



GILES WILSON  
SOLICITORS

A GUIDE TO MARRIAGE,  
CIVIL PARTNERSHIP AND THE LAW



For legal advice, support or to arrange your free 30-minute consultation, simply call our friendly team on 01702 477106 or email us on [info@gileswilson.co.uk](mailto:info@gileswilson.co.uk).

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## MARRIAGE, CIVIL PARTNERSHIP AND THE LAW /

When planning a wedding, you have so much to arrange – outfits, vehicles, the big day, the honeymoon – but many people overlook the legal consequences. That’s why we’ve compiled this simple introduction to family law.

Your union is a time of celebration, an expression of love, a commitment to your partner. It’s also a legal contract, and for that reason, you should be aware of the legal implications.

In the run up to the happiest day of your life, it’s not unusual to overlook the associated legal matters that need to be taken care of – or simply not to realise there are legal matters at all.

Those who do realise they need a solicitor are often content to look online or to turn to the first solicitor recommended. But, in reality, this is a great opportunity to form a long-term relationship with a solicitor you can trust, one who you’ll be able to call on for advice on all sorts of issues in years to come.

At Giles Wilson, our expert legal team will listen carefully to your circumstances and guide you through every legal issue associated to your marriage or civil partnership – from property ownership to changing your name to getting married abroad.

Drawing on our extensive experience in family law, we will provide professional advice with the minimum of disruption. Confident that all the legalities have been accounted for, you’ll be able to concentrate on planning your dream ceremony and many years of future happiness with your partner.

We hope you find this introduction helpful. If you require any further information, simply contact our team on

**01702 477106** or visit **[www.gileswilson.co.uk](http://www.gileswilson.co.uk)**



## HOW DOES MARRIAGE OR CIVIL PARTNERSHIP AFFECT CHILDREN /

When joining together as a new family, you'll want to know just what impact it will have on your children – as well as the rights and duties of all adult parties involved.

The rights and responsibilities of parents and step-parents can vary widely depending on your circumstances. This can affect everything from your child's right to spend time with you, to your influence over important decisions in their lives and on to your responsibility for taking care of and providing for the child.

### **Parental responsibility**

Parental responsibility refers to the legal rights and responsibilities of parents and other appropriate adults, as well as the ability to make important decisions in a child's life. The most important duties for those with parental responsibility are to provide a home for the child and to look after the child.

All mothers and most fathers will have parental responsibility for their children. The mother automatically

has parental responsibility from birth; the father usually has parental responsibility if he is either married to the child's mother or named on the child's birth certificate (*for a child born after 05/12/2003*).

If you're a woman and already have children with your spouse-to-be, he will likely have parental responsibility. But consult us and we can easily determine who holds parental responsibility.

In some cases, those with a child from a previous relationship might want their future partner to assume parental responsibility for the child. This is usually granted by entering into a formal agreement with the person who is to acquire parental responsibility. We can assist you with the agreement, which will need to be registered centrally, and any Court application that may be required.

## WHAT HAPPENS TO PROPERTY /

Owning property together is the logical next step for many couples. But there are a number of ways in which property can be held, and it's important you choose the right form of ownership for both of you.

Many people are unsure about how they hold their property and even more are unaware of the implications. So, whether you already own property together or are looking to do so soon, it's crucial you pick the right form of ownership.

We can advise you on the differences between each form of ownership and which is most appropriate to your situation – as well as drawing up agreements for the joint ownership of a property.

### **Joint tenancy**

If you are entering into your first union with no children from previous relationships, then joint tenancy may be the most suitable form of ownership. As joint tenants, you are deemed to own the whole property equally.

In the event that one of you dies, the deceased's share passes automatically to the surviving partner, regardless of the terms of the deceased's Will or Intestacy. Therefore, if you wish your co-owner to receive sole ownership of the property upon your death, joint tenancy is the right choice.

### **Tenants in common**

Tenants in common is the most popular form of ownership for people entering into a second relationship when one or both of you has a child or children from a previous relationship, or where one party contributes significantly more to the purchase of the property.

As tenants in common, each of you holds a share in the property. In the event that one of you dies, the deceased's share in the property passes according to the terms of their Will (*and if there is no Will, under the Rules of Intestacy*).

In this case, we would advise you to have a Deed of Trust drawn up, which sets out exactly what is to happen in case of death. You should also ensure that both you and your partner have up-to-date Wills, and that they are then reviewed regularly.

### **Can I change the form of ownership?**

Just because you own property in one way does not mean you are bound to that arrangement forever. If your circumstances change or you simply decide that you chose the wrong option when you purchased, then we can assist you in changing the form of ownership.

We can also help you transfer property held in one name to two.

### **Did you know...?**

For the purposes of capital gains tax, a married couple/civil partners can claim private residence relief for only one dwelling, even if they live apart.





### Did you know...?

When a married couple/civil partners separate, the Courts have extensive powers to divide their property and may overrule pre-nuptial agreements.

## IS A PRE-NUPTIAL AGREEMENT RIGHT FOR ME /

[While 'pre-nups' might seem at odds with the romance of marriage, more and more couples are confronting this difficult conversation. Find out if making a pre-nuptial agreement could be right for you.](#)

When you are planning your big day, it's only natural that you'll be reluctant to consider what will happen if your marriage or civil partnership does not work out. But the truth is that from time to time things don't work out. A pre-nuptial agreement can keep upset to a minimum in this eventuality.

If one or both of you have property or assets, you have been married before, or have children, we might advise you to make a pre-nuptial agreement. You should remember, however, that the chances are you will never need to turn to your pre-nuptial agreement.

It takes a strong character to have an open discussion with your partner about what might happen if your marriage or civil partnership doesn't go to plan. But there are some important questions you need to ask. What would you

expect to happen financially? Do you and your partner agree what you would want to happen? Does the law reflect what you would want to happen?

If you don't agree on these matters, then it can be better to find out sooner rather than later. Experience tells us that those who confront this difficult conversation benefit from having brought what is often an unspoken anxiety out into the open.

If you want to form a pre-nuptial agreement, you need to contact us early in the planning process so we can arrange this discussion. Pre-nuptial agreements must be finalised well in advance of the wedding if they are to be legally binding. What's more, with this burden lifted, you can focus your full attention on preparing for a joyous wedding day!



### Did you know...?

Women who become spouses to male peers and knights usually receive titles (*for the duration of the marriage*). But men who marry dames, as well as civil partners of ennobled spouses, do not receive titles.

## CHANGING YOUR SURNAME /

Contrary to popular belief, your name does not change automatically when you marry or enter into a civil partnership – but that doesn't mean that changing your name has to be difficult.

There is, in fact, no legal obligation for your name to change when you marry. Traditionally, you can assume your partner's name after marriage or civil partnership without the need to go through the formalities of a change of name deed or deed poll. Your marriage or civil partnership certificate will serve as evidence of the change of name.

It is, however, becoming more and more common for people to either double barrel their surnames – choosing to make one partner's surname the middle name for both – or even to merge the individual surnames together to form a completely new surname.

If you decide to do either of the above, then your marriage or civil partnership certificate will not be sufficient evidence of the change of name. You will need to sign a change of name deed to act as proof of your new name.

We can assist you in the preparation of the change of name deed, ensuring that the process is as simple as possible and offer a fixed fee for the service.

Cost saving tip: if you're thinking of double barrelling your names, one partner should do this before the marriage/civil partnership. This way only one of you has to sign (*and pay for*) a change of name deed and the other can assume the name after marriage.

### **Changing your child's surname**

After their union, some people prefer to change their child's surname to reflect their own name change. To do this, you will need everyone who has parental responsibility to agree to make a change of name deed for the child. If a previous partner is unwilling to give permission, then you may need to apply to the Courts.



## CIVIL PARTNERSHIP ACT 2004 AND MARRIAGE (SAME SEX COUPLES) ACT 2013 /

When entering into a Civil Partnership, there are specific legal considerations to take into account.

From ensuring the venue is registered to be holding the ceremony to giving the correct notification in advance, planning is vital to ensure a smooth ceremony and registration. This can include ensuring that the 15-day waiting period has expired after the registration of the Civil Partnership prior to the Register Office providing the couple with the legal document known as a Civil Partnership Schedule. This will be required to be produced when showing evidence of the Civil Partnership.

In addition, the advent of the Marriage (Same Sex Couples) Act 2013 will allow for the marriage of same sex couples in England and Wales. It is important for any couple entering a Civil Partnership (or in the near future a marriage) that they meet the legal requirements.

Couples may also face matters such as making an application through the Principal Registry for Step Parent adoption or Step Parent parental responsibility arrangements for their partners' (and spouses') children from previous relationships. Children's issues can become complex if fertility treatment is utilised as to the legal definition of the donor. A Co-Parenting Agreement can be useful in providing clear guidelines as to everyone's roles in raising the children.

## YOUR GUIDE TO GETTING MARRIED ABROAD /

You've picked the idyllic destination and planned your dream ceremony in the sun – but what about the extra legal requirements of overseas marriage?



### **Checking the rules**

When planning a marriage overseas, you will need to check whether the destination state has any specific laws or requirements for people getting married there (*the country's embassy is usually a good place to start*). Marriages in some countries are not legally recognised in the UK, so you will also need to confirm with the British Embassy in that country. Contact us and we will study the rules for you, before guiding you through all the arrangements you need to make.

### **Proof of eligibility for marriage**

A common problem with overseas marriage is the need for satisfactory proof that both parties are single and in a position to be married. We can look into the requirements and prepare and execute a statutory declaration that confirms you are legally free to be married and usually resolves the issue.

### **Residential requirements**

Certain countries have a strict 30-day residential requirement before you can get married there. Confirm the rules for your destination well in advance and book your flights accordingly.

### **Travel insurance**

Most standard travel insurance will not provide sufficient cover for getting married abroad. We recommend looking into specialist cover, which will insure you against any unexpected eventualities while away.

### **The marriage document**

Most countries will expect you to provide the marriage document well in advance of the wedding, which means forward planning is vital (*as with every aspect of a foreign wedding*).

### **Your marriage certificate**

After the ceremony, you'll receive your marriage certificate. However, the language of the marriage certificate can often be an issue: to use the certificate in England and Wales, you'll need to have a formal certified translation. Although you cannot get a British marriage certificate for a foreign marriage or have it registered here, you can deposit the certificate at the General Registrars Office. This means an official record will be kept in England and Wales, and you will always be able to get copies in future.

**Remember** – making the necessary arrangements and organising the documentation for your dream marriage abroad can take a considerable amount of time, so it is important you start planning well in advance.

## MARRIAGE, CIVIL PARTNERSHIP AND WILLS /

Marriage or civil partnership changes everything when it comes to Wills. Discussing what will happen if one of you passes away can be difficult, but it's an important part of providing for the ones you love.

Keeping your Will up-to-date is always important, but especially so when wedding bells are approaching. Marriage or Civil Partnership automatically invalidates any previous Will you or your partner had made, unless that Will was made 'in contemplation of marriage or Civil Partnership' and contains special wording relating to the upcoming marriage.

You and your spouse-to-be may need to consider preparing new Wills to reflect your changing circumstances. If you or your partner have children from previous relationships, are uniting with a new partner or own property independently of one another, it can be particularly important.

Your Will sets out your wishes for how your estate is divided when you pass away. If you don't have a Will or your Will was not made in contemplation of your new union, your estate is divided in accordance with the law of Intestacy and mostly passes automatically to your spouse.

In many cases this is what you would want to happen. However, you may have other considerations, such as if you have children and want certain assets protected for their use (*your house, for example*).

It is crucial that you have an honest discussion with your partner about your respective financial situations (*pensions, assets and financial commitments*) and come to an agreement on what will happen to your assets when either of you passes away.

This agreement can take many forms. Sometimes a couple will decide to keep their assets separate and leave these to their respective children, making no provision for one another in their Wills. This works for couples in which neither partner is reliant on the other for financial provision.

Another option is to keep your assets separate but set out restricted rights in your Will. For instance, you might want your partner to continue to live in your house but stipulate that when it is sold the proceeds pass to your children.

While this can be a tough conversation to have, it is important that you are both clear on how your Wills are set up. We can guide you through the process of drawing up a new Will that accounts for your new union, giving sensitive advice on how you can provide for the ones you love.

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THEY BEAR THE IMPRESSED SEAL OF THE COURT

# IN THE HIGH COURT OF JUSTICE

The District Probate Registry at Winchester

**THE WILL** 

*according to English law*

GT//





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