

## Living together – your rights

This fact sheet is about the rights of people who are living together:

- without getting married (if they are heterosexual) or
- without entering into a civil partnership (if they are lesbian or gay)

In different areas of the law, you may not have the same rights as if you got married or entered into a civil partnership. This is not a full list of your rights. For more information, see under Further help at the end of this fact sheet.

### What the law says

Although the terms common-law wife or husband are frequently used to describe partners who live together, these relationships are not legally recognized.

If you want to set down your legal rights in certain areas of your relationship with your partner, you can make a series of agreements that will be recognized by the courts. These agreements can be about, for example, shared responsibility for your children, ownership of property which you live in, and ownership of jointly owned possessions. You will need the help of an experienced solicitor to do this.

### Responsibility for children

A male partner is not necessarily assumed to be the father of his child. An unmarried mother will have sole responsibility for her child unless:

- the birth of the child is jointly registered with the child's father
- a formal agreement (this is called a parental responsibility agreement), is made with the father of the child
- a court order is made in favour of the father
- the father becomes the child's guardian (the father would only have responsibility if the mother dies)
- the father marries the mother.

However, both parents are responsible for supporting a child financially. If you do not have day-to-day care of the child, you may have to pay maintenance. If you are the father, you share financial responsibility even if you are neither living with the mother or named on the child's birth certificate.

If you separate, you and your partner may make an informal arrangement for contact with your child. If this is not possible, a court can be asked to

intervene. The court order will usually allow contact between the child and the parent with whom the child is not living, unless there are exceptional circumstances.

As a lesbian or gay partner you may be able to get parental responsibility for your partner's child. Your options for doing this will depend on your circumstances. You may want to get advice about this.

## Adoption

Any couple who live together may apply to adopt a child. This includes heterosexual and same-sex partners who live together, as well as people who are married or in a civil partnership.

## Death and inheritance

If your partner dies without leaving a will, you will not automatically inherit anything unless you and your partner owned property jointly. You both need to make wills if you want to make sure that the other partner inherits. However, unlike married or civil partners, you will not be exempt from paying inheritance tax.

## Debts

You and your partner are legally responsible for your own debts, for the whole of debts in joint names and for debts for which you have 'joint and several' legal responsibility. For example, you are both responsible for paying the council tax.

If you have acted as guarantor for your partner, you will be legally responsible for the debt.

## Money and possessions

The ownership of possessions can be complicated, but in general the rules are as follows:

- property you owned before you started living with your partner remains yours
- if you bought an item, generally you will own it
- property will be owned jointly if you bought it from a joint account
- if you give property to your partner, it will belong to your partner. However, this can be difficult to prove
- if you give your partner housekeeping money, any property bought with savings from it will probably belong to you.

## Bank accounts

If you are living with your partner and you have separate bank accounts, neither of you will have access to money held in the other partner's account. If one partner dies, any balance in the account will be the property of the estate and cannot be used until the estate is settled.

If you have a joint account, both partners will have access to the money in the account. If the account is in joint names, on the death of one partner, the whole account immediately becomes the property of the other.

## Financial support

Neither partner has a legal duty to support the other financially. If you are living together and claiming Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance (ESA), tax credits, Housing Benefit, Council Tax Benefit or Pension Credit, you will be treated as a couple and your income assessed jointly.

Voluntary agreements to pay maintenance to each other may be difficult to enforce.

## Occupational and personal pensions

The rules of pension schemes vary. Whether or not you can benefit from a scheme to which your partner belongs will depend on the scheme. Most schemes offer benefits to dependent children and some will offer benefits to a dependent partner. If the scheme offers benefits to an opposite-sex partner, it should also offer benefits to a partner in a same-sex relationship. Schemes which offer benefits only to opposite-sex partners are breaking discrimination laws.

## Student grants and student loans

If you are a student living with your partner, your partner's income will be taken into account when deciding if you are entitled to a student grant (unless you depend financially on your partner). Your partner's income is ignored when deciding if you're entitled to a student loan.

## Housing

### Tenants

If you live in rented accommodation with your partner, one or both of you may have your names on the rent book. If your partner leaves, or asks you to leave when you want to stay and your name is not on the rent book, you can ask a court to transfer the tenancy into your name. You can also ask the court to do this if both your names are on the rent book. The court will consider all the circumstances before making a decision. If you are in this position, you should get legal advice.

### Owner-occupiers

A property may be owned in the sole name of one partner or may be owned by both of you. If your partner is the **sole owner**, you may have no rights to remain in the home if your partner asks you to leave. However, if you have children, you can ask the court to transfer the property into your name. The court will only do this if it decides it is in the best interests of your children. If you don't have children, you may be able to claim a financial interest in your home if you can show you contributed financially by, for example, paying for improvements or towards mortgage repayments. If you do have a financial interest in the home, you might be able to stop the other person from selling it. You will need to get legal advice about whether or not you have a financial interest.

If you do own your home **jointly** with your partner and you decide to leave, you should take steps to protect your right to go back there if you want to. You will also need to protect your share in the value of the home by making sure that your partner does not sell it without your knowledge. You will need to get legal advice on this.

## Next-of-kin and medical consent

In some situations, for example, if you go into hospital, you may be asked to give your next-of-kin.

Some organisations, for example prisons and many hospitals, will usually accept the name of an unmarried partner or same-sex partner who lives with you as the next-of-kin. If you want to name your partner as next-of-kin, you should insist on this. However there is little you can do if the organisation still refuses to accept it.

No one is entitled to give consent to medical treatment for another adult. However, in practice, doctors do usually discuss decisions with the patient's family, and this should not usually exclude a partner even if you are not married or in a civil partnership.

## Further help

### **Citizens Advice Bureau**

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve your problems. They can also recommend a suitable solicitor to you. To find your nearest CAB, including those that give advice by e-mail, click on [nearest CAB](#). You can also look in your local telephone directory under C.

### **Finding a solicitor**

The website of the Law Society can help you find a solicitor who is an expert in the area of law you need. Go to [www.lawsociety.org.uk](http://www.lawsociety.org.uk).

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**This fact sheet was last updated on 21 February 2011, and is reviewed on a monthly basis. If it is some time since you obtained this fact sheet, please contact your local Citizens Advice Bureau to check if it is still correct. Or visit our website - [www.adviceguide.org.uk](http://www.adviceguide.org.uk) - where you can download an up-to-date copy.**