

iGuide: Dissolution of Civil Partnerships

08 Dec 2021

Dissolving a civil partnership is quite straight forward – particularly if you and your civil partner agree that the relationship is over. Difficulties tend to occur more often in agreeing the practical issues such as where to live, arrangements for any children and financial matters.

As you will be concentrating on those related issues, the procedure of actually dissolving the civil partnership may seem unnecessarily complicated. The purpose of this brief guide is to outline the dissolution process.

This procedure set out here is correct as of September 2021. The law and procedure in this regard will be changing significantly in April 2022

Who can start the dissolution proceedings?

Either partner may start dissolution proceedings, provided they have been in a civil partnership for over a year and satisfy the jurisdiction criteria for the English court to accept an application for dissolution of the civil partnership.

You must satisfy one of the following criteria:

- Both civil partners are habitually resident in England or Wales
- Both civil partners were last jointly habitually resident in England and one still resides here
- The Respondent is habitually resident in England
- The Applicant is habitually resident here and has been residing here for the past 12 months
- The Applicant is domiciled here and has been habitually residing here for at least 6 months
- One or both civil partners are domiciled in England and Wales

There is a residual jurisdiction for the English court to accept jurisdiction even if it would otherwise not have jurisdiction pursuant to the above in circumstances when:

- The civil partnership was registered in England and Wales; and
- No other court has jurisdiction to deal with the dissolution (i.e., where the civil partners' local Court does not recognise civil partnerships and/or their dissolution).

We can advise you further about the meaning of habitual residence and domicile and which is the best and most appropriate jurisdictional ground for you to bring an application on. Admissions of residence and domicile have important tax consequences which we will take into account when considering this aspect with you, and we would liaise with your accountant or other financial adviser.

If you satisfy the jurisdiction criteria for a civil partnership dissolution in England and Wales, but you or your civil partner have connections to another country, there may be jurisdiction to bring a dissolution there.

This issue is of fundamental importance to consider at the very outset of a relationship breakdown. A dissolution in another country may be more beneficial or detrimental to you, e.g., due to the likely financial provision on dissolution. It is important to consider which country it is best for you and we will advise you in relation to this, and if necessary we will refer you to specialist family lawyers in other countries.

For more information please see the page on Forum on our website and the information contained there.

On what grounds can an application to dissolve a civil partnership be started?

The only ground for dissolution of civil partnership is that the civil partnership has irretrievably broken down and that one of four facts are established.

These facts are as follows:

1. Your civil partner has behaved in such a way that it would be unreasonable to expect you to continue living together
2. You and your civil partner have been living separately for two years or more and your civil partner agrees to a dissolution
3. You and your civil partner have been living separately for five years or more, whether or not your civil partner consents to a dissolution
4. Your civil partner has deserted you for a continuous period of two years or more

If you satisfy the jurisdiction criteria, and can establish one of the four facts, then you will be able to prepare an application to dissolve the civil partnership.

It is often a good idea and good practice to try and obtain your civil partner's agreement to a dissolution at the outset. We may be able to reach agreement with his or her solicitor over the form an application should take and its contents. However, in some circumstances, particularly where there are potentially more than one country with jurisdiction for a dissolution then this may not be either possible or advisable. We will advise you whether this is an issue in your case.

What happens when an application to dissolve a civil partnership is issued?

We will prepare an application on your behalf and you will have an opportunity to review this before it is issued at court.

When lodging the application it is necessary to lodge your original civil partnership certificate, although in some circumstances it is possible to seek permission to file it at a later stage.

After the application has been issued at the court we will arrange for it to be served on your civil partner or their solicitors. The arrangements for service will depend on the circumstances of your case and we will advise you fully about this.

What happens once my civil partner has been served with the application?

After the application is served, your civil partner will have a specific number of days in which to acknowledge receipt of the dissolution papers by the court. The number of days will depend on which country they are in when the proceedings are served on them.

If the Acknowledgement of Service is not returned within the required timescale it may be necessary to apply to the court for permission to proceed with the dissolution in the absence of a response from your civil partner.

Very few applications for dissolution are defended, and we would advise you fully if this was an issue in your case.

On the basis that your civil partner consents to the dissolution we would then apply to the court on your behalf for a Conditional Order, the first order of a civil partnership dissolution.

A Judge will then review the papers to ensure that all is in order and lists the case for pronouncement of the Conditional Order. It is not usually necessary to attend that hearing.

When will the dissolution be finalised?

The Applicant can apply for Final Dissolution Order 6 weeks and one day after the Conditional Order. Once the Final Order is received the civil partnership is dissolved, and you are free to form a new civil partnership or to marry if you so wish.

In some exceptional circumstances it can be possible to obtain the Final Order in a shorter timescale.

Are financial matters dealt with before the dissolution of the civil partnership is finalised?

In practice final financial resolution has often not been reached by the time the Applicant can apply for the Final Order for Dissolution.

In certain circumstances, it may be advantageous for the making of the Final Order to be postponed until all the financial matters have been resolved. We will advise you further about this at the appropriate time.

For more information about the dissolution of civil partnerships in England and Wales, or other questions you may have, please contact a member of our specialist family law team. You can do so via our website, by email to enquiries@iflg.uk.com or telephone on +44 (0) 203 178 5668.

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