

Dissolution - petitioner's guide

Dissolution is the process which legally ends a civil partnership. You cannot issue a petition for dissolution unless the partnership has been in existence for more than 1 year and you are able to prove to the court that you have reasons (or "grounds") for saying the partnership has "irretrievably broken down". The court will accept one or more of the following facts as proof:-

- (i) That your partner has behaved in such a way that you cannot reasonably be expected to continue living with them;
- (ii) That your partner has deserted you for at least two years;
- (iii) That you and your partner have lived separate and apart for two years and he or she consents to a dissolution;
- (iv) That you and your partner have lived apart for a continuous period of at least five years.

The procedure

Notification of intention to issue

Unless we advise you otherwise, we will write to your partner to confirm your intention to commence dissolution proceedings and the fact upon which you intend to rely to prove that the civil partnership has irretrievably broken down. Where appropriate, we will ask your partner to complete a form to confirm their agreement to the dissolution.

In some circumstances you will be able to make a claim against your partner for your costs. A claim for costs will usually only be successful on the basis of an unreasonable behaviour petition. We will discuss with you whether it is appropriate to make a claim for your costs in full, request a contribution or make no claim at all. In the first letter we send to your partner we will confirm your instructions in relation to the costs of the dissolution.

Drafting the petition

We will require your original or a certified copy of your civil partnership certificate. If you are not able to locate your original certificate we will help you obtain a certified copy. The certificate will be filed with the dissolution petition at the court. It will not be returned at the conclusion of your dissolution.

To prepare a draft of the petition, we will take both yours and your partner's full names and details of any name changes, your occupations and addresses and details of any children and their dates of birth. We will also take details from you to support the fact upon which you are petitioning.

- (i) If you have alleged unreasonable behaviour you will need to give:- Examples of the behaviour including the most recent.
- (ii) If you have alleged desertion you will need to give:- The date that the desertion took place.
- (iii) If you have alleged either 2 or 5 years separation you will need to give:- The date of separation, and brief details of how the separation came about.

Statement of arrangements for children

If there are children born to you, or who have been treated by you as children of the family, and they are under 16 or between 16 and 18 and still at college or school full time or training for a profession, trade or vocation, they will be regarded as "children of the family" and the court will require a statement of arrangements form to be completed. In this form you will need to confirm the arrangements you intend to make upon the dissolution in respect of:-

- Where the children will live
- Who they will live with
- Whether the other partner will see the children and how often
- Details of the day to day care arrangements
- Details of their health
- Details of where they will go to school
- What financial support they will receive

Communication with your partner prior to issue

Once approved by you, a copy of your draft petition and statement of arrangements for children form will be sent to your partner. Wherever possible we will attempt to agree the contents of both documents prior to issue. We will also at this stage attempt to agree with your partner the position on costs.

Notice of issue and service of the petition

We will send your petition to the nearest Civil Partnership proceedings county court or The Principal Registry in London for issue. Once the court has issued your petition we will receive Notice of Issue. This will confirm your case number and the date the court posted a copy of your petition and, if applicable, statement of arrangements for the children to your partner.

With the dissolution documentation, the court will send your partner an acknowledgement of service form to complete. This will confirm their position on the contents of your petition, statement of arrangements for children and if applicable, your claim for costs.

There is a time limit of 8 days from the date the petition was sent to your partner for them to return the acknowledgement of service form to the court. If your partner does not return the form on time the court will require personal service of the documents before your dissolution can be progressed. We will arrange personal service either through the court bailiff or a process server. If this is necessary we will require a photograph or written description of your partner.

Applying for directions for trial

If your partner has confirmed on the acknowledgement of service that they do not intend to defend the case, you can ask the court to consider whether you have grounds for a dissolution and if the arrangements you propose for any children are satisfactory. This procedure is called “Applying for Directions for Trial”.

If your partner confirms their intention to defend the proceedings your case will follow a different procedure from this stage.

To apply for Directions for Trial we will draft an affidavit for your completion. This is a statement you must swear to confirm the contents of your petition are true.

Certificate of entitlement

If the Judge is satisfied with your petition and affidavit they will authorise the issue of a Certificate of Entitlement. This will confirm the time and date when the Judge will grant the first stage of your dissolution. This is called “Making the Conditional Order”. The Conditional Order is the first of two orders you must have before your partnership is dissolved and you are free to enter into another civil partnership or marry. The second order is called the Final Order.

If the Judge is satisfied with the statement of arrangements for the children they will also authorise the issue of a Notice of Satisfaction. This confirms that the court does not need to exercise its powers under The Children Act 1989.

If the Judge is not satisfied with the statement of arrangements for the children, we will receive notice that the conditional order should not be made final until satisfactory arrangements have been made. Where the Judge issues this notice they will also give directions on how they wish your case to proceed. This can include a written request for information, a short appointment before the Judge, the ordering of a welfare report on the children, requesting one party to make an application for a court order (e.g. for residence, contact order, prohibited steps and a specific issue) or to make a care or emergency protection order.

If the Judge decides you are not entitled to a dissolution we will receive Notice of a Refusal of Judge’s Certificate. This form will tell us why the Judge has decided you are not entitled to a decree. In most cases the court will simply require further information in correspondence. In some circumstances the Judge may decide you need to attend court. This is called removing your case from the special procedure list and entering it into the undefended list.

Conditional order

It is not necessary to attend court upon the pronouncement of the Conditional Order unless costs are still an issue. In some circumstances we may advise you not to attend but instead we will file a statement on your behalf setting out your position on costs.

After the pronouncement we will receive your Conditional Order. If you have asked for your partner to pay the costs of your dissolution, we will also receive an order supplementary to Conditional Order. This will confirm details of the costs order made.

Final order

The application for your Final Order can be applied for after 6 weeks and 1 day have passed since the pronouncement of the Conditional Order. Once pronounced, this legally ends the partnership and you are free to enter into another civil partnership or marry.

If the Judge was not satisfied with the arrangements for the children, we will not be able to apply for your Final Order until the Judge has issued Notice of Satisfaction of Arrangements or a further order confirming permission to apply.

Certain financial benefits are lost upon the grant of the Final Order (for example the loss of a partner’s pension on death) and therefore if financial matters are not resolved by the time you can apply for the Final Order you may decide to delay the application. We will discuss this with you if a delay is appropriate in your case.

Time scale

It is difficult to give you a specific estimate of the time it will take from the start of your dissolution to your Final Order. How long your dissolution will take will depend upon how co-operative your partner is, how busy the courts are and whether or not we advise you to delay applying for the Final Order.

If your partner co-operates with the dissolution then in most cases the Conditional Order will be pronounced within 3 months from the date of issue of the petition. If we do not advise you to delay applying for the Final Order then your dissolution should be fully concluded within 6 months from the date of issue.

G O R V I N S F A M I L Y L A W

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