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Willans LLP | solicitors

# LGBTQ+ and the law

Things to consider and how we can help





"We're proud to once again sponsor Pride in Cheltenham and Gloucestershire.

As a business, and as lawyers, equality and fairness are values that we wholeheartedly promote and support. Our partnership with Pride reaffirms our commitment to these core values, as well as demonstrates our allyship and support for the LGBTQ+ community and our colleagues and clients who are part of it.

We look forward to taking part in this powerful celebration of diversity and acceptance."

**Bridget Redmond, managing partner**

# A guide to LGBTQ+ legal matters

We advise people at all stages of their lives on how to protect their assets, as well as on matters relating to children, parenting and relationships.

For those who are unmarried or in a civil partnership, the law can be especially confusing, uncertain and complicated. In this guide, we provide a summary of the key things to consider, regardless of your gender or sexual orientation\*.

If you are affected by any of the issues mentioned, our expert lawyers and teams are here to help.

## PLANNING FOR THE FUTURE – WILLS & INHERITANCE

There's plenty to think about when planning for the future, from who should act as executors of your will, to who you would like to leave your assets to, and who should look after your children and pets.

While individuals and couples should consider all of these questions, there are also a few further topics to be mindful of:

- Unmarried partners or those not in a civil partnership will not automatically inherit their late partner's assets held in their sole name. Unless both partners are named owners of a joint bank account, they should each make a will leaving the contents of their sole bank account to their partner, should they wish to do so.
- Married couples and couples in a civil partnership may leave assets to their spouse without paying inheritance tax, as they benefit from the 'spouse exemption'. However, the spouse exemption does not apply to unmarried cohabiting partners. A carefully drawn up will is important whatever your circumstances.
- It's possible for a will to contain a clause identifying beneficiaries by their gender, such as "I leave £10,000 to each of my granddaughters." In this instance, a grandson who changes gender and is issued a gender recognition certificate would be acknowledged as a granddaughter legally, allowing them to benefit from this clause. It is important to note that under the Gender Recognition Act,

*\*According to the 2022 census, "those identifying as heterosexual or straight were most likely to be married (46.4%) in 2022, while those identifying as LGB, the majority had never married or entered a civil partnership (72% of those identifying as lesbian or gay and 82.9% of those identifying as bisexual respectively)."*

gender recognition certificates do not apply to wills made prior to 4 April 2005.

## BEING A PARENT

Having parental responsibility for a child means that you are legally recognised as that child's parent or custodian, and have the legal authority to make important decisions about that child (such as where they should live, go to school and who should act as their guardian in the event of your death).

While a birth mother has automatic parental responsibility (unless removed following surrogacy or adoption), parental responsibility of any other person depends on the circumstances of conception, the birth mother's marital or civil partnership status at the time and any steps that have been taken after the birth to formalise their legal status.

It's therefore of paramount importance that proper legal advice is obtained so that parents formally obtain parental responsibility, if they have not automatically acquired it.

## STARTING OR ENDING A RELATIONSHIP

Whether you're starting a new relationship or ending an existing one, good legal advice is important. The law treats those who are married or in a civil partnership differently to those who are not, but in both

cases, advice from an experienced lawyer can help to minimise the risk of a dispute over your property or other formerly shared assets, if your relationship comes to an end.

Those who intend to marry or become civil partners could consider a prenuptial agreement. This is the best way to clearly set out your assets and specify what you and your partner intend to happen to them should your marriage or civil partnership end.

It is vital that your prenuptial agreement is valid, fair and clear, meaning certain conditions must be met, or the agreement may not be upheld by the court. This is why it's important to obtain proper legal advice.

For unmarried partners, a well-drafted cohabitation agreement can help couples to avoid finding themselves in a dispute, by setting out clear intentions as to how property should be managed or financed during the relationship, and shared out, should it come to an end.





If a dispute over the division of property does arise following a relationship breakdown, we can help you.

This can be a complex, emotional process and it's important to work with experienced solicitors who understand the best strategy to ensure a fair division, allowing both parties to move on with their lives.

### IF A LOVED ONE DIES

Due to the way in which the law surrounding wills and inheritance operates, it's not unusual for LGBTQ+ people, or their partners, to be incorrectly (or insufficiently) provided for upon a loved one's death.

If this happens, our experienced and specialist lawyers will be able to advise as to whether you may be entitled to seek a court order

for provision from your loved one's estate. ■

### CASE STUDY

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Our client was not provided for by his late husband's will. Under its terms, the entire estate passed to the husband's siblings, who did not wish to make any payment to our client.

We were able to successfully bring a claim for financial provision in our client's favour and he was awarded a six-figure sum, allowing him to buy his own property and move forward with his life.

## WHY WILLANS

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To achieve the best possible outcome, you need people with the legal expertise to match. Our team includes members of the LGBTQ+ community and many of our lawyers and teams are highly rated by independent guides *The Legal 500* and *Chambers UK*.

Awards and credentials aside, we are friendly, responsive and explain things in a clear and sympathetic way, always keeping you up to date on your case in a timely manner.

We believe it's important to get to know our clients, so we strive to understand their individual needs, unique backgrounds and how this may affect their approach.

To discover our full range of services, visit [willans.co.uk](https://willans.co.uk).

  
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# When you want the best outcome, you need the best people.

*This is the third time that I have used Willans for legal services and have found them to be excellent on each occasion.*

*I would recommend [you] without hesitation... your advice and service were first class!*

*Super service and [we were] always safe in the knowledge that our best interests were being taken care of with an outstanding level of professionalism and knowledge.*

## CONTACT US

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