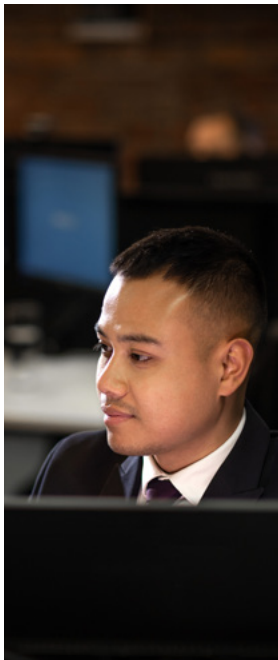


# Guide to Dissolution of Civil Partnership

## Grounds for Dissolution

If you believe that your civil partnership has irretrievably broken down, you can issue a dissolution application if you and your civil partner entered into your civil partnership at least one year ago.

The law changed on 6th April 2022 to introduce “no fault” dissolution meaning you do not have to cite any reason for the breakdown of your civil partnership, rather just confirm in a statement to the court that your civil partnership has irretrievably broken down.



## Other factors you should consider before issuing your dissolution application

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

- do the courts in England and Wales have jurisdiction to deal with my divorce? You can issue a divorce application in England or Wales if you and your spouse are domiciled or habitually resident in England or Wales. Jurisdiction is a tricky area and it is important that you obtain advice on your specific circumstances before divorce proceedings are issued
- should I get divorced in England and Wales? If you and/ or your spouse live abroad or are from or have a connection to another country it may be possible for the divorce to take place in that country. In

this scenario you need to take 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 divorced? 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 spouses 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 dissolution application 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 aboard and you are seeking to prevent a dissolution application being issued in another country, or if proceedings need issuing quickly in conjunction with an urgent financial application.

## Can I make a joint application with my civil partner for the dissolution?

Yes. With the law reform in April 2022, parties to a dissolution can now make a joint application for dissolution where they both agree that the relationship has irretrievably broken down.

If the parties do not agree to make a joint application, don’t worry, you can still make a sole application for dissolution.

## What if we start the application jointly but then my civil partner refuses to engage?

If relations have soured and one person does not want to make the application for a Conditional Order or Final Order as the case progresses, an application can be made by the other civil partner alone. This application must be served upon the other applicant who is then the 'respondent' for the rest of the proceedings.

## What else will the court need to issue my application?

When your dissolution application is sent to court for issuing it will need to be accompanied by your original civil partnership certificate or a formal copy.

A court fee of £593 will also need to be paid when the divorce application issued, unless you qualify for fee exemption, which depends on you meeting the set financial criteria.

## What court will my dissolution application be sent to?

Dissolution applications are made online via the "online portal". This is a government website through which updates will be received from the Court as to the progress of your dissolution, and through which each stage of the process is dealt with.



## The dissolution process

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

- we will draft a dissolution application and send it to you for your approval
- once approved by you we will send the draft dissolution application to your civil partner or their solicitor and ask for their comments, although such comments should be limited now with the introduction of the new "no fault" procedure.
- any amendments requested by your civil partner will be discussed with you. The dissolution application will then be finalised and uploaded to the online portal with a clear copy of your original civil partnership certificate and the court fee
- the court will issue your dissolution application, giving it a case number, and will then send a copy of the dissolution application to your civil partner or their solicitor with a link to complete the acknowledgment of service form. 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 online. They will be sent a link to do this. There are now very few circumstances in which a respondent to a dissolution application can defend it meaning this process should be straight forward.
- the court will process the acknowledgment of service and send a copy to us.
- There is then a 20 week waiting period during which time it is hoped (but not essential in order to progress the dissolution) that any issues relating to the children of the family or financial matters will be resolved. Following the 20 week period your application for a Conditional Order of Dissolution can be made.
- 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 to a Conditional Order 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.
- after six weeks and one day after the Conditional Order has been granted we can prepare your application for the Final Order which ends your civil partnership. This is uploaded via the online portal and processed by the court. 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 Application or defends it?

As the only ground for dissolution is that the applicant believes the civil partnership has irretrievably broken down, the dissolution can progress even if your civil partner ignores the application.

There are now very few circumstances in which a respondent to a dissolution application can defend or contest it meaning this process should be straight forward. The limited circumstances include:-

- Where the Court does not have the jurisdiction to deal with the dissolution application; or
- Where the civil partnership is not valid
- The civil partnership has already been legally ended. For example, if the civil partnership has already been brought to an end in proceedings outside of England and Wales.

## Can I claim my costs back from my civil partner?

The default position now is that the Court will not make a costs order in dissolution proceedings, unless there has been clear and obvious misconduct in how one person has dealt with the proceedings. In the limited instances that costs can be claimed, this has to be done through an additional application to the Court. Where a costs application is made, the matter will be listed for a hearing, with directions given for the couple to file witness statements setting out their position on whether a costs order should be made.

## How long do dissolution proceedings take?

Now the Court have introduced a 20 week mandatory waiting period between the acknowledgement being filed and the applicant being able to apply for a Conditional Order, dissolution proceedings will take a minimum of six months from issuing to the Final Order being granted. You may be advised not to apply for your Final Order until a financial settlement has been agreed and therefore the proceedings may take longer than this.



“Please note that certain potential financial benefits are lost upon granting the Final Order.”

Please note that certain potential financial benefits are lost upon granting the Final Order. Therefore if financial matters have not been agreed by the time your partner can apply for the Final Order, they may be advised to delay the application. We will let you know if this is applicable to your case and depending on your instructions, we can ask your partner to confirm that they will or will not apply for the final order.

Once a final order is obtained, we recommend that you renew your Will or make a Will if you have not already got one. A final order can affect your Will as between former partners and we advise that a new Will should be prepared to reflect your new circumstances, especially after financial orders having been made.

For further information or to arrange a free, no obligation consultation, then please contact our team on:

+44 (0)161 507 7145

hello@mcAlisterfamilylaw.co.uk