



Civil Partnership and older same-sex couples (December 2005)

Ref: IS/28

If you live in Scotland, Wales or Northern Ireland you may wish to contact:

Age Concern Scotland, Causewayside House, 160 Causewayside, Edinburgh EH9 1PR, tel: 0845 125 9732 (local call rate), website: www.ageconcernscotland.org.uk;

Age Concern Cymru, Units 13 & 14 Neptune Court, Vanguard Way, Cardiff CF24 5PJ, tel: 029 2043 1555 (national call rate); website: www.accymru.org.uk;

Age Concern Northern Ireland, 3 Lower Crescent, Belfast BT7 1NR, tel: 028 9032 5055 (national call rate) Monday to Friday 10am - 12pm and 2pm – 4pm, website: www.ageconcernni.org.

On 5 December 2005, a new law (The Civil Partnership Act 2004) came into force. If you are in a gay or lesbian relationship you will now be able to get legal recognition for this relationship by registering a civil partnership.

Registering a civil partnership brings with it a wide range of rights and responsibilities similar to marriage. In addition, some changes affect all gay and lesbian couples who live together, regardless of whether they register a civil partnership or not.

This information sheet introduces issues of particular relevance to older couples considering or intending to register a civil partnership. In addition, Age Concern information sheet IS/27 'Older same-sex couples and benefits' provides information on the new pensions and benefit rules that apply to all same-sex couples who live together. General information on civil partnership is available from both the government and Stonewall, details of which are given at the end of this information sheet.

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Special arrangements for registering a civil partnership

In England and Wales, a civil partnership is registered when two adults of the same sex sign the official document in front of the registrar and two witnesses. At least 15 days before this, each person must give notice of their intention to register at a register office in the area where they live.

- Full information about how to go about registering a civil partnership can be obtained from a local Register Office or the General Register Office for England and Wales tel: 0151 471 4814 (9am to 5pm Monday to Friday) or website: www.gro.gov.uk

There are a number of circumstances where the normal procedure for registering a civil partnership can be varied:

In event of a serious illness

If one of the couple is seriously ill and not expected to recover, then the civil partnership can take place right away, without the 15-day waiting period, and it can be registered at any time of day or night (normally civil partnerships can only take place between 8am and 6pm, as is the case for marriage).

A doctor's certificate has to be provided stating that the person is seriously ill and not expected to recover, that they cannot be moved to a place where civil partnerships usually take place and that they understand the nature and purpose of registering a civil partnership.

In this situation, the couple should contact the register office for the area where the civil partnership is to take place (which is the area where the ill person is currently resident) to make arrangements. Register offices have long standing arrangements in place for marriages in similar circumstances.

When a person is housebound or cannot be moved

If one of the couple cannot be moved there are special procedures to allow them to register a civil partnership wherever they cannot be moved from – their home, care home or hospital, for example.

The couple has to provide a statement, made by a doctor no more than 14 days before notice of intention to register is given, confirming that the person ought not to be moved and that this condition is likely to continue for the next three months. The normal 15 day waiting period applies between giving notice of intention to register and the civil partnership registration. Contact your local register office for more information.

Rights and responsibilities

Employment benefits

Employees in civil partnerships are treated the same as married employees. In particular, the civil partner of an employee is entitled to any benefit package that is available to the spouse of an employee. For example, if an employer makes private health insurance available to employees' spouses, it must also be made available to the civil partner of an employee.

Taxation

For tax purposes civil partners are treated the same as married couples. This means for example that a bereaved civil partner is able to inherit their deceased civil partner's property in the same way as a widow or widower without being liable for inheritance tax.

- Further information is available from your local tax office or HM Revenue and Customs website: www.hmrc.gov.uk

Pensions

Civil partners are entitled to a survivor's pension from their civil partner's contracted out occupational or personal pension scheme, public service pension scheme or non-contracted out scheme that currently pays survivor benefits to widows and widowers.

Civil partners enjoy most of the same state pension rights as husbands and widowers, and they will be treated the same as married couples after 2010 when the treatment of men and women will be equalised.

- For more information see Age Concern Information Sheet IS/27 'Older same-sex couples and benefits'

Benefits and tax credits

From 5 December 2005 there are important changes affecting all same-sex couples who live together and where either one claims benefits. From this date cohabiting same-sex partners are treated as a couple when calculating entitlement. This is the case whether you are civil partners or not.

- For more information see Age Concern Information Sheet IS/27 'Older same-sex couples and benefits'

Tenancy rights

The Civil Partnership Act has important consequences for the housing rights of people who have registered a civil partnership or who are living together as if they were civil partners.

The general effect in relation to tenancies is to give rights to civil partners and their families that are equal to those currently enjoyed by married couples and their families. The Act also equalises the rights of same-sex partners who are living together as if they were civil partners and their families with those of unmarried opposite-sex cohabitants and their families.

Taking over a deceased partner's tenancy – in most cases, same-sex partners should be able to succeed to the tenancy on the death of their partner. This would apply whether they are civil partners or living together as though they were civil partners. Please note, however, that this is a complex area of law and that anyone with any doubts about their rights should seek independent legal advice.

Adding a partner to the tenancy agreement – in most cases, if two people register a civil partnership or live together as civil partners and one is a tenant, he or she should be entitled to add the partner's name to the tenancy.

Right to Buy – if a person has the 'Right to Buy' their rented home, they have the right to share the 'Right to Buy' with their civil partner, or with a partner they have been living with as if they were civil partners for the past 12 months.

- Further information – in some areas there may be a specific housing advice or housing aid centre. Your local council or Citizens Advice Bureau will be able to tell you if there is one in your area

Paying for residential care

The local authority rule of ‘disregard of property’ means that the value of a married couple’s home is not taken into account when calculating how much they pay towards the cost of residential care, when one partner remains living at home. The same rule now also applies to civil partners.

There is no requirement for civil partners to support each other in residential care under the ‘liable relative’ rules that exist for spouses. Government intends to repeal these rules at the earliest opportunity; it would, therefore, not be appropriate to extend these rules to civil partners.

Next-of-kin status

The concept of ‘next-of-kin’ has very limited meaning in the context of healthcare. Before health professionals treat an adult patient, they usually need his or her consent. As long as the patient can understand what is involved in the treatment, he or she is the only person who can give consent.

If a patient is incapable of giving consent or making decisions for themselves, health professionals will make decisions based on the best interests and medical needs of that patient, in consultation with those closest to the patient to help establish their likely views. There have, however, been many anecdotal cases of same-sex partners being excluded from consultation or access to information and even being denied the right to visit a critically ill partner.

The introduction of civil partnership as a legal status will help raise awareness of the right of all gay and lesbian couples, whether or not they are civil partners, to be treated with the same consideration and respect as opposite-sex couples in similar circumstances.

When a civil partner dies

Registration of death

The Civil Partnership Act extends the definition of relative in the Births and Deaths Registration Act to include relatives by civil partnership. Civil partners may therefore register the death of their partner in the same way that married couples can.

Wills

If a person has a will and then registers a civil partnership, the will will be revoked automatically unless there are express terms in it that it should not be revoked in these circumstances. New civil partners are therefore advised to make new wills.

The most valuable asset a couple is likely to have is the home they share. If they own the home jointly then ownership of the home will be vested absolutely in the surviving civil partner when the other partner dies. There is no need to make special provision for this in the will. All other property that belongs to one or other of the civil partners will be disposed of in accordance with the terms of the civil partner's will or under the intestacy rules.

Intestacy

If a person dies without making a will (ie he or she dies 'intestate') there are special legal rules that determine how the estate of the deceased should be shared amongst that person's relatives.

Under the new law if a civil partner dies intestate then his or her civil partner can receive a maximum of £200,000 from the estate and a half share of the amount that is left.

If the deceased had children then the amount the surviving civil partner automatically receives is £125,000 and a half share of the rest.

Family provision

If a surviving civil partner feels that neither the deceased civil partner's will nor the intestacy rules makes reasonable financial provision for them they can apply to the High Court asking the court to award them a certain sum of money out of the estate or, perhaps, to award them the family home.

The court does not need proof that the surviving civil partner was financially dependant on the deceased, just that they did not make reasonable financial provision for the surviving partner.

Former civil partners may also make a claim for reasonable financial provision from the estate of the deceased.

Life assurance

Civil partners have the right to obtain assurance on their civil partner's life on a basis equivalent to married people.

Further information on civil partnership

Civil Partnership guide (URN 05/1485)

Introductory leaflet by the Government's Women and Equality Unit
tel: 0845 015 0010 or website:
www.womenandequalityunit.gov.uk/civilpartnership.htm

Get Hitched

Stonewall's introductory guide to civil partnership, available in Bengali, English, French, Gujarati, Polish, Portuguese, Punjabi, Spanish, Turkish, Urdu, Welsh and in large print. Tel: 020 7881 9440, minicom: 020 7881 9996 or website: www.stonewall.org.uk

Other organisations

Lesbian and Gay Switchboard, 24 hour helpline tel: 020 7837 7324 or website: www.queery.org.uk

London Lesbian and Gay Bereavement Project, tel: 020 7403 5969

Polari, works for better services for older lesbians, gay men and bisexuals and runs an information service for LGB older people and those who support them. Tel: 020 7255 4480, email: info-polari@madasafish.com

Stonewall, the national organisation that campaigns for social justice for lesbians, gay men and bisexuals. Tel: 020 7881 9440, website: www.stonewall.org.uk

Further information and advice from Age Concern

If you would like to know more about some of the issues introduced in this Information Sheet the following additional Factsheets and Information Sheets may be useful. These will be updated during 2006 to take full account of the changes brought about by the Civil Partnership Act. In the meantime read references to husbands and wives and opposite-sex partners as civil partners and same-sex partners.

Information sheets:

IS/8	Planning for later life as a lesbian, gay man or bisexual person
IS/18	Instructions for my next-of-kin and executors upon my death
IS/27	Older same-sex couples and benefits

Factsheets:

Factsheet 7	Making your will
Factsheet 10	Local authority charging procedures for care homes
Factsheet 14	Dealing with someone's estate
Factsheet 22	Legal arrangements for managing your finances
Factsheet 27	Planning for a funeral
Factsheet 35	Tenants' rights
Factsheet 39	Paying for care in a care home if you have a partner
Factsheet 43	Obtaining and paying for legal advice

These factsheets and information sheets are available from Age Concern's Information Line on freephone 0800 00 99 66 and from www.ageconcern.org.uk where you can also get details of your local Age Concern.

If you would like

- to receive this information in large print

phone 0800 00 99 66 (free call) or write to Age Concern
FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ. Find out
more about Age Concern England online at
www.ageconcern.org.uk

Opening Doors

Age Concern's programme of information, resources and events
for and about older lesbians, gay men and bisexuals. Full details at
www.ageconcern.org.uk/openingdoors

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