



Civil Partnership & Same-Sex Marriage



This Leaflet:

- Outlines options available for same-sex couples to formalise their relationships.
- Outlines how same-sex couples can protect their personal assets.
- Outlines options available for same- sex couples and their children.

What are the options available for same-sex couples to formalise their relationships?

Many same sex couples formalise their relationship by registering a civil partnership or getting married. The first same-sex weddings in England and Wales have been taking place since 29 March 2014. This document examines what rights gay and lesbian couples benefit from and what should they think about before taking this significant legal step.

In 2019 there were 212,000 same-sex families in the UK, having increased by 40.0% since 2015.



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Civil Partnership

If you decide that a civil partnership is right for you, upon registering your partnership you will become subject to a number of rights and responsibilities. These include:

- You will have the ability to gain parental responsibility for each other's children.
- You will be recognised as civil partners for immigration purposes.
- You will receive joint treatment for income-related benefits.
- You will be entitled to joint state pension benefits.
- Upon the death of a civil partner, the affairs of that partner are legally regulated.

If your relationship were to break down, you may consider a formal dissolution of the civil partnership. On dissolution of you as civil partners you will need to consider:

- Distribution of assets and property.
- Residence and contact arrangements with children.

It is possible to convert your civil partnership into a marriage by signing a conversion into marriage declaration, which can be done by simple signature at the local register office or at a ceremony.



Marriage

The legislation which governs marriage between same-sex couples replicates the existing law for heterosexual couples. Civil partnership law is legally consistent with the law on marriage. Essentially it is now a matter of choice for same-sex couples if they wish to legally marry, potentially in a religious setting, or have a civil legal union. However, if you do wish to marry in a religious setting, be aware that many religious organisations can legally refuse to marry same-sex couples on their premises.

What can I do to protect my personal assets?

Finances- Pre-registration and Pre-nuptial agreements

Before you take any formal steps, you may wish to consider a pre-registration or pre-nuptial agreement. This can be a good way to clarify between you the division of your personal assets within the partnership if you were to separate. Whilst these agreements are not strictly legally binding on the courts, the recent trend is for the court dealing with a legal separation to give effect to pre-registration and pre-nuptial agreements. This is however dependent on certain criteria being met, including that both parties obtain independent legal advice before entering into the agreement.



Children in same-sex relationships

Children from previous relationships:

Some same-sex couples may start a relationship as parents from a previous relationship. Once in a permanent relationship, whether or not formalised by a civil partnership or marriage, some people want to formalise arrangements for the children. For example, through adoption or by gaining parental responsibility through a Child Arrangement Order, this specifies the joint residence of your child or children (or for civil partners or married couples by executing a formal parental responsibility agreement). There are various rules on when such arrangements can be applied for, so it is worth taking legal advice before you embark on this course. `

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Thinking of becoming parents?

There are a number of ways in which same sex couples can become parents.

Many female same sex couples look to donor conception to assist with family building and it is possible for both parties to be legal parents from birth. If a couple is not married or in a civil partnership then treatment must take place in a HFEA licensed clinic and the clinic should ensure that the necessary legal requirements are met. If a couple are married or in a civil partnership then treatment may take place outside of a HFEA licensed clinic for example a clinic abroad or an informal basis.

Private arrangements are also an option and we would advise to execute a pre-conception agreement between everyone involved. These agreements are not legally binding on the courts but are persuasive to demonstrate the parties' intentions at the time they were entered into. The process itself can also be invaluable for the parties involved, as it offers an opportunity to think through how each step of the proposed arrangements will work in practice. We would recommend that parties obtain legal advice to ensure they understand the legal parenthood implications of such arrangements.

An additional option for same-sex couples is surrogacy. This is a complex area of law and you may face further difficulty if the surrogacy arrangement is made abroad. In England and Wales surrogates can only be paid their expenses, but the position on payment varies considerably around the world. Regardless of where the surrogacy takes place the intended parents must apply for and obtain a parental order to ensure that legal parenthood is transferred to them.

Adoption can be an option and an excellent starting point is to visit an adoption information evening run by the local authority where you live. There are also a number of private adoption agencies who can assist.

Below is a list of a few voluntary adoption agencies:

- Adoption Focus
- Barnardos
- BAAF
- Coram
- Family Care





We can help

TV Edwards can advise you on all of the above issues, either under legal aid where eligible, or through our affordable rates. We advise people across London and nationally. We are proud to be a diverse team of solicitors with broad experience of different family make ups.



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