



Civil Partnerships

From 5 December 2005 same sex couples will be able to enter into a civil partnership and obtain legal recognition of their relationship – but before you book the venue there are some things you should consider planning for in the event of a breakdown of the relationship, or death of either or both partners, advises the Law Society.

Make/update a will

- You will need to make a new will because entering into a civil partnership invalidates your existing will. What if your circumstances have changed? Have you formed a civil partnership since you drew up the will? Perhaps you have had a child or moved house? It's a good idea to review your will about every five years to make sure it reflects your current circumstances and wishes. If you do not have a will at all, now is a good time to make one.
- Even if you are in a civil partnership, if you die without having made a will your partner may not inherit your entire estate, even if that is what you want to happen on your death.
- It is important to take advice from a professionally qualified solicitor when making your will. This is advisable because the language of a will needs to be very precise if it is to have legal standing. Solicitors are all properly trained, regulated by the Law Society and insured, so you can have peace of mind that your affairs are in safe hands.
- Be wary of using unqualified advisors as there are many cases of clients receiving shoddy service and poor advice.
- Concerns also remain about home-made will kits that you can buy in high street shops; it is easy to make mistakes when filling them in which means they end up not being legally binding.
- If you die without a will, your partner might have to pay inheritance tax. Married couples or civil partners can often reduce the amount of inheritance tax or avoid it entirely by suitable tax planning.

Have a pre-partnership agreement drawn up

- With the courts more frequently splitting assets 50/50 on divorce it is advisable to consider a pre-partnership agreement as the law on dissolution (termination) of a civil partnership is identical to the law on divorce.
- A pre-partnership agreement is a private agreement entered into by a couple prior to the registration of their civil partnership and is designed to record how the couple wish to resolve financial issues arising in the event of separation. A pre-partnership agreement is thought by many to be a sensible way in which to avoid the uncertainty, costs and bad feeling which can often accompany the break down of a relationship.

- If partners have been living together for many years prior to the registration of their partnership, it is likely that the court will take into account the length of their entire relationship. A pre-partnership agreement can be taken into consideration by the court in such circumstances.

Tax planning

Civil partners will be treated the same as married couples for tax purposes. For example:

- Transfers between civil partners during their lifetime or on death are exempt from inheritance tax.
- Only one property owned by civil partners, whether it is solely or jointly owned, may be treated as the principal private residence for Capital Gains Tax (CGT) purposes and qualify for private residence relief. If you are considering entering into a civil partnership and each own your own property, you should take advice now to minimise CGT on those properties in the future.
- Assets can be transferred between civil partners who are living together on a no-gain, no-loss basis and therefore do not attract an immediate CGT charge.
- The exemption from Stamp Duty and Stamp Duty Land Tax for transactions carried out in connection with divorce, such as the transfer of shares or the transfer of the marital home, is extended to include the dissolution of a civil partnership.
- Married couple's allowance currently available to married couples where one spouse was born before 6 April 1935 also applies to civil partners where one partner meets that age criterion.
- All anti-avoidance legislation that applies to transfers between spouses will be extended to include civil partners.

Ending a civil partnership

Civil partnerships can only be ended by death, dissolution (termination) or annulment. It is not possible to ask the court to dissolve a civil partnership during the first year of the partnership.

To dissolve (terminate) a civil partnership the court must be satisfied that the relationship has irretrievably broken down and that one of the following four grounds has been satisfied:

- One of the partners has behaved unreasonably.
- The partners have lived apart for 2 years and both consent to the dissolution.
- The partners have lived apart for 5 years where one partner does not consent to the dissolution.
- One of the partners has deserted the other for a period of two years prior to the application.

These are the same grounds as for divorce (except for adultery which is not a ground to dissolve a civil partnership but is for marriage) and the procedure is the same.