

# **MENNEER SHUTTLEWORTH**

## **Family Law**

### **Factsheet 7**

#### **DISSOLUTION OF A CIVIL PARTNERSHIP**

Same sex couples have been able to enter into civil partnerships in England and Wales since the Civil Partnership Act 2004 came in to force on 21 December 2005.

Since that date many couples have entered into civil partnerships. Like marriage a civil partnership is a serious commitment and can only be ended by a court order which dissolves the partnership (like a divorce) or death of one of the parties. Neither partner can apply to dissolve the partnership until at least one year after the partnership was formed. The only ground for dissolution in England and Wales is the irretrievable breakdown of the civil partnership. Such irretrievable breakdown must be established by proving one of the following four facts:

1. One partner has behaved in such a way that the other partner cannot reasonably be expected to live with him or her.
2. The partners have lived apart for a period of two years and both consent to the dissolution
3. One partner has deserted the other for a period of two years or more
4. The partners have lived apart for a period of at least 5 years. No consent to the dissolution is required although a partner could claim that they would suffer grave hardship as a result of the dissolution. If the Court agrees that the partner will suffer grave hardship then the dissolution will not be granted. The grave hardship can be financial e.g. the loss of a chance of acquiring a financial benefit that could be acquired if the dissolution did not proceed, or for some other reason

Unless the partners have lived apart for a period of two years or more, it is necessary to establish some sort of fault by way of unreasonable behaviour. If the parties live with one another for 6 months or more after the last incident of unreasonable behaviour the Court will consider that there has been a reconciliation and dissolution will not be granted.

The Court will allow an attempt at reconciliation for a period of up to 6 months. This will not affect the ability to apply for dissolution on the grounds of two year separation, desertion or five years separation. However, the period of attempted reconciliation must be added to the period of separation so that the total equals at least two years or five years depending on the fact being used to prove irretrievable breakdown.

The majority of dissolutions are not defended and the procedure is usually very straightforward. No attendance at Court is required. The entire process takes

approximately 4-6 months to complete. However if there are financial matters to be settled it may take longer.

### **A brief outline of the dissolution procedure**

1. A dissolution petition is lodged at the Court together with the original civil partnership certificate, and if there are children, a Statement of Arrangements for the Children Form and Court fee. The Court will serve the papers on the party or arrange for them to be served personally although not by you.
2. The partner being served must complete an Acknowledgment of Service form stating when and where they received the dissolution proceedings and stating whether it is their intention to defend these. The form must be returned to the Court within seven days. If the other party intends to defend the dissolution proceedings then they have a further 21 days to file an Answer and Cross Petition if they believe they have grounds to do so.
3. If the proceedings are not defended then application is made to the Court for a conditional order. An affidavit must be sworn in support of the dissolution petition which will accompany the application to the Court. The conditional order will be pronounced in open court although it will not be necessary for anyone to attend.
4. Application for the final order can be made six weeks and one day after the date of the pronouncement of the conditional order. There is a court fee payable for making the application. The final order brings the civil partnership to an end. If the Petitioner does not apply for the final order then the other party can apply for it three months after the six week period has expired. It is not advisable to apply for the final order until the financial matters have been finalised. If either party enters into another civil partnership or, indeed, marriage before the financial matters are settled then that person loses the right to make an application to the Court for the financial provision from the previous civil partnership.

The information contained above is intended for general guidance only. It is not intended to be a substitute for specific legal advice.

For help and assistance please contact our Family Law Partner Amanda Wilson on 01424 720044 e-mail [awilson@menneershuttleworth.co.uk](mailto:awilson@menneershuttleworth.co.uk).