

Grounds for dissolution

If you believe that your Civil Partnership has irretrievably broken down, you can issue a dissolution petition, if you and your civil partner have been in a Civil Partnership for at least one year.

There are four ways that you can show the court that your Civil Partnership has irretrievably broken down which are as follows:

- **your civil partner has behaved in such a way that you cannot reasonably be expected to continue living with them.** This is known as unreasonable behaviour. It is necessary to provide five or six relatively brief points detailing your civil partner's unreasonable behaviour and how this makes you feel
- **your civil partner has deserted you for at least two years.** This is rarely relied upon, as most people in this scenario choose to issue a divorce petition upon the basis of unreasonable behaviour instead, so that they do not have to wait for a period of two years to pass before proceeding
- **you and your civil partner have lived separately and apart for two years and the other party consents to a divorce.** You do not have to necessarily be living in two separate properties for all or part of the two years, but you need to show that you have lived apart as two separate households, for example not sharing bedrooms, not sharing domestic chores i.e. not living as a "couple"
- **you and your civil partner have lived apart for a continuous period of at least five years.** After you have been separated for five years, you do not need to show that your civil partner agrees to a dissolution. Again, you do not need to have been living in two separate properties for all or part of the five years, but you need to show that you have lived as two separate households.

Other factors you should consider before issuing your dissolution petition

There are various factors, some of which may restrict your ability to issue a dissolution petition and some of which may impact your financial settlement, which you should consider before you issue your dissolution petition, as follows:



- **do the courts in England and Wales have jurisdiction to deal with my dissolution?** You can issue a dissolution petition in England or Wales if you and your civil partner are domiciled or habitually resident in England or Wales. It is important to consider whether another EU state might have jurisdiction to deal with the dissolution. Jurisdiction is a tricky area and it is important that you get advice on your specific circumstances before dissolution proceedings are issued
- **should I Issue Dissolution Proceedings in England and Wales?** If you and/ or your spouse live abroad or are from another country it may be possible for the dissolution to take place in that country. In this scenario you will need to consider taking advice from specialist family lawyers in all the countries where you may be able to issue proceedings, to take advice about where you may receive the most beneficial financial settlement. This is often known as "forum shopping"
- **does it matter when I get my Civil Partnership dissolved?** The date of separation can have tax consequences if there are assets that may attract capital gains tax on disposal. There is usually no capital gains tax payable on transfers of assets between civil partners in the tax year of separation. If you separate just before the end of the tax year you may not be able to take advantage of this. It is very important to consider obtaining tax advice from your accountant, if you have one, or independent tax advisor about the implications of any such transactions as they relate to you



How do I start the process?

Often your dissolution will proceed more quickly, cost effectively and with less animosity if your petition is issued after there has been a period of consultation with your civil partner and it is best practice to do so. The situation may be different if there is a need to consider any risks of putting your former partner on notice of proceedings, for example if they are living abroad and seeking to prevent a petition being issued in another country, or if proceedings need issuing quickly in conjunction with an urgent financial application, such as a freezing order or an application for maintenance pending suit (which is maintenance until a financial settlement is reached).

What else will the court need to issue my petition?

When your dissolution petition is sent to court for issuing it will need to be accompanied by your original, or a formal copy of your Civil Partnership certificate or a certified copy. The certificate will be retained by the court, so you will need to retain a copy if you wish. If your Civil Partnership took place abroad and your civil partnership certificate is not in English, you will also need to provide the court with a certified translation of your civil partnership certificate. We can help you obtain these.

A court fee of £550 will also need to be paid when the dissolution petition is sent to court, unless you qualify for a fee exemption, which depends on you meeting the set financial criteria.

Which court will my dissolution petition be sent to?

Dissolution petitions must be sent to your nearest regional dissolution centre.

The dissolution process

In a straight forward dissolution, the process is usually as follows:

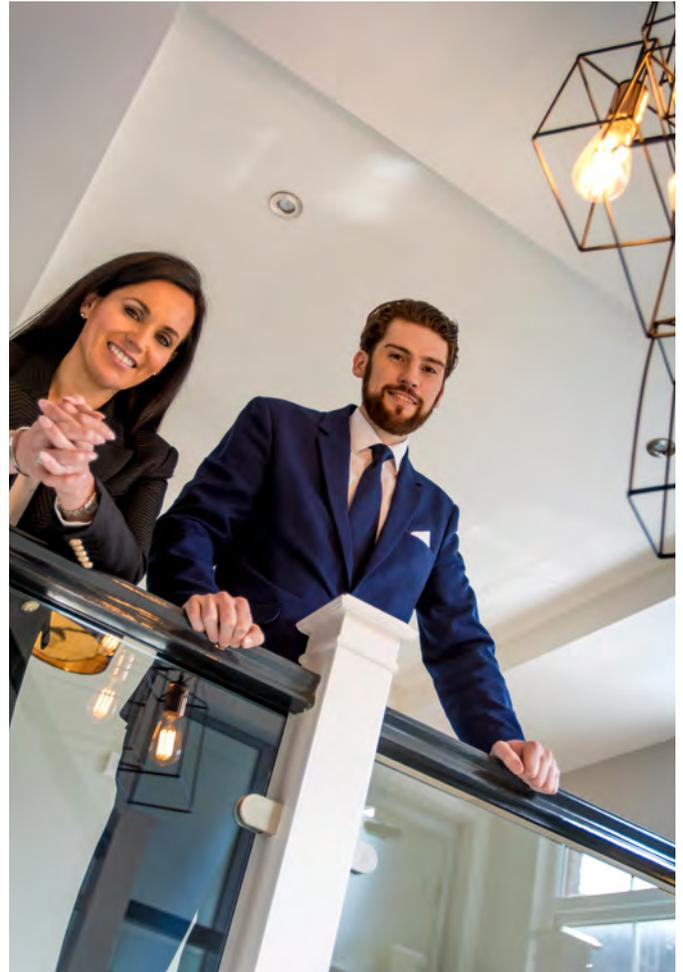
- we will draft a dissolution petition and send it to you for your approval
- once approved by you we will send the draft dissolution petition to your civil partner or their solicitor and ask for their comments
- any amendments requested by your civil partner will be discussed with you. The dissolution petition will then be finalised and sent to your local regional dissolution centre with your original civil partnership certificate and the court fee
- the court will issue your dissolution petition, giving it a case number, and will then send a copy of the dissolution petition and a form called the acknowledgment of service to your civil partner or their solicitor. The court will also send us confirmation of the date that this was done
- your civil partner needs to complete the acknowledgment of service form and return it to court. If the dissolution petition is based upon their unreasonable behaviour they need to state that they do not intend to defend the dissolution petition. It should be noted that they do not have to accept the allegations of unreasonable behaviour. If the dissolution petition is based upon two years separation they must state that they agree to the dissolution proceedings on this basis
- the court will process the acknowledgment of service and send a copy to us. We will then prepare your application for a conditional order and statement in support, which you will need to sign. We will then send these to court
- a judge will consider all the dissolution papers and if they are satisfied that there are grounds for dissolution, and procedurally everything is in order, the court will send us and your civil partner or their solicitor, a certificate of entitlement which states the date upon which the conditional order will be granted
- the conditional order is granted. There is usually no need to attend court unless there is disagreement about who should pay the costs of the proceedings
- six weeks and one day after the conditional order has been granted we will send your application for the final order, which ends your civil partnership, to court. This is processed by the court office. The court will send us and your civil partner or their solicitor the final order. You may be advised not to apply for your final order until a financial settlement has been agreed.

What if my civil partner ignores my dissolution petition?

If your dissolution petition is based upon your civil partner's unreasonable behaviour, or upon the fact that you have been separated for at least five years, you can progress your dissolution if you can show the court that your civil partner has received the dissolution papers. This is usually done by having the papers personally served upon your civil partner by a process server, who then provides a sworn statement confirming that they served the papers upon them. We can assist you with this. If your dissolution petition is based upon two years separation, your petition cannot be progressed if your civil partner does not agree to the dissolution proceeding.

What if my civil partner decides to defend my dissolution petition?

If your civil partner decides to defend your dissolution petition, there will need to be contested dissolution proceedings which would involve you both giving evidence in court, with a judge deciding which civil partner they believe and therefore whether your dissolution proceedings can move forward. This is rare and is a much costlier process than proceedings that are broadly agreed, which is why it is important to try and agree this at the outset. Dissolution proceedings are a process to end the Civil Partnership and the reasons stated rarely impact upon how financial arrangements are determined.



To find out more, please contact our team now on

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