Guide to civil partnerships

a new shape of lawyer
The first civil partnership under the Civil Partnership Act 2004 took place in December 2005. Since then, almost 70,000 couples have formed civil partnerships, which give them broadly the same rights as married couples.

In 2015, there were more than 800 civil partnerships. In the same year, 1,211 civil partnerships ended in dissolution, the equivalent of divorce.

There has recently been a campaign to make civil partnerships available to opposite-sex couples across the UK.

This guide provides an overview of issues to consider when entering into a civil partnership, pre-partnership and post-partnership agreements, and the dissolution of a civil partnership.

It is for general guidance only and expert legal advice is an essential step for anyone considering entering into a civil partnership related agreement or seeking to end a civil partnership.
Entering a civil partnership

A civil partnership is a legal relationship formed by two single people of the same sex. Both must be aged at least 16 and anyone under the age of 18 will require written consent from a parent or guardian.

A civil partnership can take place in any register office in England or Wales or at any venue approved to hold civil partnership ceremonies and civil weddings.

The process starts by both partners giving notice in person of their intention to register a civil partnership at a local register office in the area where they have lived for at least seven days. Details of the date and place where the civil partnership is to be registered will be required as part of giving notice.

Documentary evidence will also be required to confirm the partners’ names, addresses, ages, nationality and whether they have been married or have entered a civil partnership before. Further documentary evidence will be necessary if either partner is subject to any immigration controls.
Notices are publicised by the registrar for 15 days, after which the civil partnership can be registered provided there have been no objections and there are no legal reasons to prevent this. The register office will supply a document called a civil partnership schedule, which is needed in order to register the civil partnership.

If the civil partnership is not registered within the next 12 months, the process outlined above will need to start again.

The civil partnership will be formed once the couple have signed the civil partnership register before a registrar and two witnesses.

The signing of the document can be incorporated into a civil partnership ceremony, although these ceremonies cannot have any religious content. However, it may be possible to arrange a separate religious blessing ceremony in addition, at a different venue.

Some same-sex couples may have already secured legal recognition of their relationship outside the UK. A same-sex relationship that has been recognised in this way will, in certain circumstances, be treated as a civil partnership under the Civil Partnership Act 2004.

Each partner to a civil partnership can keep their own name, or either of them may choose to change their surname to that of their partner. Alternatively, the partners may choose to merge their names to create a double-barrelled surname. Any name changes will need to be made through a change of name deed.
Before entering a civil partnership – or during the relationship – couples may wish to set out their arrangements about finances and property by putting in place a pre-partnership or post-partnership agreement. The next section of this guide looks at these types of agreement in more detail.

Making a Will is also important, as there is a common misconception that under the rules of intestacy, a civil partner – like a husband or wife – would inherit everything if their partner died without making a Will. This is not the case.

In a civil partnership, as in a marriage, the surviving partner is the first person entitled to inherit their late partner’s estate but will not necessarily inherit the whole estate.

For more information on the benefits of making a Will, please contact our Will specialists.
Pre-partnership and post-partnership agreements

A pre-partnership agreement in civil partnerships is the same as a pre-marital agreement in marriages. Both are an agreement between the two partners, prior to them formalising their relationship, which sets out the financial arrangements which will apply if their civil partnership or marriage ends.

Pre-partnership (and Pre-marital) agreements are not binding on the courts in England and Wales but were approved of by the Supreme Court ruling in the case of Radmacher v Radmacher (formerly Granatino) in October 2010.

Although this case involved a multi-millionairess, such agreements are not only for the very wealthy. People tend to form civil partnerships later in life. According to the Office for National Statistics’ latest figures, published in 2012, the average age for men entering a civil partnership was just over 40 and for women just over 38. At this time of life the parties tend to have more assets, which they may want to keep out of the partnership “pot”, thereby avoiding the division of such assets between them if the relationship breaks down.
Those entering a civil partnership after an earlier civil partnership or marriage may want to protect any settlement arising from that earlier relationship. If there are children from a previous civil partnership, marriage or relationship, the children’s parent may wish to ensure that any money or property they have when they enter their new civil partnership, is preserved for those children rather than their new partner.

Where a couple has entered a civil partnership, whether they have a pre-partnership agreement or not, they can also put in place a post-partnership agreement during the course of the partnership to set out the financial and other arrangements in the event of a dissolution. As circumstances change during the civil partnership, whether through the birth of children or inheriting wealth, it is advisable to keep any agreement up to date by periodical reviews.

The courts have indicated that the law should give effect to a pre-marital (or pre-partnership) agreement freely entered into by the partners with a full appreciation of the implications, unless it would not be fair to hold them to that agreement.
The court might however refuse to accept the agreement if either partner was pressurised into signing or failed to disclose fully their financial circumstances.

The decision to put in place a pre or post-partnership agreement is one that requires careful consideration and this approach will not be every couple’s choice. In making the decision, there are some basic requirements for a valid agreement:

- Allow plenty of time for the drawing up of an agreement – at least 21 days before a civil partnership ceremony.
- Both partners should take independent legal advice (and, if necessary, financial advice) before entering into a pre or post-partnership agreement. This protects both partners against any future claim that they were pressurised into such an agreement.
- Both parties must fully disclose all of their assets and financial circumstances.
- The agreement should make it clear what happens to the assets belonging to each partner prior to the civil partnership, as well as those accumulated during the relationship.
- It should cover what happens to the couple’s home, particularly who lives there and how any proceeds of sale will be divided if it is to be sold. It should also contain review clauses, for example, on the birth of a child or after a specified period of time.
Dissolution of a civil partnership

A legal dissolution (the equivalent of a divorce) is required to bring a civil partnership to an end under the Civil Partnership Act 2004. You cannot apply for a dissolution until your civil partnership has been in place for at least a year.

Dissolution is a two-stage process. Providing both parties consent, the court will initially grant a conditional order, thereafter making a final order to conclude the dissolution proceedings.

To begin court proceedings either partner can apply to the court for a dissolution order. The application must be made on the grounds that the civil partnership has broken down irretrievably. This has to be supported by one of the following four facts:

- your partner has behaved in such a way that you cannot reasonably be expected to live with them.
- your partner has deserted you for a continuous period of two years or more.
- you and your partner have been living separately for two years or more, and your partner agrees to the dissolution.
- you and your partner have been living separately for five years or more, whether or not your partner agrees to the dissolution.
Because of the strict legal definition of the term there is no provision for a dissolution on the basis of adultery. However, if one party is unfaithful during the relationship, this would amount to unreasonable behaviour.

A Judge will initially consider the dissolution application and if he agrees that the parties are entitled to a dissolution order, the Judge will set a date for the pronouncement of the conditional order.

The applicant can apply for the final order after a period of six weeks after the pronouncement of the conditional order. The final order is the final stage of the legal process. Once this has been granted, the civil partnership is legally brought to an end. It is only at this point that the parties are then free to enter into another civil partnership or marriage.

Any financial order will come into force after the decree has been made final. Where matters are amicable, the dissolution can take as little as five to six months from beginning to end.
Financial remedies

Either party can claim financial remedies as part of the dissolution; the remedies are similar to those available to married couples on divorce and are separate to the dissolution proceedings. To start proceedings for a financial remedy one party must file with the court an application.

The court will then give directions as to how the case should proceed; these directions will include a requirement that both parties disclose their financial circumstances to the other by completing a Financial Statement, a document known as “Form E”. This is a detailed statement of your current financial position and which includes any other information which you may feel the court should take into account when dividing your money and property. You must attach to your Form E various documents to prove your financial position, such as bank statements and pension valuations.

These Financial Statements and accompanying documents must be filed with the court and a copy provided to your partner or their solicitor.

A Judge will consider both parties’ Financial Statements at an initial court hearing, known as a “First Directions Appointment”. At this hearing the Judge will ensure that the parties have each made a full disclosure of their financial positions supported by the relevant documentation. The Judge will decide what other documents may need to be obtained or disclosed for the case to be progressed, perhaps, for example, a valuation of property.
If each party has already made a full disclosure of their financial position, and nothing further is required, then this hearing may become a “Financial Dispute Resolution Hearing” when the Judge will hear a summary of each party’s case, what they are hoping for and why they think their proposals would represent a reasonable settlement. The Judge may comment on each party’s position, and will encourage them to negotiate.

If the parties reach an agreement at this hearing, the Judge will record the agreement in a court order (a “Consent Order”), bringing the case to an end.

If, despite some negotiation and the Judge’s comments the parties cannot reach agreement, then a further, final hearing will be fixed when the court will decide the matter. The court will make an order which will be final and binding upon both parties.

The court can make a number of orders in financial remedy proceedings. These could include maintenance for either party and/or children, a lump sum for either party and/or children, a property adjustment or transfer order (such as selling the family home or transferring it into one person’s name) or allocating either party a share of the other person’s pension fund.

Either party, regardless of who initiated the dissolution proceedings, can claim financial relief.

Such a claim can be made at any time, including after the dissolution has been finalised.

If you need help deciding whether to apply for a financial remedy order, or what the likely outcome may be, it would be wise to seek legal advice. Even if you think you can reach an agreement with your former partner, talking to a solicitor will make sure your interests are protected.
Children

When a relationship ends in dissolution, the welfare of any children involved is paramount.

During what will be a difficult and stressful time, most parents would ideally wish to put their differences aside to agree the arrangements for their children.

The courts are unlikely to interfere in a voluntary arrangement, as the law considers that these are more likely to succeed than those imposed on the parties. If you and your former partner cannot agree about arrangements for your children, the involvement of a specialist solicitor, experienced in these matters, can prove effective. A solicitor can also assist if it does become necessary to apply to court for an order.

For more help and assistance in connection with children matters, please view our ‘Guide to children matters’ via our website.
The HAPPY Scheme

You’d like to see a specialist family solicitor who can help you but you’re worried about the cost? You can’t afford a court case but you need help to sort the problem out? Then this may be the solution for you.

We call it “HAPPY” – Hethertons Advice, Priced and Packaged for You.

- You act for yourself, but you take advice as you need it – at a fixed price.
- Need a letter or a document? – we’ll draft it for you.
- You’ll keep control of your case; you’ll be responsible for the paperwork and administration; you can use us as much or as little as you want, but you’ll pay only for what advice we give or what work we do.
- To keep your legal costs down, we won’t write or receive letters nor make telephone calls; we won’t even contact you. It’s up to you to decide when you need our help, and when you do, we’ll meet with you face to face to give you our advice.
- We’ll give you all the help and support you need to manage your own case and you’ll get the benefit of our specialist advice and many years’ legal experience – all with the certainty of fixed fees.

For more information about the HAPPY Scheme and how we can help you, please contact the Hethertons team today.
Contact us

The specialist family team at Hethertons Solicitors can assist you with all family-related issues including civil partnerships.

To find out more about how we can help you, please contact our family law specialist:

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