

A GUIDE TO FINANCIAL ARRANGEMENTS AFTER CIVIL PARTNERSHIP BREAKDOWN



Dividing up your property when your civil partnership breaks down can be very complicated. This information sheet sets out the law in relation to dividing your finances when you separate from your civil partner and providing financial support to children of your civil partnership. We cannot look in detail at all the different things you may need to consider as the law is complex and will depend on your individual and family circumstances. It is therefore important that you seek independent legal advice.

If you were not in a civil partnership but have jointly owned property or other assets which need to be divided following relationship breakdown this information sheet does not apply to you. Consult our information sheet [Living Together and the Law](#), telephone our legal advice line or consult a solicitor.

The law

Under the **Civil Partnership Act 2004** (CPA) once you or your civil partner has started proceedings to end your civil partnership, (**civil partnership dissolution**) you can apply to the court for a number of orders to deal with your civil partnership property (see our information sheet **A Guide to Civil Partnership Dissolution**). This is known as an **application for financial or ancillary relief**.

What is our civil partnership property?

Civil partnership property includes any assets **owned by either you or your civil partner in your sole names or in your joint names**.

Civil partnership property can be:

- the home where you and your civil partner lived, its contents, your car and any other property

- any savings, life assurance policies, stocks, shares, bonds or pensions
- any debts

The court can make a number of orders to divide your civil partnership property including:

- transferring property or a tenancy into your or your civil partner's sole name;
- ordering that a property be sold and the proceeds of sale be divided between you
- placing a legal charge over property or other assets in your or your civil partner's favour
- ordering that either you or your civil partner pay the other a lump sum or on-going payments (maintenance)
- varying your or your civil partner's pension provision so that the other benefits from it
- ordering the payment of regular payments or a lump sum or sums to you, your civil partner or any other person for the benefit of a child of your civil partnership.

What can I do if I am worried that my civil partner will dispose of our civil partnership property?

If you fear that your civil partner may dispose of any of her property or your joint property you can make an **emergency application** to the court for an injunction to freeze the assets or prevent her dealing with them.

If your civil partner owns your family home in her sole name you can register a **notice of homes rights** with the Land Registry by filling in and sending them an

Application for registration of a notice of home rights (form HR1). You will then be told by the Land Registry if your civil partner tries to sell the property.

How does the court decide how it will divide our civil partnership property?

When considering how to divide your civil partnership property the court will consider **all the circumstances of your case** but firstly **the welfare needs of any children of the family who are under 18**. A child of the family will be any child of yours or your civil partner who you consider to be your children together. The court will then consider:

- the income, earning capacity, property and other financial resources that each partner has or is likely to have in the future
- the financial needs, obligations and responsibilities that each civil partner has or is likely to have in the future
- the standard of living enjoyed by your family before the breakdown of your civil partnership
- your ages and the length of your civil partnership (this may include any periods of unbroken cohabitation before you entered into your civil partnership)
- any physical or mental disability that you or your civil partner has
- the contributions that you and your civil partner has made or is likely to make to the welfare of the family
- the conduct of you or your civil partner (where relevant)

- the value of any benefit that, because of the dissolution of the civil partnership, you or your partner will lose the chance of getting (for example, a pension benefit).

In deciding how to divide your civil partnership property the court's aim is to ensure that you and your civil partners' financial dependence on each other ends **as soon as possible** without causing any hardship to either of you. The court will therefore try to make a **clean break** order. This will often not be possible where there are children of the family under 18.

The procedure

The first step in dividing your joint finances is **financial disclosure**. This is the process through which your solicitor obtains information about you and your civil partner's financial situation including information about civil partnership property, your income and outgoings. The information can be obtained through solicitor's correspondence or, if your civil partner is not co-operating in this process, through the courts.

Once your solicitor has enough financial information she can begin to advise you and start to negotiate a settlement with your civil partner.

If you and your civil partner are able to reach agreement about how to divide your joint finances your solicitor may draw up a **consent order** setting out your agreement which is then signed by you both and sent

to the court for approval by the judge. You do not need to attend court for this. Once it has been approved the consent order is legally binding.

If you cannot reach agreement you may want to consider attending **mediation** with your civil partner. Mediation is a voluntary process where you and your civil partner have face-to-face discussions with the help of a trained mediator and try to reach an agreement. You should always seek legal advice on any agreement you reach as your mediator is not there to give you legal or financial advice. Any agreement you reach can be drawn up into a consent order. However, mediation will not be appropriate if you have experienced domestic violence during your civil partnership or if there is an imbalance of power within the relationship, for example, because you have a disability.

If you cannot reach agreement you can make a formal application for financial relief to the court. The court will set a date for a **First Appointment**. You will then have to exchange financial disclosure on a **Form E**. You must send your completed Form E to the court and a copy to your civil partner, **no later than 35** days before the date of the First Appointment. If you are representing yourself there are *Form E (Financial Statement in Ancillary Relief Proceedings) Notes for guidance* to help you complete it which are available from your local Family Proceedings or County Court or from the Court Service website.

If you are not happy with the information provided by your civil partner you can ask her further questions about her finances in a **questionnaire**. At the first hearing or **First Appointment** the judge will decide what questions are relevant to the case and which your civil partner should answer. If you are able to reach an agreement at this point the judge can make a consent order.

If there is further information needed and you cannot reach agreement the judge will arrange a **Financial Dispute Resolution Appointment (FDR)**. At this hearing the judge will give an indication of how she or he would divide the civil partnership property and encourage you to reach agreement. The judge who sits at the FDR will not hear your case again. If you are able to reach agreement the judge can make a consent order.

If you cannot reach agreement the judge will arrange a final hearing at which you and your civil partner may have to give evidence in the witness box. The judge will then make a decision about how the civil partnership property should be divided.

Maintenance while your case progresses

Under paragraph 38 of schedule 5 of the CPA if you have been financially dependent on your civil partner and either one of you have applied to have your civil partnership dissolved then you can apply to the court for an order that your civil partner pays you maintenance. The maintenance will last until the court makes a final decision

about how to divide your finances and your partner can be ordered to pay you any amount of maintenance that is reasonable.

How much will my case cost?

It is impossible to say how much any financial relief case will cost as this will depend on the hourly rate of your solicitor and the complexity of your case. You may, however, be eligible for public funding (sometimes referred to as legal aid). You can find out if you are eligible for public funding by asking a solicitor or contacting the Community Legal Service.

Financial support for children of a civil partnership

You may have a financial duty to provide financial support for any children of your civil partnership who do not live with you following your dissolution **even if the children are not biologically related to you**. Whether you will be required to financially support children of your civil partnership will depend on their legal relationship to you and your individual family circumstances.

Where you have adopted your partner's child

If you have an adoption order you will have a duty to maintain your children even if, following the break down of your relationship, your children do not live with you.

A parent who does not live with their child following dissolution is called a **non-resident parent (NRP)**. If you are a NRP you will have to pay maintenance which is calculated and collected by the **Child Support Agency (CSA)** and then passed on to the parent with whom the children live. (The courts now only have very limited powers to make orders for child maintenance.) Those receiving certain benefits will have **no choice** but to apply to the CSA for an assessment of maintenance from the NRP.

For further information about how child maintenance is calculated and collected please see our information sheet **A Guide to Child Support**.

Where you have not adopted your partner's child

Where no adoption order has been made the court will consider the following factors to decide whether you should make payments for a child of your civil partnership who is **not** your biological child:

- whether you have taken responsibility for the child's maintenance
- the extent to which you were responsible for the child's maintenance and the basis and length of time you were responsible

- whether in taking responsibility for the child's maintenance you did so knowing that he or she was not your child
- whether there is anyone else who should maintain the child (for example, their biological father).

If the court decides, on the basis of the above factors, that you should make payments for the support of a child of your civil partnership it will make an order requiring you to do so. The court can order that you make **regular payments** or pay one or more **lump sums** to the parent the child lives with or any other relevant person for the benefit of the child. The amount that you are required to pay will depend on how much **you** earn and your family's situation. However, it is thought that the calculation of payments will be the same as the calculations that the Child Support Agency make. See our information sheet **A Guide to Child Support** for details of how these calculations are made.

The law relating to financial relief and civil partnership dissolution can be very complicated. We have provided a very basic overview of the terminology, law, and procedure. We would strongly advise you to seek legal advice by either telephoning our legal advice line or a solicitor.

Please note that the law as set out in this information sheet is the law as it stood at the date of publication. The law may have changed since then and accordingly you are advised to take up-to-date legal advice. Rights of Women cannot accept responsibility for any reliance placed on the legal information contained in this information sheet. This information sheet is designed to give general information only.

**For free legal advice on family law including civil partnership breakdown, lesbian parenting and domestic violence call the Rights of Women Advice Line on 020 7251 6577 (telephone) or 020 7490 2562 (textphone).
Tuesday, Wednesday and Thursday 2pm – 4pm and 7pm – 9pm
Friday 12 noon – 2pm**

Other useful telephone numbers

Broken Rainbow (services for LGBT people experiencing domestic violence)	08452 60 44 60	www.lgbt-dv.org/index.htm
Child Support Agency	08457 133 133	www.csa.gov.uk
Community Legal Service (for finding a solicitor)	0845 345 4345	www.clsdirect.org.uk
Department of Work and Pensions		www.dwp.gov.uk
Benefit Enquiry Line	0800 882200	
Tax Credits Helpline	0845 300 3900	
Her Majesty's Court Service		www.hmcourts-service.gov.uk
Land Registry	0845 308 4545	www.landreg.gov.uk
London Lesbian and Gay Switchboard	020 7837 7324	www.llgs.org.uk
One Parent Families	0800 018 5026	www.oneparentfamilies.org.uk
Pink Parents	08701 273 274	www.pinkparents.org.uk
Relate	0845 130 40 10	www.relate.org.uk
Working Families	0800 0130313	www.workingfamilies.org.uk

Rights of Women, 52-54 Featherstone Street, London EC1Y 8RT

Office/Admin: 020 7251 6575/6 Textphone: 020 7490 2562

Fax: 020 7490 5377

Email: info@row.org.uk

Website: www.rightsofwomen.org.uk

Industrial and Provident Society No: 23221R

