



Name of Country and Jurisdiction:

## England and Wales, United Kingdom

- 1. What forms of legally recognized relationships are available?
- 2. What are the requirements to be able to enter into the above relationships?
- 3. Differences between marriage and civil unions and how the two sets of laws interact.
- 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
- 5. When a couple comes to England and Wales, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
- 6. How can each form of relationship be dissolved? What is the residency requirement or other link to England and Wales for an authority to grant a divorce/dissolution?



### 1. What forms of legally recognized relationships are available?



| LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE <sup>1</sup> | GEOGRAPHY         | LEGISLATION   | AVAILABLE TO SAME-SEX COUPLES |
|---|-------------------|---|-------------------------------|
| Marriage, registered                                    | England and Wales | Marriage Act 1949<br>Marriage (Same-Sex Couples) Act 2013 | Yes                           |
| Civil Partnership, registered                           | All of the UK     | Civil Partnership Act 2004                                | Yes (only same-sex couples)   |

<sup>1</sup> It is possible for opposite-sex or same-sex individuals to live together as cohabitants. This relationship is not legally recognised by the State and cohabitants do not receive the same rights and benefits received by spouses or civil partners. Cohabitants may have certain rights under principles of equity and trusts law.

**Q**

**2. What are the requirements to be able to enter into the above relationships?**

Example(s):

- (i) If a geographic link is required:

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| FORM OF LEGAL RELATIONSHIP   | REQUIREMENTS  |
|--|---|
| Marriage conducted by the Church of England or the Church in Wales   | There is no legal residency requirement, but in practice churches require a link to their parish.   |
| Opposite sex or same sex civil marriage or religious marriage conducted by an organised religion other than the Church of England or Church in Wales | <ul style="list-style-type: none"> <li>• Both parties must be resident in England or Wales for 7 days prior to giving notice of intention to marry.</li> <li>• A UK national living overseas can ordinarily marry a same sex partner at the UK consulate or embassy in that overseas territory if marriage is otherwise not possible in that overseas territory and if they nominate England, Wales or Scotland as their deemed place of marriage. The UK consulate or embassy will decline to conduct ceremonies if the local authorities object.</li> </ul> |
| Civil Partnership  | <ul style="list-style-type: none"> <li>• Both parties must be resident in England or Wales for 7 days prior to giving notice of intention to marry.</li> <li>• A UK national living overseas can ordinarily enter into a civil partnership at the UK consulate or embassy in that overseas territory if a same-sex civil union is otherwise not possible in that overseas territory. The UK consulate or embassy will decline to conduct ceremonies if the local authorities object.</li> </ul>   |

- (ii) If other substantive eligibility criteria must be satisfied:

Different rules apply where one party intends to enter a legal relationship with another party who is not from the European Economic Area or Switzerland and where that party is subject to immigration control. In that case, both parties must go to a 'designated' register office where certain additional documents (in addition to those required below) such as a visa, an EEA family permit or a Marriage Visitor visa may be required depending on where the parties come from in order to enable such parties to enter that legal relationship.

Different rules also apply for individuals who are detained, house-bound, or UK nationals serving abroad, for example in the army, navy or air force, and who intend to enter into one of the legal relationships below.

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| FORM OF LEGAL RELATIONSHIP  | REQUIREMENTS   |
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| <p>Marriage conducted by the Church of England or the Church in Wales</p>   | <p>Eligibility is the same as all other marriages (see below), save that the parties must be of the opposite sex to one another.</p> <p>Each party should give notice of its intention to marry to a parish clergyman at least 7 days before its wedding banns (an announcement) are published.</p> <p>The banns should be read out in the parish or parishes where the party/ies reside during the principal service on the three individual Sundays preceding the marriage ceremony and also written in the Register Book of Banns (or in the electronic register) which is open for public inspection.</p> <p>The marriage must be solemnised in the relevant parish church within 3 months of completion of the publication of the banns.</p>  |
| <p>Opposite-sex or same-sex religious marriage conducted by an organised religion other than the Church of England or Church in Wales or a civil marriage</p> | <p>Both parties to the marriage must be:</p> <ul style="list-style-type: none"> <li>• at least 16 years of age (and if aged under 18 have the requisite permission from parents/guardians or authority from the court)</li> <li>• free to marry (ie. single, divorced, dissolved or widowed)</li> <li>• not related to each other in a way which would prevent their marrying.</li> </ul> <p>Each party should give 15 clear days' notice of its intention to marry alongside a declaration to the appropriate religious figure or the superintendent registrar.</p> <p>The particulars (including name, address, nationality, location of marriage and any previous marriage or civil partnership) shall be filed in the Marriage Notice Book which shall be open to the public for the notice period.</p> <p>The service can be held at any venue approved by the local council (including religious premises, excluding the Church of England and Church in Wales, approved by the relevant religious authority).</p> <p>There must be no religious element to a civil marriage.</p> <p>The ceremony must take place within 12 months from the date the notice was entered into the Marriage Notice Book.</p> |
| <p>Civil partnership</p>  | <p>Eligibility is the same as for civil marriage, except that both parties must be of the same sex as one another.</p> <p>Each party should give 15 clear days' notice of its intention to enter a civil partnership alongside a declaration to the registration authority in which the party has resided in the 7 days prior to issuing the notice;</p> <p>The details in the notice (excluding addresses) shall be made publicly available at the register office of the relevant district for the notice period.</p> <p>The ceremony requirements are essentially the same as a civil marriage.</p>   |

**Q**

**3. If both marriage and civil unions exist in the country:**

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).

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| (a) | <p>Unlike opposite sex marriage, no religious organisation may conduct a civil partnership. The civil partnership may not take place on religious premises and there must be no religious element to the partnership ceremony.</p> <p>No same sex marriage may take place in a place of worship unless the governing authority of the relevant religion has first provided written consent for the use of such premises as a venue for same sex marriages and the premises have then been registered as such. Notwithstanding this, no same sex marriage may be entered into or otherwise solemnised under the rites of and/or in a place of worship of the Church of England.</p> |
| (b) | <p>No person may enter into a civil partnership if they are already married (either to someone else or to the person with whom they wish to enter into a civil partnership).</p> <p>No person may enter into an opposite sex marriage if they are already in a civil partnership. From 10 December 2014, a same-sex couple in a civil partnership may convert their status to marriage. Their marriage will then be deemed effective as of the date of their civil partnership.</p>  |
| (c) | <p>There are no major differences in the rights available to couples in marriages or civil partnerships, although currently civil partners do not share with married couples certain survivor rights under occupational pension schemes. See also response to Q.6 below for differences in the grounds for dissolving a civil partnership or same-sex marriage compared with the grounds for divorce under opposite sex marriage.</p>  |

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**4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?**

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| Marriage          | Two people are not eligible to enter into a same-sex or opposite-sex marriage if either of them is already lawfully married or already in a civil partnership with a person who is not one of the couple. |
| Civil Partnership | Two people are not eligible to register as civil partners if either of them is already a civil partner or lawfully married. A civil partnership is only available to same-sex couples.                    |



**5. When a couple comes to England and Wales, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?**



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| <p>Marriage</p>          | <p>An opposite-sex marriage lawfully formed outside England and Wales is automatically recognised in England and Wales as a marriage. This includes polygamous marriages entered into on or after 1 August 1971. An exception applies in the case of polygamous marriages entered into overseas where either party was at the time of the marriage domiciled in the UK or any country whose law does not permit polygamous marriages.</p> <p>A same-sex marriage lawfully formed outside England and Wales is automatically recognised under the law of England and Wales as a same-sex marriage.</p> |
| <p>Civil Partnership</p> | <p>A civil partnership lawfully entered into in Scotland or Northern Ireland is automatically recognised in England and Wales as a civil partnership.</p> <p>Same-sex unions/partnerships lawfully entered into outside the UK (and which satisfy certain conditions) are categorised as overseas relationships and automatically recognised as civil partnerships in the UK.</p>   |



**6. How can each form of relationship be dissolved? What is the residency requirement or other link to England and Wales for an authority to grant a divorce/dissolution?**



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| <p>Marriage (opposite and same-sex)</p> | <p>A marriage can be brought to an end by divorce where:</p> <ul style="list-style-type: none"> <li>i) one person has committed adultery (adultery can only occur where a partner has had sex with someone of the opposite sex);</li> <li>ii) the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent;</li> <li>iii) the respondent has deserted the petitioner for a continuous period of at least two years immediately preceding the presentation of the petition;</li> <li>iv) the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the respondent consents to a decree being granted; or</li> <li>v) the parties to the marriage have lived apart for a continuous period of at least five years immediately preceding the presentation of the petition.</li> </ul> <p>A marriage can also be annulled where it is void (for example, because one partner was already married or in a civil partnership) or is voidable (for example, where the marriage has not been consummated (however, this does not apply to same-sex marriages). A presumption of death order will also bring a marriage to an end.</p> <p>An overseas same-sex marriage may also be ended in similar circumstances where the partners satisfy the same conditions for overseas civil partnerships (i.e. domiciled or habitually resident).</p> <p>A court in England and Wales will recognise a judgment concerning the divorce, annulment or legal separation of partners in a marriage where made by a court of an EU Member State.</p> <p>Same-sex couples who marry in England and Wales but remain or become habitually resident or domiciled in another country may not be able to end their marriage in that country if it does not recognise the existence of the relationship. Same-sex couples who are unable to divorce in the country which would normally have jurisdiction are able to have their case heard in the courts in England and Wales.</p> |
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| <p>Civil Partnership</p> | <p>A civil partnership can be dissolved, annulled or terminated on the grounds that it has broken down irretrievably, it is void or voidable, because one of the partners is presumed dead or due to legal separation of the partners. A civil partnership can also be brought to an end on the death of a civil partner.</p> <p>An overseas civil partnership is voidable if it is voidable under the law of the country in which it was registered. Further, a Court order can be sought to declare that a dissolution, annulment or legal separation obtained outside England and Wales is recognised in England and Wales.</p> <p>Where:</p> <ol style="list-style-type: none"> <li>both civil partners are habitually resident in the UK or were habitually resident, and one of the partners remains in the UK;</li> <li>the respondent (i.e. the civil partner who did not apply for dissolution, annulment or separation) is habitually resident in the UK or the petitioner (i.e. the civil partner applying for the dissolution, annulment or separation) is habitually resident in the UK and has resided there for at least one year immediately preceding the presentation of the petition; or</li> <li>the petitioner is domiciled and habitually resident in the UK and has resided there for at least six months immediately preceding the presentation of the petition,</li> </ol> <p>A court in England and Wales has jurisdiction to dissolve or annul or legally separate civil partners.</p> <p>A dissolution, annulment or legal separation effected by a court in England and Wales, Scotland or Northern Ireland will be recognised throughout the United Kingdom.</p> <p>A court in England and Wales will recognise a judgment concerning the dissolution, annulment or legal separation of partners in a civil partnership where made by a court of an EU Member State.</p> |
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**Sources:**

- Marriage Act 1949
- Matrimonial Causes Act 1973
- Marriage (Same-Sex Couples) Act 2013
- Civil Partnership Act 2004
- The Consular Marriages and Marriages under Foreign Law Order 2014
- <https://www.gov.uk/government/publications/comparison-of-civil-partnership-and-marriage-for-same-sex-couples>