

Dissolution - respondent's guide

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

- (i) That you have behaved in such a way that your partner cannot reasonably be expected to continue living with you;
- (ii) That you have deserted your partner for at least two years;
- (iii) That you and your partner have lived separate and apart for two years and you consent 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

In most circumstances, your partner's solicitors will write to you directly or to our offices to confirm their intention to commence dissolution proceedings and the fact upon which they intend to rely to prove that the civil partnership has irretrievably broken down. If your partner intends to issue proceedings on the basis of two years separation, they will ask you to complete a form to confirm your agreement to the dissolution.

In some circumstances your partner will be able to make a claim for the costs of the dissolution against you. A claim for costs will usually only be successful on the basis of an unreasonable behaviour petition. If, however, your partner is on a low income compared to yourself this may also be a reason for us to advise you to pay your partner's costs, or to make a contribution to their costs.

Drafting the petition

Your partner will confirm in the petition the fact upon which they are relying to prove that the civil partnership has irretrievably broken down and to support the fact upon which they are petitioning they will need to confirm the following information:-

- (i) If they have alleged unreasonable behaviour they will need to give:-
Examples of the behaviour including the most recent incident.
- (ii) If they have alleged desertion they will need to give:- The date that the desertion took place.
- (iii) If they have alleged either 2 or 5 year's separation they 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 receiving training for a trade, profession 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 your partner will need to confirm the arrangements they 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 prior to Issue

The Law Society protocol confirms that a Petitioner to a dissolution should provide the Respondent with a draft petition and statement of arrangements for children form prior to issue. It is hoped that whenever possible the contents of both documents will be agreed. We will contact your partner to request a copy of the draft dissolution documentation for our consideration. In some circumstances however, your partner will proceed to issue the proceedings without notice to you and without providing you with a copy of the draft documentation.

Service of the petition

Your partner will send their petition to the nearest Civil Partnership Proceedings County Court or The Principal Registry in London for issue. Once the Court has issued the petition you will receive a sealed copy of the petition, statement of arrangements for children form and a blank acknowledgement of service form. The Court will serve you with the dissolution documentation by sending it to you by first class post. In some circumstances we will inform your partner's solicitors that we will accept service on your behalf and therefore our offices will receive the documentation directly from the Court.

On the acknowledgement of service form we will confirm your position regarding the dissolution and statement of arrangements for children. We will also confirm your position in respect of the cost of the dissolution if your partner has made a claim against you.

There is a time limit of 8 days from the date the petition was sent to you to return the acknowledgement of service to the Court. If the acknowledgement

of service is not filed with the Court within the 8-day time limit before your partner can progress the dissolution, they will need to prove that you have received the documentation. If we have corresponded with your partner's solicitors after issue, this will be sufficient evidence. Alternatively, your partner is likely to arrange for personal service using the Court Bailiff or a Process Server. If personal service proves necessary, this will increase your partner's costs and therefore the amount that they will be claiming against you.

If you intend to defend the proceedings, your case will follow a different procedure from this stage.

Applying for directions for trial

Once the acknowledgement of service form has been returned to the Court, your partner will be in a position to ask the Court to consider whether they have grounds for a dissolution and if the arrangements they have proposed for the children are satisfactory. This procedure is called "Applying for Directions for Trial".

To apply for Directions for Trial your partner will need to file an affidavit with the Court. This is a statement confirming that the contents of their petition and statement of arrangements for children are true.

Certificate of entitlement

If the Judge is satisfied with your partner's petition and affidavit they will authorise the issue of a Certificate of Entitlement. This certificate will confirm the time and date when the Judge will grant the dissolution. This is called "Making the Conditional Order". The conditional order is the first of two orders that must be pronounced before your civil 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 will tell you 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

order should not be made absolute 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, prohibited steps and a specific issue) or to make a care or emergency protection order.

If the Judge decides that your partner is 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 your partner is not entitled to a conditional order. In most cases the Court will simply require further information in correspondence. In some circumstances the Judge may decide that both you and your partner need to attend Court. This is called removing the case from the special procedure list and entering it into the undefended list.

Conditional order

It is not necessary to attend Court upon the making of the conditional order unless costs are still an issue. In some circumstances rather than attend the hearing we will file a statement or write to the Court on your behalf to confirm your position on costs.

After the pronouncement we will receive your conditional order. If your partner has asked for you to pay the costs of the dissolution we also receive an order supplementary to the conditional order. This will confirm details of the cost order made.

Final order

Your partner can apply for the final order after 6 weeks and 1 day have passed since the pronouncement of the conditional order. The final order confirms that the civil partnership has been dissolved and from this date you are able to enter into another civil partnership or marry.

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

your partner can apply for the final order they may delay the application. We will discuss this with you if a delay is likely in your case.

As the Respondent on the dissolution you are able to apply for the final order at any time after the expiration of three months from the earliest date on which your partner could have applied.

Time scale

It is difficult to give 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 quickly you and your partner file documentation with the Court, how busy the Courts are and whether or not it is appropriate to delay applying for the final order.

If your partner completes the dissolution as quickly as possible, then in most cases the conditional order will be pronounced within 3 months from the date of issue of the petition. If they do not delay applying for the final order then your dissolution should be concluded within 6 months from the date of issue.

GORVINS

FAMILY LAW

For advice on dissolution or any other family matters contact
Gorvins Solicitors Family Team at:

4 Davy Avenue
Knowhill, Milton Keynes
MK5 8NL

Tel: +44 (0)1908 354 154
Fax: +44 (0)1908 354 155
E-mail: enquiriesmk@gorvins.com
www.gorvins.com

2-14 Millgate
Stockport, Cheshire
SK1 2NN

Tel: +44 (0)161 930 5151
Fax: +44 (0)161 930 5252
E-mail: enquiries@gorvins.com
www.gorvins.com