all further steps are taken by the petitioner at their own pace. In some cases the respondent may want the final dissolution order to be made earlier than the petitioner would prefer (see below).

Applying for the conditional order

The next step is for the petitioner to complete a statement in support of the petition. This is another form that states that the contents of the dissolution petition are true and asks for certain technical legal details such as whether you have lived in the same household since a certain relevant date. Your family lawyer will then file it at court with your application for a conditional order, which is the civil partnership equivalent of a decree nisi in divorce. The conditional order is the second-to-last phase of the dissolution. It means the court has agreed that you are entitled to a dissolution, but has not yet made it final. After the court has received your application for a conditional order, a judge will look at your papers to make sure they fulfil the legal criteria and if they do the court will issue a certificate telling you when the conditional order will be pronounced.

The conditional order is pronounced in open court. This means the judge reads out a list of names of people whose divorces or dissolutions have got to this stage, this week. Although anyone can go along if they want to, you do not have to attend court when this happens. At any time after the conditional order, the court is able to make a binding financial order setting out your arrangements for finances and property on dissolution, either by consent or as a result of separate court proceedings. It will not do so unless you ask it to or your separate financial court proceedings have come to a conclusion.

Finalising the dissolution suit

Six weeks and one day after the grant of the conditional order, the petitioner can apply for the final order, which formally ends the civil partnership. Not everyone should apply for final order as soon as it is available and you should make sure you have discussed whether you should do so with your family lawyer. It may not be sensible to apply immediately if, for example, financial arrangements are not yet settled. You should discuss your specific circumstances with your family lawyer as in some cases the grant of the final order will prevent certain types of financial claims being made. However, if the respondent is keen to end the civil partnership and the petitioner has not applied for the final order, the respondent can ask the court for permission to do so after a certain period of time (about four-and-a-half months from conditional order). The court will usually grant such an application unless there are particularly pressing reasons not to do so.

How long will my dissolution take?

If each step in the dissolution is taken promptly and financial arrangements do not hold things up, the dissolution process usually takes between four and six months.

Other arrangements in relation to finances and children may take longer to resolve.

Implications in relation to your Will

It's important to note that dissolution may mean that certain provisions in your Will do not work as you might have intended them to. You will need to make a new Will quickly after the final order is made (or in contemplation of dissolution) to ensure your wishes are carried out in the event of your death.