



CIVIL PARTNERSHIPS

The Civil Partnership Act came into force on 5 December 2005 giving same sex couples the ability to obtain legal recognition for their relationship by formally registering a Civil Partnership.

Civil Partners are now treated in the same way as married couples in a wide range of matters including:

- III The ability to apply for a Parental Responsibility Order for a civil partner's child
- III Recognition under the intestacy rules
- III Tax matters, including inheritance tax
- III Employment benefits
- III Most state and occupational pension benefits
- III Income related benefits, tax credits and child support
- III Inheritance of a tenancy agreement
- III Access to fatal accidents compensation
- III Recognition for immigration and nationality purposes
- III The ability to end a partnership legally through the Courts through the dissolution process and in exceptional circumstances to annul the civil partnership
- III On the breakdown of a partnership to apply through the Courts for financial provision
- III In violent or abusive relationship to apply through the Courts for an injunction which can include a non-molestation

order and/or occupation order

On the breakdown of a civil partnership the parties enjoy the same status as married couples in that they have the same rights and obligations and can apply for very much the same orders within Court proceedings as married couples.

Ending a civil partnership is a serious step with potentially grave consequences. It is therefore vital that upon the breakdown of a civil partnership the advice of an expert Family Solicitor is obtained to ensure that your interests are protected and that in any financial proceedings a fair and equitable settlement is achieved.

When can a civil partner apply for the partnership to be dissolved?

The case will be dealt with by a civil partnership proceedings Court. The applicant will be known as the 'Petitioner' and the other partner will be the 'Respondent'.

- III You must have been in a civil partnership for one year or more
- III Either you or your partner must have been resident in the country on a permanent basis for at least one year

before the proceedings commence

- III The civil partnership must have 'irretrievably broken down' as a result of one of the following reasons:
 1. Your partner has behaved in such a way that you cannot reasonably be expected to live together; **OR**
 2. Your partner has deserted you for a continuous period of two years or more; **OR**
 3. You and your partner have lived apart for a continuous period of at least two years AND your partner consents to the dissolution; **OR**
 4. You and your partner have lived apart for a continuous period of at least five years. In this instance the consent of your partner is not required.

In exceptional circumstances one party to a civil partnership may seek to annul the civil



partnership. Your Solicitor will be able to advise as to whether this is an available option.

What happens if a party wishes to separate but they have not been in a civil partnership for one year OR even after having been in a civil partnership for one year they do not wish to dissolve the partnership?

In circumstances like this either party can issue proceedings for a Separation Order. The process is the same as for dissolution proceedings but instead of being granted a final dissolution order you will instead be granted a Separation Order. If a party opts for this route then they do not have to show that the partnership has 'irretrievably broken down'.

If a Separation Order is granted by the Courts then neither party is free to form a new civil partnership or marry because in law the parties remain civil partners albeit separated.

Property and Financial Arrangements with dissolution or separation proceedings

When a civil partnership comes to an end the parties will need to resolve their financial issues. This can be done in one of two ways:

- III The parties reach an agreement on the division of the assets and what, if any, maintenance is to be paid. The agreement is embodied into an order of the Court and the Court is asked to approve the order. It is usually wise to consult a Solicitor about this process to ensure a fair and equitable settlement is obtained; **OR**
- III If the parties are unable to reach an

agreement either party to the dissolution or separation proceedings can make an application to the Court to decide how the assets should be divided between them.

The Court has wide ranging powers to make orders in respect of property, money and income and the types of orders the Court can make are as follows:

Maintenance Pending Outcome - This is an application for interim maintenance which is made to the Court when one party has insufficient money to support themselves and any children. The Court will generally try to preserve the status quo by ensuring that the party receives sufficient monies from their partner by way of interim maintenance until a final order is made.

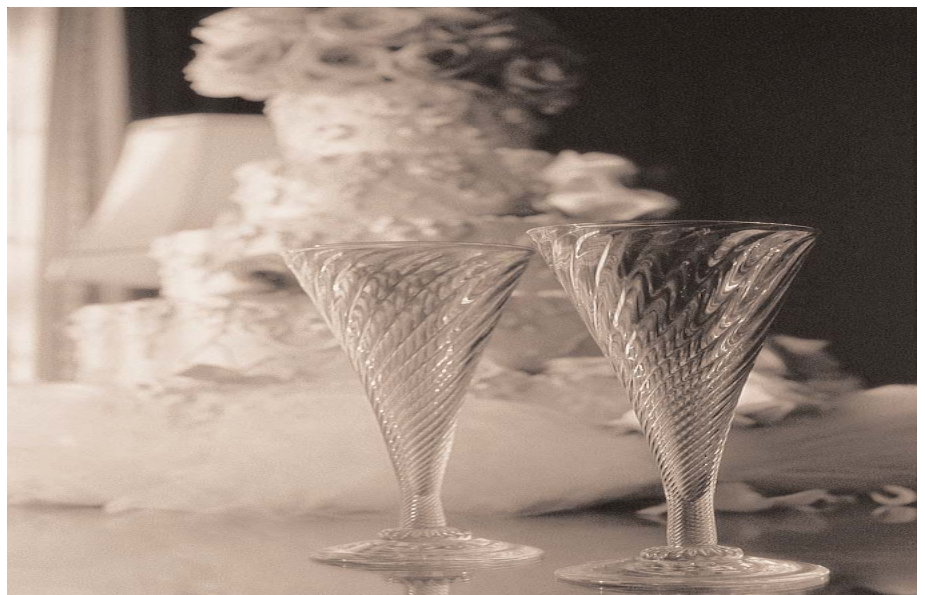
Periodical Payments - These are maintenance orders and can be for a partner or in some instances child maintenance, or a combination of both.

Property Adjustment Orders - These orders relate to any property owned by the parties to include the property lived in by the parties, and any other property vested either

in the joint names, sole names or jointly with anyone else. The Courts have wide ranging powers which can include a sale of property, an outright transfer to a partner for no consideration or for a lump sum of money. This can also include a transfer of property to one partner, subject to a charge to the non-occupying partner thereby enabling the non-occupying partner to realise their interest in the property at a later date.

Lump Sum Payment - This order is used when a party receives a monetary lump sum from the other party, for example on the transfer of a property.

Pension Adjustment Orders - The Courts have a number of options available when dealing with division of a pension. These range from off-setting whereby one party receives a larger share of the capital assets in exchange for making no claim against the partner's pension fund; earmarking where a proportion of one partner's pension is allocated to be paid to the other; or a pension sharing order where a proportion of one partner's pension is transferred to the other's pension fund. There may be some limitations on the orders the Court can make depending on the type of pension plan and



the date of the proceedings.

Your Solicitor will however be able to give you expert guidance on the best option for you.

Care of children upon the breakdown of a civil partnership

Wherever possible the parties should try to agree the arrangements for the care of any children and this should be the first priority for couples who choose to end their civil partnership or live apart as a result of separation.

If a couple decide to dissolve their civil partnership or separate then the Court will wish to ensure that both partners are in agreement with the future arrangements for looking after any children. This may include decisions on how former partners are to share the parenting role in relation to their children in addition to what financial support each will provide for the children.

If the parties are unable to agree arrangements for the children then either party is able to issue applications which may include the following:

- Residence application
- Contact application
- Prohibited steps application
- Specific Issue application

Domestic violence in civil partnerships

There are a range of legal options available for people in a civil partnership. These include the following:

Non-molestation orders which are used to restrain a person from threatening or causing violence to their partner.

Occupation orders which are used when a Court is asked to specify who should stay in the home shared by the couple to protect either party or any children from domestic violence. It is possible to make urgent applications to the Court if the circumstances warrant this.

A Family Solicitor will be able to advise on the types of orders which may be appropriate given the nature of the case.

This Guide contains summaries of complicated issues and should not be relied upon in relation to specific matters. You are advised to take legal advice on particular problems.

**For further assistance, please contact Mary Kaye, Partner & Head of the Family Law Team on
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