

Overview:

To obtain a dissolution you will need to prove to the court that your civil partnership has irretrievably broken down. The court will accept one or more of the following facts as proof:

- that your partner has behaved in such a way that you cannot reasonably be expected to continue living with them.
- that your partner has deserted you for at least two years.
- that you and your partner have lived separately and apart for two years and he or she consents to a divorce.
- that you and your partner have lived apart for a continuous period of at least five years.

This factsheet will provide you with a step by step guide to the stages of a dissolution.

Steps you have to go through to obtain a dissolution

How long your dissolution will take will depend on several factors. This will include how co-operative your partner is, how quickly you both fill in the documentation and return it to the court and how busy the court is. The speed the court will deal with your documents varies from court to court. Some courts will deal with the documentation within 7 days and some can take up to 28 days. The petition must be issued in your area's designated divorce centre.

1. Notification of intention to divorce

A dissolution will proceed more quickly, cost effectively and reduce the animosity between a couple if a petition is issued after there has been a period of consultation. Although this is not possible in every case we will where possible contact your partner or their solicitors prior to issuing the petition to attempt to agree the fact upon which you will issue and the position on costs. If the dissolution has broken down as a result of the behaviour of your partner you can ask the court to make an order for them to pay your costs. We will discuss with you whether it is appropriate to claim for your costs in full, request a contribution or make no claim at all.

2. Drafting the petition

To draft the petition we will need 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 petition and will not be returned at the conclusion of your dissolution.

The petition will confirm the fact upon which you are petitioning and will include details to support that fact. If you have alleged unreasonable behaviour you will need to give examples of the behaviour, including the most recent incident.

If you have alleged desertion you will need to give the date that the desertion took place. 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.

3. Communication with your partner prior to issue

Once the petition has been approved by you we will send a copy to your partner. If your partner requests amendments we will discuss these with you and thereafter make the necessary amendments before sending it to the court for issue.



4. Notice of issue and service of the petition

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 to your partner. Most courts will issue a petition within 14 days from the date of receiving it from us. If we are unsure whether your partner will co-operate with the dissolution we may request that the documentation is sent to our offices so that we can arrange personal service. The court will not progress a divorce unless absolutely certain that your partner has received the petition and that all attempts to serve your partner have been taken.

5. Filing of the acknowledgement of service

With the dissolution documentation the court will send your partner an acknowledgement of service form to complete. This will confirm their position on the content of your petition and 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 before your divorce can be progressed. We will arrange personal service either through the court bailiff or a process server.

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6. Application for a conditional order

Once the acknowledgment of service form has been filed with the court we can apply for a conditional order. This is the stage at which your petition will be considered by the Judge and they will confirm whether or not you are entitled to a dissolution. To apply for a conditional order you will need to provide a statement confirming that the contents of your petition are true.

If your partner intends to defend the dissolution then your dissolution will follow a different route from this stage onwards.

7. Certificate of Entitlement

If the Judge is satisfied with your petition they will authorise the issue of a Certificate of Entitlement. This certificate 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. The second order is called the Final 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 dissolution. 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.

8. Conditional Order

It is not necessary to attend court upon the pronouncement of the Conditional Order unless costs are still an issue. If you have asked for your partner to pay the costs of your dissolution and the Judge agrees to award you your costs we will receive the order for costs with the Conditional Order. Your partner will be required to pay your costs within 14 days of the date of the order.

9. Final Order

The Final Order can be applied for after 6 weeks and 1 day have passed since the pronouncement of your Conditional Order. Once pronounced this legally ends the partnership. Certain financial benefits are lost upon the grant of the Final Order (for example the loss of a partner's pension on death). If financial matters are not resolved by the time you can apply for the Final Order we may advise you to delay the application. We will let you know if this is relevant to you.

To find out more, please contact our team now on:



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