

CIVIL PARTNERSHIPS

On 5 December 2005 it became possible for two people of the same sex to enter into a civil partnership in the UK. This is a union which provides same sex couples with very similar rights and benefits to married, heterosexual couples.

This fact sheet looks at the key legal issues that should be considered when entering into a civil partnership and if a couple's relationship breaks down.

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Ref: Fact-CivilPartnerships04-2010
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Civil
Partnerships

Before Entering Into a Civil Partnership

● Pre Civil Partnership Agreements

Couples need to be aware of what claims they may be exposed to if the partnership fails and how best to avoid or minimise such claims. A pre civil partnership agreement is the equivalent of a pre-marital or pre-nuptial agreement. Just as with heterosexual couples, it is a very good idea to enter into such an agreement to set out how the couple intend to deal with their respective assets and income in the event of the civil partnership breaking down.

In contrast to pre-nuptial agreements, there are no grounds to suggest that a pre civil partnership agreement is contrary to public policy and therefore, it is hoped that pre civil partnership agreements will hold more weight with the courts than pre-nuptial agreements currently do.

● Children Issues

On a happier note, as with married couples, a civil partner is able to acquire parental responsibility for their partner's child either by agreement or by court order.

Civil partners are also able to adopt children in the same way as married couples.

● Financial and Property Issues

Civil partners are able to enjoy the same tax benefits as married couples although will need to be aware that if they own more than one property, they will lose the current double principal private residence relief they enjoy prior to that civil partnership. The laws surrounding housing, tenancies and welfare benefits have been brought in line with those which relate to married couples as have certain pension schemes.

A will is revoked by the formation of a civil partnership. Specific advice should be sought on

existing and new wills when contemplating entering into a civil partnership. Civil partners are able to claim under the Fatal Accidents Act and after registration will become next of kin.

When a Relationship Breaks Down

● Dissolution

If a civil partnership breaks down irretrievably it can be brought to an end, provided a year has passed since the date of its registration. This is known as a dissolution and is the equivalent of a divorce. A dissolution can be based on one of four facts:

- Behaviour
- Two years' separation and consent
- Five years' separation
- Desertion

● Separation Agreement

If the couple do not wish to dissolve the partnership immediately, they can enter into a separation agreement to record any accord that has been reached regarding the financial claims and the future dissolution proceedings.

● Children Issues

If the parties cannot agree with whom a child should live and what contact the child should have to the other parent, it may be necessary to consult a solicitor who can assist in resolving these issues and if necessary, provide representation within proceedings under the Children Act 1989, under which the court can decide the arrangements for the child.

● Financial and Property Issues

As with marriages, when a civil partnership comes to an end, there will normally be financial and property issues to resolve. The civil partners may have claims against one another's property, assets, pensions and income. Effectively the claims are the same as those of a married couple upon divorce.

These claims can be resolved in a number of ways, including through negotiation, mediation or collaborative law.

If no agreement can be reached, an application can be made to the court for a decision on how the assets and income of the parties should be divided.

● Injunctions

If an individual has been subjected to domestic violence by their civil partner, proceedings can be issued under the Family Law Act 1996 to protect them from further violence, harassment, threats and/or intimidation. If appropriate, an order can also be sought to remove their civil partner from the home and/or prevent them from returning.

● Wills and Inheritance Tax Claims

A will is revoked by the formation of a civil partnership. On dissolution, any will made during the partnership will be partially changed. Specific advice should be sought when contemplating entering into a civil partnership or when bringing such a partnership to an end.

If a civil partner should pass away during the partnership without making adequate financial provision for the surviving partner from their estate, a claim can potentially be pursued against the estate of the deceased partner.

We are able to provide expert advice on a full range of legal matters from family law through to tax planning. Our practical advice will enable you to make an informed decision whether you wish to formalise your relationship or not.