

Civil Partnership

What is a Civil Partnership?

Under the Civil Partnership Act 2004 ("CPA") which came into force on 5 December 2005, a Civil Partnership is defined as a relationship between two people of the same sex. The relationship does not have to be sexual but there must be a relationship between the parties which is not just contractual.

Who is eligible to register a Civil Partnership?

A couple of the same sex where either of them is not already married or has formed a civil partnership with another; are not under the age of 16; and are not within prohibited degrees of relationship (certain relatives). Anyone between the age of 16 and 18 requires parental consent.

How do I register a Civil Partnership?

A Civil Partnership is formed by registration.

15 days notice must be given to the Registrar who must publicise the notice.

Each party must have been resident in England and Wales for at least 7 days immediately before giving notice.

Both parties sign the Civil Partnership agreement in the presence of each other, the Registrar and two witnesses who then each sign the agreement.

How can a Civil Partnership be ended?

Upon death, dissolution or annulment.

Dissolution

There is a bar on dissolution during the first year of the civil partnership. An application can be made by either party on the basis the civil partnership has irretrievably broken down (similar to divorce).

A conditional order is made and 6 weeks from the making of this order a final order can be made. A nullity order may be made in circumstances where the civil partnership is void or voidable.

Application must be made to a Court designated as a civil partnership proceedings County Court.

Separation of Civil Partners

An application for a separation order may be made to the Court by either party on the same facts as for divorce, namely:-

- Unreasonable behavior;
- 2 years separation with consent;
- 5 years separation; and
- Desertion for a continuous period of at least 2 years.

If you would like to discuss any issues raised in this update or any other family related matter please do not hesitate to contact our Family Team on 01279 755777 or email family@nockolds.co.uk

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Financial Relief

Upon dissolution of a Civil Partnership, the Courts have the same powers as they do in relation to the termination of a marriage, to make financial orders.

The overriding objective of the Court will be to ensure financial independence of the parties without causing undue financial hardship to either party.

Rights on death

A Civil Partnership is treated in the same way as marriage under the Wills Act 1837. It is therefore important that Civil Partners make Wills after registering the Civil Partnership and if made before registration they should be made in contemplation of the Civil Partnership so that the provisions will stand.

If a party dies without a will the same provisions apply as for a spouse.

Any assurance policy for the benefit of a civil partner does not form part of the estate of the deceased.

A civil partner may claim under the Inheritance (Provision for Family and Dependents) Act 1975 upon death for such financial provision as it would be reasonable in all the circumstances for a civil partner to receive.

A civil partner may make a claim under the Fatal Accidents Act 1976.

Domestic Violence

A civil partner may apply under the Family Law Act 1996 for an occupation order (see Injunction Information Sheet for details).

A Local Authority has a duty to re-house a civil partner or a former civil partner (following dissolution) if they are likely to suffer violence at home.

Children

A civil partner may acquire parental responsibility for a child as a step-parent under the Children Act 1989.

A civil partner may be responsible for a "child of the family" if that child is a child of both of them, or any other child, other than a foster child, who has been treated by both of them as a child of the family. In respect of such a child, a civil partner may apply for a residence or contact order (see separate Information Sheets for details).

Civil partners may adopt children under the Adoption & Children Act 2002.