



**MARRIAGE  
AND CIVIL  
PARTNERSHIP  
IN SCOTLAND**



**EQUALITYNETWORK**  
LGBTI Equality and Human Rights in Scotland



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**Cover Photo:** Tracy and Denise's civil partnership in Glasgow – Maureen Bell Photography (May 2014)

**Equality Network** is Scotland's national lesbian, gay, bisexual, transgender and intersex (LGBTI) equality and human rights charity. We are very grateful to our sponsor BLM whose support has made this guide possible.

[www.equality-network.org](http://www.equality-network.org)

**BLM** is the UK and Ireland's leading risk and insurance law business. The firm has one of Scotland's leading family law practices supporting clients through all legal issues affecting marriage, co-habitation, civil partnership and child related issues.

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# FOREWORD

**2014 was a momentous year for equality in Scotland.**

The Marriage and Civil Partnership (Scotland) Act 2014 passed with an overwhelming majority in the Scottish Parliament in February, and I am delighted that the first same-sex marriages will happen this year.

As a Government, we are proud to have introduced one of the most progressive equal marriage laws in the world.

The Scottish Government first consulted on allowing same-sex marriage in 2011.

I am personally proud of my involvement, when Cabinet Secretary for Health and Wellbeing, in leading this consultation which started the journey to marriage equality in Scotland.

I believe that the love between a couple, regardless of their gender, sexuality, belief or background, is powerful and should be valued and recognised.

This legislation sends a powerful message to the world about the kind of Scotland we seek to create and it is a clear indication of the Scottish Government's commitment to equality.

I wish all the very best to those couples who will now be able to enter into marriage.



**Nicola Sturgeon**  
First Minister of  
Scotland





Photo: Larry and Jerry celebrate at the final Equality Network rally for equal marriage – Russell Cheyne / Thomson Reuters (4 February 2014)



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# WELCOME

## Welcome to the Equality Network guide to same-sex marriage and civil partnership in Scotland.

After many years of campaigning, the historic passage of the Marriage and Civil Partnership (Scotland) Act 2014 means that same-sex couples are now able to get married in Scotland.

This guide provides the key information you need to know about how to get married or register a civil partnership, and the rights and responsibilities that come with it.

It also provides information on the process for converting a civil partnership to a marriage, the recognition that exists for foreign partnerships, and the impact that the new law has on gender recognition for transgender people.

The Equality Network is proud of the role we were able to play, alongside many thousands of people, in securing one of the most progressive equal marriage laws in the world.

Now that the law has been passed and implemented, same-sex couples across Scotland can make use of these equal partnership rights.

If you are planning a marriage or civil partnership we wish you all the best – and we hope you find this guide helpful!



**Tom French**  
Equality  
Network



CLEAR ► CONCISE ► CONNECTED

**CLEAR** solutions, delivered with sensitivity, care and commitment.

**CONCISE** advice, even in the most unusual or complex of cases.

**CONNECTED** to you and your specific needs.

**BLM'S FAMILY LAW TEAM IS SUPPORTING THE EQUALITY NETWORK AND ITS WORK ACROSS THE LGBTI COMMUNITY.**

Same-sex couples will be celebrating the Marriage and Civil Partnership (Scotland) Act 2014 which comes into force on 16 December 2014, as this allows them to marry from 31 December 2014.

If you are considering marriage or civil partnership and would like support or advice, please contact Siobhan Kelly, head of the family law team for further information at [Siobhan.kelly@blmlaw.com](mailto:Siobhan.kelly@blmlaw.com)



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Photo: Carrie and Sarah have their civil partnership in Edinburgh – Wanderlust Photography (March 2012)

A candelabra with five lit candles is positioned on the right side of the image. The background is a dark, textured stone wall. The text is overlaid on the lower half of the image, with each word on a separate colored bar.

**HOW TO  
GET MARRIED  
OR HAVE  
A CIVIL  
PARTNERSHIP  
IN SCOTLAND**

# REGISTRATION

Same-sex couples can choose to register either a marriage or a civil partnership in Scotland.

## Choosing between marriage and civil partnership

The rights and responsibilities that come with marriage and civil partnership are almost identical.

The main difference is in the level of international recognition you can expect (see pages 35-37). One other difference is that civil partnerships in Scotland are currently only available to same-sex couples. Other than that, whether you choose a marriage or civil partnership is largely down to your personal preference.

In either case, your marriage or civil partnership ceremony can be conducted either by a registrar, in a civil ceremony, or by a religious or belief celebrant who is approved to do so.





## Registration

In order to marry or register a civil partnership, each partner must submit a Marriage Notice Form (Form M10) or a Civil Partnership Notice Form (Form CP10) to the registrar in the local authority district where you want the ceremony to take place.

You can either submit the forms in person or send them by post, but if you want to ensure that everything is correct so that there are no delays it is best to do it in person.

You can download the forms from the National Records of Scotland (NRS) website at: [www.nrscotland.gov.uk](http://www.nrscotland.gov.uk) where you can also find a list of registrars and information about the documents you must supply alongside your notice forms. NRS recommends that you telephone the selected local registrar before filling in your notice forms.

The notices need to say who is going to conduct your ceremony and where and when, so you will need to discuss this in advance with the registrar or religious or belief celebrant who you wish to do this.

Notices must be given in the three-month period prior to the date of the marriage and no later than 15 days before the date.

The 15 day minimum notice period will be increasing to 29 days in 2015. Only in exceptional circumstances (for example, where one partner is gravely ill) will the Registrar General authorise a marriage or civil partnership to take place if the minimum notice period has not been given.

When you fill in your notices, each of you can choose whether to be described on your marriage certificate as bride, bridegroom or neither. If you are a »

trans person, and your marriage is being solemnised by a registrar or by a religious or belief celebrant approved for both mixed-sex and same-sex marriages, then you can opt to leave the Sex Male / Female boxes on the Marriage Notice blank if you wish.

## Eligibility

Any two people, regardless of where in the world they live, can get married or register a civil partnership in Scotland, provided that they are at least 16 years of age, not already married or in a civil partnership, and not closely related to each other (parental consent is not required for 16 or 17 year olds to marry in Scotland). If you are already in a civil partnership and want to convert it to a marriage see pages 18-20 for more information.

For more detailed information on the restrictions on eligibility for marriage and

civil partnership in Scotland visit the NRS website: [www.nrscotland.gov.uk](http://www.nrscotland.gov.uk)

## Choosing your ceremony

You can get married or register a civil partnership in one of three ways in Scotland: by a civil ceremony, a religious ceremony, or a belief ceremony.

## Civil ceremonies

A civil marriage or civil partnership is conducted by an authorised registrar and can take place in a registration office, or at any place you agree with the registrar (but not on religious premises). All local authorities must by law provide an equally good registrar service for same-sex and mixed-sex couples.

The NRS website provides information about the fee you must pay in order to register your marriage or civil partnership. Currently the most basic civil marriage

costs £125, which covers processing the notices, a civil ceremony, and a copy of the certificate: [www.nrscotland.gov.uk](http://www.nrscotland.gov.uk)

You will find that local authorities may charge additional fees to provide special facilities and services. You should contact your chosen registration office for more information about the additional services on offer and their cost.

## Religious ceremonies

A religious marriage or civil partnership is solemnised by an approved religious celebrant (such as a minister, rabbi, Quaker celebrant, etc) and can take place in a religious building (such as a church, synagogue, Quaker Meeting House, etc) or anywhere else you agree with the celebrant.

It is up to the religious body to opt in and request that they be approved by the Registrar General to conduct religious

same-sex marriages and civil partnerships in Scotland. Only some religious bodies have done that, so not all religious celebrants will conduct same-sex marriages or civil partnerships.

Religious bodies that are approved to conduct same-sex marriages include the Quakers, the Unitarians, the Liberal Jewish Community, the Pagan Federation (Scotland), the Metropolitan Community Church, OneSpirit Interfaith Foundation and the Open Episcopal Church. The Unitarians and OneSpirit are also approved to conduct religious civil partnerships.

For up-to-date information on whether your chosen religious body conducts same-sex marriages and civil partnerships you can contact NRS: [www.nrscotland.gov.uk](http://www.nrscotland.gov.uk)

The cost of a religious marriage or civil partnership ceremony can vary. There is a fee of £70 payable to the registration office, which covers processing the notices »



and a copy of the marriage certificate. You will find that different religious bodies may charge varying fees for the ceremony, facilities and services they provide.

## Humanist and other belief ceremonies

A belief marriage or civil partnership is solemnised by an approved belief celebrant (such as a humanist celebrant) and can take place anywhere agreed with them.

Again, it is up to the belief body to opt in to conduct belief same-sex marriages and civil partnerships in Scotland, and so not all belief celebrants may do this. The Humanist Society Scotland conducts large numbers of marriages and is approved to conduct same-sex marriages and civil partnerships, as is Fuze Ceremonies, and others.

As with religious marriages, the cost of a belief marriage or civil partnership

ceremony can vary depending on the belief body. Again, there is a fee of £70 payable to the registration office, and varying fees for the ceremony, facilities and services provided by different belief organisations.

## Picking the date and venue

Before you submit the notice forms of your intention to marry or register a civil partnership, you will need to speak with the registrar or religious or belief celebrant to discuss your ceremony, and agree the date, time and venue.

Depending on whether you choose a civil, religious or belief ceremony you could get agreement from the registrar or celebrant to have your marriage or civil partnership in any one of a diverse range of venues, whether it's a registration office, a religious building, a hotel, a Scottish castle, a remote beach, Gretna Green, a football stadium, or any place that is special to you!

The only exceptions are that a civil marriage or (non-religious or belief) civil partnership cannot take place in a religious venue (one that is solely or mainly used for religious purposes), and similarly a religious or belief marriage or religious or belief civil partnership cannot take place in a registration office.

### **Know your rights when booking your ceremony**

Hopefully your big day should go off without a hitch, but if you run into problems of discrimination either with venues or other service providers then you should be aware that the law is on your side. By law LGBT people and same-sex couples are entitled to expect the same standard of service as anyone else.

For instance, it is a breach of the Equality Act 2010 for a venue that hosts civil marriage ceremonies to refuse to host your same-sex marriage or civil partnership ceremony.

Similarly, it would be a breach of the same law for any other service provider, such as a photographer, florist, band, or caterer to refuse to provide an equal service for your same-sex marriage or civil partnership ceremony.

If you complain to the company and they still refuse to serve you then they are breaking the law and you could pursue the case through the Sheriff Court.

The only exception to this anti-discrimination rule is for religious or belief marriage or civil partnership ceremonies, where it is not unlawful discrimination for a religious or belief celebrant or any other person involved in the religious or belief part of the ceremony (for example the church organist) to decline to take part in same-sex ceremonies. However, a problem is unlikely to arise because the religious or belief bodies that conduct same-sex marriages or civil partnerships have specifically opted in to do so. »

For advice or support on an incident of discrimination contact the Equality Advisory & Support Service (EASS): [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

## What happens during the ceremony?

The nature of your wedding or civil partnership could vary dramatically depending on the type of ceremony you choose and your personal preferences.

The ceremony can be conducted in English or in any other language (such as Gaelic, Scots, Hebrew, etc), so long as all parties (including the celebrant) can understand the language (with the services of a translator if necessary).

## The civil ceremony

In a marriage or civil partnership with a civil ceremony, registration involves a non-religious ceremony which both the

couple and two witnesses aged at least 16 must attend. The ceremony will include declarations by the couple and at the end the couple and the witnesses must sign the marriage or civil partnership schedule. Other than that the content of the rest of the ceremony is largely up to you!

Couples can arrange with the registrar to personalise the ceremony by including readings, poetry, and music, or adding your own personal vows to one another.

If you need inspiration many registrars are able to provide samples of readings you could choose from; religious readings or hymns may be allowed, with the registrar's agreement.

Registrars can help you with the planning of your civil ceremony, whether you want something quiet and simple, or a larger grander event. It is advisable to let the registrar know your wishes well in advance of the date of your marriage.

## Religious or belief ceremonies

As with a civil ceremony, in a religious or belief ceremony the couple must attend with two witnesses aged at least 16, make the appropriate declarations, and at the end of the ceremony they and the witnesses must sign the marriage or civil partnership schedule.

Other than that the nature of the ceremony can vary significantly in line with your wishes and the particular traditions of the body that you choose, whether that's a humanist ceremony, a Liberal Jewish ceremony, a pagan ceremony and so on.

### “I declare that you are now...?”

Other than the declarations, the form of words used during your marriage or civil partnership ceremony depends on your personal preferences agreed with the registrar or celebrant, unless you choose a religious or belief ceremony where that body has a specific form of words it uses.

You can choose for your registrar or celebrant to use gender-neutral terms such as “I declare that you are now married”, or agree to use gender-specific terms such as ‘husband and husband’, ‘wife and wife’, ‘bride and bride’, ‘bridegroom and bridegroom’ – whatever you prefer.

## Changing your name as part of the marriage process

For some couples changing your surname is seen as a traditional part of getting married or registering a civil partnership. In Scotland you can choose to use any name including your spouse or partner's. You may also keep your own surname, or choose to double-barrel or merge your surnames.

In each of these instances, your marriage or civil partnership certificate should be recognised by banks, government departments, and other institutions, as sufficient reason why you changed your name. »

You can also choose to make an official record of your change of name with the National Records of Scotland (NRS) which will be recorded against your original birth entry: [www.nrscotland.gov.uk](http://www.nrscotland.gov.uk)

## At what point are you officially married or civil partnered?

The legal effects of marriage start when you make the declarations. A civil partnership starts as soon as the schedule is signed at the ceremony.

## Getting married in Scotland as a foreign national

Foreign nationals are able to get a same-sex marriage or civil partnership in Scotland in the same way as a couple living in the UK.

There is no residence requirement in Scotland; however, you may be subject to immigration control and therefore need

to apply for a visa for the purposes of marriage or civil partnership.

If you and your partner are nationals of the UK, EEA (European Economic Area – which includes European Union countries, Iceland, Liechtenstein, and Norway), or Switzerland, then you are able to register a marriage or civil partnership in Scotland without the need for a visa.

This is also the case for those with Indefinite Leave to Remain / Permanent Residence in the UK.

If you or your partner are a national of a country outside the EEA and Switzerland, and you intend to visit Scotland to get married or to register a civil partnership (and then return home), you will need a marriage visitor visa.

The application form is available on the UK Government website: [www.gov.uk/marriage-visa](http://www.gov.uk/marriage-visa)

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Other arrangements apply if you intend to come to the UK to get married, or have a civil partnership, and then settle here. For more information visit the UK Visa website: [www.ukvisas.gov.uk/en](http://www.ukvisas.gov.uk/en). (See also pages 33-34).

## Getting married overseas as a Scottish national

If you are a Scottish resident and you wish to get a same-sex marriage or civil partnership in another country you should contact the Consulate / Embassy for the relevant country for advice on what documentation will be required.

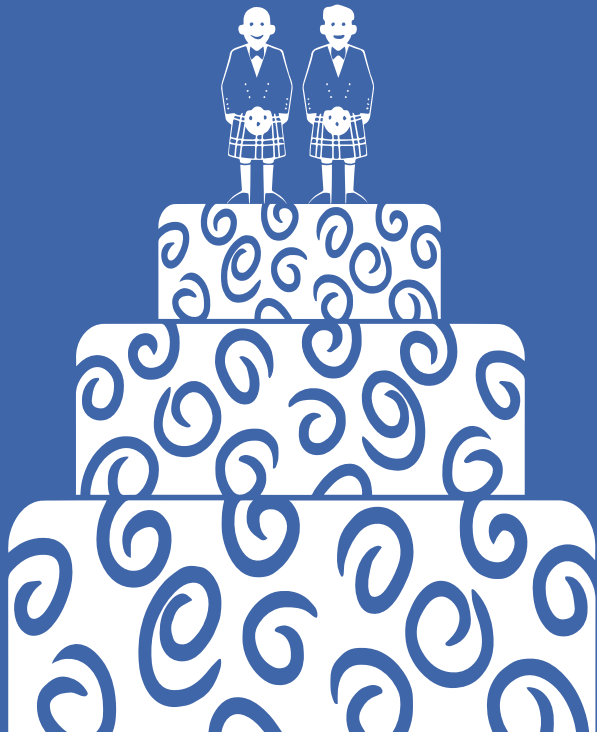
If you are asked to provide a Certificate of No Impediment (CONI – which states that you are legally free to marry, that is, you are not already in a marriage or civil partnership) and you are resident in Scotland, you can apply to your local registrar for this. If you are a Scottish national who is not resident in Scotland,

and if the authorities of the country where your wedding is to take place require evidence that you are free to marry, you may be able to obtain a “Consular CONI” from the UK consulate where you live, or alternatively, NRS may provide a letter to the same effect. For more information and advice contact the National Records of Scotland (NRS): [www.nrscotland.gov.uk](http://www.nrscotland.gov.uk)

If you are a UK citizen living in another country that does not provide same-sex marriage, then you may be able to marry in the UK embassy in that country. This is only possible where the host country does not object – currently it is available in about twenty countries. When you marry at a UK consulate you specify whether you want your marriage registered under the law of Scotland, or of England and Wales. To find out if this is allowed in a particular country, see: [www.gov.uk/marriage-abroad](http://www.gov.uk/marriage-abroad)



# CONVERTING A CIVIL PARTNERSHIP TO MARRIAGE



Starting from 16 December 2014, couples in a civil partnership that was registered in Scotland are able to convert their civil partnership to a marriage in Scotland if they wish.

Many couples will want to be married, while many others prefer civil partnership.

You can keep your civil partnership if you prefer, and new civil partnerships will continue to be available as an alternative to marriage in Scotland.

## How to convert a civil partnership to a marriage

If you do decide to convert your civil partnership to marriage, there are two ways you can do this:

### 1 By ceremony:

You can convert your civil partnership to marriage by marrying in the usual way,

with a civil, religious or belief ceremony as described on pages 8-17. You may decide that you prefer this option if you want to have a ceremony.

## 2 By the administrative route:

Alternatively you can make an appointment with your local registrar, show up with photo ID (e.g. passport, driving licence, etc), and get a marriage certificate there and then without a ceremony.

You may decide that you prefer this option if you feel your original civil partnership ceremony was the only ceremony you need!

In either case, legally your marriage will be treated as having started on the date you registered your civil partnership, and the marriage certificate you get will state that your marriage is treated as having started on that earlier date.

## How much does it cost?

If you decide on option one, that you want to convert your civil partnership to marriage by marrying in the usual way with a ceremony, then you will need to pay the standard fees for the type of marriage ceremony you choose.

If you decide on option two, the administrative route, then the cost will depend on when you got your civil partnership and when you choose to convert it to marriage:

If your civil partnership started before the new law came into effect on 16 December 2014, and you choose to convert your civil partnership to marriage before 16 December 2015, then you will not have to pay a fee for the conversion.

If you want a copy of the marriage certificate you will have to pay a £10 charge for that. »

If you enter a civil partnership after the new law comes into effect, or you choose to convert your civil partnership after 16 December 2015 then you will need to pay £30 plus £10 for a copy of the marriage certificate.

### **Converting your Scottish civil partnership to marriage overseas**

From 16 December 2014, some couples who have a Scottish civil partnership but now live overseas will be able to convert their civil partnership to marriage at a UK embassy in the country in which they now live.

UK embassies will only be able to do this if the host country agrees to the embassy providing this service. For the latest information on which countries have agreed, please visit: [www.gov.uk/convert-civil-partnership-abroad](http://www.gov.uk/convert-civil-partnership-abroad)

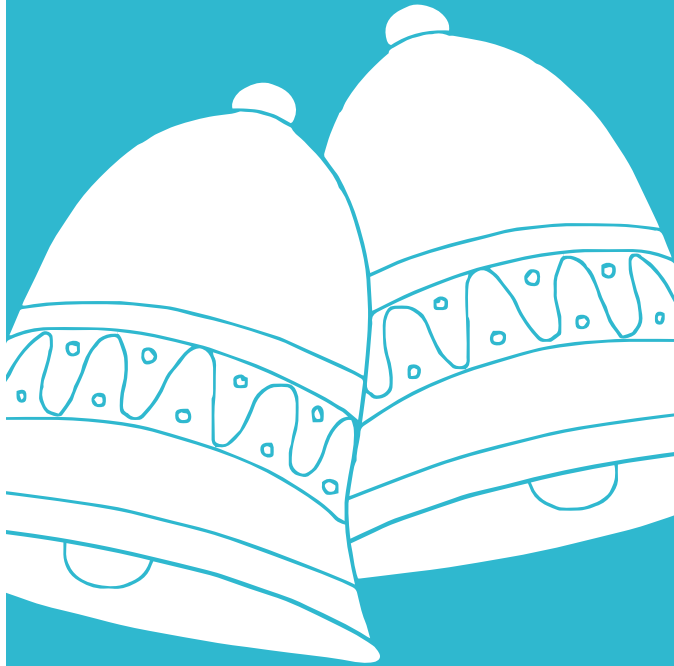
### **Converting a foreign civil partnership to a marriage in Scotland**

The Scottish Government has committed to allowing couples in foreign civil partnerships to convert their civil partnership to marriage in Scotland.

At the date of publication the Scottish Government is working with the UK Government, and consulting with other countries, to inform the development of a process through which couples in foreign civil partnerships will be able to convert to marriage in Scotland.

The conversion will be done by having a full marriage ceremony (civil, religious or belief), and we hope that this will be available from summer 2015. For the latest information please visit: [www.equality-network.org/converting-foreign-CPs](http://www.equality-network.org/converting-foreign-CPs)

# RECOGNITION OF FOREIGN MARRIAGES AND CIVIL PARTNERSHIPS



If you are in a same-sex marriage registered in another country (including England and Wales) then, from 16 December 2014, your marriage is recognised as a marriage in Scotland.

Prior to this date it would have been recognised as a civil partnership instead.

If you are in a same-sex civil partnership registered in another country (including civil unions, registered partnerships, PACS, etc) then your union will continue to be recognised as a civil partnership in Scotland, unless you change it to a marriage (see page 20).

If you are in a mixed-sex civil partnership registered in another country, you will only be recognised as a cohabiting couple, because neither Scotland nor the rest of the UK currently allow or recognise mixed-sex civil partnerships.

# THE IMPACT ON GENDER RECOGNITION



From 16 December 2014 it is possible for transgender people who married or registered a civil partnership in Scotland to obtain gender recognition without having to divorce or dissolve their civil partnership.

Transgender people who are married are able to apply to the Gender Recognition Panel (GRP) using a new application process which will reflect the fact that some applicants will wish their marriage to continue following gender recognition.

Those in civil partnerships are able to convert their civil partnership to a marriage before applying for gender recognition and then use the same process as other married applicants.

The following information applies for couples who married in Scotland regardless of where they currently live. If you currently live in Scotland but married elsewhere then please contact [sta@equality-network.org](mailto:sta@equality-network.org)

for information appropriate to your circumstances.

### **Applying for gender recognition whilst married *with* declaration from your spouse**

If your spouse is available and willing to sign a statutory declaration consenting to the marriage continuing, to obtain gender recognition you need to apply to the Gender Recognition Panel (GRP) using the new application form and new statutory declarations for married people.

If your application is successful the GRP will inform the Registrar General for Scotland that gender recognition has been granted.

You will then be informed that you can either have a renewed marriage ceremony or use a simple administrative process to have your marriage re-registered to show your current name and your preferred

designation as bride or bridegroom or neither.

You also have the option of simply continuing to use your original marriage certificate without changes if you wish.

Whichever route you choose your marriage will be treated as having continued from the date you originally got married.

### **Having a renewed ceremony:**

The process for organising a renewed marriage ceremony is much the same as when you originally got married. You are able to choose to have a civil, religious or belief ceremony.

If you are now legally a same-sex couple you can only have your wedding solemnised by a civil registrar or alternatively a religious or belief celebrant who is approved to conduct same-sex weddings. »



As before, both you and your partner submit the marriage notice forms, only this time in the box which asks for “Marital or Civil Partnership Status” you will tick “Existing Marriage”. You will then have a renewed ceremony, which can be as simple or as all singing all dancing as you like! If you have a civil ceremony the minimum cost will be £125.

Following the ceremony the entry in the marriage register will be the same as for any other marriage apart from the fact that you will be described as in an existing marriage. (This is the same wording used on marriage certificates for couples who marry abroad and legally confirm their marriage in Scotland.)

### **Re-registering your marriage:**

If you do not want to have a renewed marriage ceremony you can use a simple administrative procedure to re-register your marriage. You and your partner will

fill in an application form and send it to the National Records of Scotland (NRS). NRS will send you a draft of the new marriage register entry for you to approve. You can then request a new marriage certificate. The only fee for this process is the standard £10 charge for the certificate.

### **Your marriage certificate:**

The marriage certificate you receive will be slightly different depending on whether you choose to re-register your marriage or have a renewed ceremony.

If you re-register the certificate will vary from other marriage certificates because the boxes for witnesses will simply have a line through them. If you have a renewed ceremony you will have needed witnesses and so these boxes will be filled. Following both re-registration and renewal the other difference between your marriage certificate and others will be that in the “Marital or Civil Partnership Status”

box you will be described as being in an “Existing Marriage”.

You can choose to have a note added to the bottom of the marriage certificate stating that “This is a re-registration. The couple are treated as having been married to each other since [the date of the original marriage]”. This would be useful if you need to prove how long you have been married and don’t want to show your old marriage certificate. To do this, contact National Records of Scotland General Registration Unit Mailbox: [GRUSupport@gro-scotland.gsi.gov.uk](mailto:GRUSupport@gro-scotland.gsi.gov.uk)

### **Applying for gender recognition whilst married *without* declaration from your spouse**

This procedure is only available to people who married in Scotland and who are resident in Scotland. If your spouse is not available and willing to sign a statutory declaration consenting to the marriage

continuing, then the process for obtaining gender recognition is more involved.

In this case you apply to the Gender Recognition Panel (GRP) without a declaration from your spouse, and if your application is successful the GRP will provide you with an interim gender recognition certificate instead of a full certificate.

You can use the interim certificate to apply to the Sheriff Court for full gender recognition within 6 months from the date it is issued to you. The Sheriff will grant you full gender recognition if you were married in Scotland and you have applied within the time limit.

Although obtaining gender recognition in this way has the same effect as if it was granted by the Gender Recognition Panel you will not be able to obtain a new marriage certificate without your partner’s agreement. Your marriage will however »

continue in full legal effect, unless you or your spouse applies for divorce.

## Applying for gender recognition if you have a civil partnership

Because mixed-sex civil partnership has not yet been introduced, you will have to convert your civil partnership to a marriage in order for one of you to get gender recognition.

The Gender Recognition Panel (GRP) recommend you convert your civil partnership to a marriage before you submit your gender recognition application. (It may be possible from some time in 2015 to apply for gender recognition before converting your civil partnership to a marriage, and have the conversion happen at the same time as your gender recognition. See [www.scottishtrans.org/our-work/equal-marriage/marriage](http://www.scottishtrans.org/our-work/equal-marriage/marriage) for updates).

If you and your civil partner both want to get gender recognition, you can keep your civil

partnership so long as you both apply to the GRP for gender recognition at the same time.

See pages 18 to 20 for how to convert your civil partnership to a marriage.

Once you have converted your civil partnership to a marriage you can then apply to the Gender Recognition Panel (GRP) using the procedure for married people. (See page 23).

If your application is successful the GRP will inform the Registrar General for Scotland that gender recognition has been granted. You will then be informed that if you want you can have your marriage re-registered either by having a renewed marriage ceremony or through a simple administrative process.

As you will now be a legally mixed-sex couple, you will be able to have a renewed wedding ceremony solemnised by a celebrant approved to conduct

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mixed-sex weddings. Whether or not you choose to do so, your marriage will be treated as having existed from the date of your civil partnership, not the date of the conversion to marriage.

If it is important to you that your marriage certificate does not out you as transgender, you will want to have your marriage re-registered after you get gender recognition because the marriage certificate you will be given when you convert from civil partnership to marriage will refer back to the civil partnership.

Because mixed sex civil partnership is not available this would show that you used to be a legally same-sex couple. If you had not changed your name at the time you converted your civil partnership to marriage, you might also want to re-register your marriage so you have a marriage certificate with your new name on.



Photo: Lee and Fraser have their civil partnership in Edinburgh – Malishka Photography (May 2014)





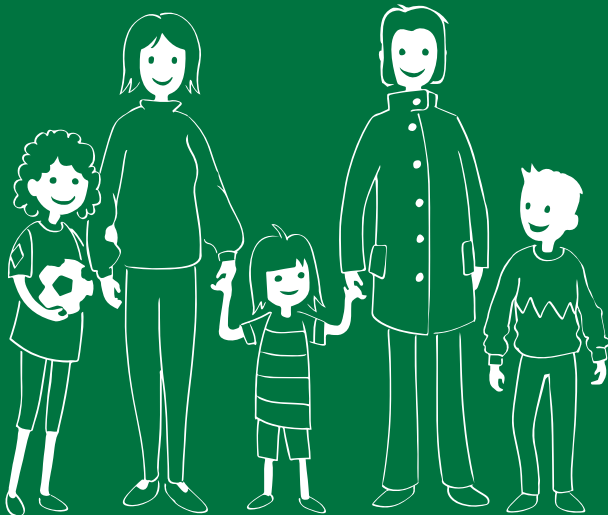
**RIGHTS**

**AND**

**RESPONSIBILITIES**



# CHILDREN AND PARENTING



## Parental responsibilities and rights

If you have parental responsibilities and rights (PRRs) in relation to a child, then you have a variety of obligations such as to provide for them and make decisions in their best interests.

You also have a number of entitlements, including to have the child living with you and to make decisions about the way they are brought up.

Some people have automatic PRRs, for example the person who has given birth to the child, a woman who was married to, or the civil partner of, the child's mother at the time the child was conceived by donor insemination, or a couple who have jointly adopted a child.

Others need to apply to the court for PRRs. To apply for PRRs you would need to seek advice from a solicitor who practices family law.

Even without PRRs, the law says that you have certain responsibilities for a child you care for.

If you accept the child as a part of your family, you have a duty to provide reasonable aliment (financial support), and that duty may continue even if you separate from the child's parent and the child.

For more information on PRRs and issues about children, contact a family law solicitor. The Law Society of Scotland can tell you about family law solicitors in your area: [www.lawscot.org.uk](http://www.lawscot.org.uk)

## **Marriage, civil partnership, and PRRs**

If you get married or enter into a civil partnership with someone who has a child you will become the child's step-parent, but you will not automatically have PRRs for the child, and you may want to apply to the court to obtain them.

You can also apply for co-parent adoption which would make you both the legal parents of the child (with PRRs). To do so, you need to apply to your local authority who will carry out an assessment of your family and submit a report to the court who will decide whether to grant the adoption. For more information on this see: [www.thespark.org.uk/parents-families/stepfamilies/step-parent-adoption](http://www.thespark.org.uk/parents-families/stepfamilies/step-parent-adoption)

If you don't apply for PRRs or co-parent adoption, you will have the same level of responsibility and rights for the child as anyone else who has temporary care for a child, such as a child minder.

That means if your partner was not available you would be able to make limited decisions about the child's welfare, such as consenting to medical treatment. In addition, if you have accepted your partner's child as a child of your family then you will be legally obliged to provide aliment (financial support) for the child. »

## Donor insemination and surrogacy

If you are a woman who was in a same-sex marriage or civil partnership when your partner's child was conceived by donor insemination with your agreement, then you are the other legal parent of your partner's child.

Your name may appear with your partner's on the birth certificate and you automatically have the same PRRs as your partner.

The same applies after two men in a marriage or civil partnership complete a surrogacy arrangement, and are granted a parental order to make them the parents of the child.

For more information, see: [www.equality-network.org/your-rights/parenting](http://www.equality-network.org/your-rights/parenting)

## Adoption and fostering

It is unlawful for an adoption or fostering agency to refuse to assess a couple as

potential adoptive parents or foster carers on the grounds of their sexual orientation or gender identity.

A couple can be approved for adoption in Scotland if they are in a stable long-term relationship. Neither marriage nor civil partnership are required. If you adopt a child, you become the child's legal parent, with full PRRs.

You can find out more information about adoption and fostering at:

[www.fostering.net/scotland](http://www.fostering.net/scotland)

[www.adoptionuk.org/scotland](http://www.adoptionuk.org/scotland)

[www.baaf.org.uk/scotland](http://www.baaf.org.uk/scotland)

# IMMIGRATION



**If you and your partner simply want to visit Scotland temporarily to get married you can find more information about how to do that on pages 16-17.**

This section explains what you need to do if you reside in the UK and your spouse / partner is from another country and wants to join you in the UK, either after you are married or in a civil partnership, or with the intention that you will register a marriage or civil partnership here.

If your spouse / partner is a national of an EEA country (the EU countries plus Iceland, Lichtenstein and Norway) or Switzerland, they have the right to reside in the UK and they do not need a visa to do so. If your spouse / partner is from another country, things are more complicated. Immigration law is a very complex and ever changing area of law and so it is advisable to seek advice relevant to your particular circumstances from an immigration lawyer before making any decisions »

which may impact on you or your partner's immigration status. The paragraphs below simply illustrate some of the rules at the time of writing.

It would be unlawful discrimination for a couple in a same-sex marriage or civil partnership to be treated any differently from a mixed-sex married couple in relation to immigration.

If you are a UK citizen (or you are settled or a refugee in the UK, and are not a citizen of another EEA country), and your spouse or civil partner is a citizen of a country outwith the EEA or Switzerland and is not your main carer, then they would need to apply for a 'family of a settled person' visa.

The eligibility rules include minimum annual income levels and a good knowledge of English, and there is a substantial fee for the visa. You can find out more information about this process

and the requirements you must meet at: [www.gov.uk/join-family-in-uk/eligibility](https://www.gov.uk/join-family-in-uk/eligibility)

If you are not already married / civil partnered, and you want to register a marriage or a civil partnership here, the same application process applies.

If you are a UK citizen and your spouse or civil partner is your main carer, or if you are living in the UK, but you are yourself a citizen of another EEA country, then your spouse / partner needs a different visa – an 'EEA family permit'. This visa has simpler eligibility rules and is free, and details are here: [www.gov.uk/family-permit](https://www.gov.uk/family-permit)

If you are a citizen of another EEA country, and your partner wants to come here so that you can marry or register a civil partnership, then your partner may be eligible for an EEA family permit if you are already in a relationship; alternatively they may need a 'family of a settled person' visa as above.

# EMIGRATION AND INTERNATIONAL RECOGNITION



If you have a Scottish same-sex marriage or civil partnership, and are planning to visit or move to live in another country, then we strongly recommend that you check the status of your marriage or civil partnership in that country before you go there, with the Foreign Office or the consulate / embassy for that country.

You may find that the recognition, rights and responsibilities afforded to you vary significantly from your situation in Scotland. In some countries you may even find yourself in significant difficulties or danger.

## **Which countries recognise a Scottish same-sex marriage?**

Same-sex marriages registered in Scotland are recognised in some but not all countries around the world. In those countries that allow same-sex marriages domestically, your Scottish marriage will be »



recognised as a marriage, though the rights and responsibilities this affords could differ from those afforded in Scotland depending on the marriage law in place in each country.

There are a growing number of countries around the world that allow same-sex marriage, including the Netherlands (since 2001), Belgium (2003), Spain (2005), Canada (2005), South Africa (2006), Norway (2009), Sweden (2009), Argentina (2010), Iceland (2010), Portugal (2010), Denmark (2012), France (2013), New Zealand (2013), Uruguay (2013), Brazil (2013), England and Wales (2014), Luxembourg (2015), and many parts of the USA and Mexico.

There are also some countries that recognise Scottish and other foreign same-sex marriages but do not currently allow such marriages to be registered domestically, including Israel and parts of other countries.

In countries that allow a form of civil partnership but not marriage, your same-sex marriage may be recognised as the equivalent form of civil partnership in that country (e.g. civil union, registered partnership, etc). The rights and responsibilities afforded to you can vary dramatically according to the law in place in each country.

There are also a significant number of countries where same-sex marriage is not recognised at all, and a large number where LGBTI people face state-sanctioned discrimination or criminalisation.

### **Which countries recognise a Scottish civil partnership?**

Civil partnerships registered in Scotland are recognised in some but not all other countries. The degree of recognition, and the rights and responsibilities afforded to you, can vary significantly depending on the system in place in each country.

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Systems of civil partnership around the world have different names (e.g. civil union, registered partnership etc) and come with different levels of rights and responsibilities. Some have almost identical rights to marriage in that country, some afford very limited rights, and some fall somewhere in between.

Countries that currently have a version of civil partnership include: Andorra, Austria, Colombia, Croatia, Czech Republic, Greenland, Ecuador, Estonia, Finland, France, Germany, Gibraltar, Hungary, Ireland, Isle of Man, Jersey, Liechtenstein, Malta, the Netherlands, New Zealand, Slovenia, Switzerland, the UK, and parts of Australia, Mexico, and Venezuela.

However, even those countries with their own system of civil partnership are under no obligation to recognise foreign civil partnerships – some choose to do so, while others do not.

Those countries that have same-sex marriage but no system of civil partnership are unlikely to recognise a Scottish civil partnership as a civil partnership or a same-sex marriage.

### **Where to get up-to-date information**

Because international recognition of Scottish same-sex marriage and civil partnership is constantly changing, we recommend you contact the UK Government Foreign and Commonwealth Office for the latest accurate information: [www.gov.uk/government/organisations/foreign-commonwealth-office](http://www.gov.uk/government/organisations/foreign-commonwealth-office)

# EMPLOYMENT, TAX AND BENEFITS



Same-sex couples can expect the same treatment as mixed-sex couples in their employment terms, and for the purposes of assessing benefit entitlements and tax payments.

## Employment

Under the Equality Act 2010, if your employer offers any benefits to the spouses of married employees, the same benefits must be offered to spouses or civil partners in same-sex relationships as those in mixed-sex relationships. Same-sex cohabitants must be offered the same benefits as those offered to mixed-sex cohabitants.

If your employer does not offer equal benefits they may be breaking the law, and you should contact your trade union, the Equality Advisory and Support Service (EASS):

[www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)  
or the Advisory, Conciliation and

Arbitration Service (ACAS) for advice:  
[www.acas.org.uk](http://www.acas.org.uk)

## Tax

### Income Tax

If you are married or in a civil partnership and entitled to an income tax allowance but do not earn enough to make full use of it, you may be able to transfer unused allowance to your partner. For more information visit: [www.gov.uk/income-tax-rates/personal-allowances](http://www.gov.uk/income-tax-rates/personal-allowances)

### Inheritance Tax

Surviving spouses and civil partners do not have to pay Inheritance Tax on anything left to them by their partner. This is a clear financial benefit of marriage and civil partnership that cohabiting couples are not entitled to. Anything left to the surviving partner of a couple who are not married or in a civil partnership is subject

to Inheritance Tax if the value exceeds the threshold set by the government. In 2014-15 that is £325,000. For more information visit: [www.gov.uk/inheritance-tax](http://www.gov.uk/inheritance-tax)

### Capital Gains Tax

If you are married or in a civil partnership you do not have to pay Capital Gains Tax on the transfer of assets between you and your partner, as long as you are living together.

If you sell or otherwise dispose of your only or main residence (i.e. your family home) you may be entitled to Private Residence Relief. This tax relief is limited to one residence only and you must jointly nominate which of your properties is to be treated as your only or main residence within two years of forming your marriage or civil partnership. The sale or disposing of additional property may be subject to Capital Gains Tax.

For more information visit:  
[www.gov.uk/capital-gains-tax](http://www.gov.uk/capital-gains-tax) »

## Council Tax

Same-sex couples who live together are jointly liable to pay their council tax, meaning that both partners can be pursued for failure to pay. This applies whether you are married, in a civil partnership, or cohabiting. If your partner dies and has council tax arrears then the arrears are payable from your partner's estate.

Couples may be entitled to certain reductions in your council tax bill depending on your specific circumstances. For more information visit: [www.gov.uk/council-tax](http://www.gov.uk/council-tax)

## Benefits

The rules for benefits change often. This is an outline of the rules at the time of writing. Generally speaking, couples who live together are treated the same for benefits, whether they are married, in a civil partnership, or cohabiting (living

together as though they are in a marriage or civil partnership). For more information see: [www.gov.uk/browse/benefits](http://www.gov.uk/browse/benefits)

### **Income-based Jobseeker's Allowance (JSA)**

If you are cohabiting, married or in a civil partnership the joint income of both partners is used to assess whether you are entitled to Jobseeker's Allowance if either partner makes an application. For more information visit: [www.gov.uk/jobseekers-allowance](http://www.gov.uk/jobseekers-allowance)

### **Income-based Employment and Support Allowance (ESA)**

If you are cohabiting, married or in a civil partnership you may only receive income-based ESA if your partner works less than 24 hours a week on average and the usual entitlement conditions are met. For more information visit: [www.gov.uk/employment-support-allowance](http://www.gov.uk/employment-support-allowance)

## Income Support (IS)

Only one partner in a cohabiting, married or civil partnered couple can claim Income Support at any one time, although you can claim for both yourself and your partner. Your joint income and financial needs will be assessed when calculating whether or not you are entitled to Income Support. Depending on your circumstances you may also be entitled to premiums in recognition of particular needs (e.g. Family Premiums, Disability Premiums, Carer Premiums, and Pensioner Premiums). For more information visit: [www.gov.uk/income-support](http://www.gov.uk/income-support)

## Tax Credits

If you are cohabiting, married or in a civil partnership and believe you are eligible for Working Tax Credit or Child Tax Credit then you must make a joint claim to HM Revenue and Customs and both of your incomes will be assessed to establish if you are entitled to payment.

If you or your partner already claim tax credits individually and then form a marriage or civil partnership, or cohabit, you must inform HMRC Tax Credit Office about the change of circumstances as it may affect the level of payment you are entitled to.

If you continue to claim without notifying HMRC about the change in circumstances then you may end up having to pay back any overpayments. For more information visit: [www.gov.uk/working-tax-credit](http://www.gov.uk/working-tax-credit) and: [www.gov.uk/child-tax-credit](http://www.gov.uk/child-tax-credit)

## Child Benefit

If you are cohabiting, married or in a civil partnership, and both partners are receiving the higher rate child benefit then you need to inform HMRC Child Benefit Office in order to avoid overpaid tax credits. If you do not inform HMRC within three months of commencing a marriage, civil partnership, or cohabitation you »



may also have to pay an additional penalty. For more information visit:  
[www.gov.uk/child-benefit](http://www.gov.uk/child-benefit)

## **Housing Benefit**

If you are cohabiting, or married, or in a civil partnership and you live together, then only one partner is able to receive Housing Benefit, which provides financial support towards your rent. For more information visit: [www.gov.uk/housing-benefit](http://www.gov.uk/housing-benefit)

## **Council Tax Reduction**

If you are cohabiting, or married, or in a civil partnership and apply for Council Tax Reduction, then your joint income and savings will be assessed to calculate whether you are eligible. For more information visit:  
[www.gov.uk/council-tax-reduction](http://www.gov.uk/council-tax-reduction)

# PENSIONS



Same-sex marriages and civil partnerships provide most, but currently not all, of the same rights to pension benefits as mixed-sex marriages.

## State Pension

Same-sex married couples and civil partners are entitled to exactly the same benefits as mixed-sex married couples when it comes to the state retirement pension in the UK.

## Public sector and contracted-out pension schemes

Same-sex spouses and civil partners are treated in the same way as widowers under all public sector pension schemes, and private sector contracted-out occupational pension schemes.

This means that a survivor's pension is paid to a surviving spouse or civil partner, based on the deceased partner's contributions »

into their pension scheme since 1988 (this is the same as a male widower would get in a mixed-sex marriage).

As with survivor's benefits in mixed-sex marriages, this includes a one-off lump sum payment payable to the surviving partner on the death of their partner, along with a continuing monthly pension.

Same-sex spouses and civil partners are also protected in the same way as mixed-sex spouses under the pension protection fund rules, which cover what happens when a pension scheme goes bust.

### **Private sector occupational pension schemes**

For private sector (non-contracted-out) pension schemes, UK law only requires that schemes take into account pension scheme contributions from 5 December 2005 onwards, when calculating survivor's benefits for same-sex married couples or

civil partners, reflecting the date that the Civil Partnership Act 2004 came into effect.

While some private sector pension schemes already voluntarily choose to provide equal benefits for same-sex spouses / civil partners and mixed-sex married couples, a significant number do not. This means that the current rules discriminate against LGBTI people, allowing such schemes to ignore years of contributions made prior to 2005, and significantly reducing the survivor's benefits that same-sex spouses and civil partners would otherwise be entitled to. This can mean that same-sex spouses and civil partners could lose out on thousands of pounds worth of survivor's benefits.

There is one exception, which is where a marriage has become a same-sex marriage by one person in a mixed-sex marriage obtaining gender recognition. In that case pension companies must provide the non-trans spouse with the same survivor's

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benefits from their spouse's pension that they would have got if the marriage had remained legally mixed-sex. However, the trans spouse is not protected in the same way, and pension companies can provide them with the lower survivor's benefits that apply in a same-sex marriage.

If your pension provider does discriminate against same-sex couples in this way we recommend that you contact them to discuss the issue, as they may be willing to change their policy voluntarily. You may also wish to seek independent financial advice.

In June 2014 the UK Government held a review of survivor's benefits in occupational pension schemes. The Equality Network made a submission outlining the case for enforcing non-discrimination against same-sex couples and we await the UK Government's response.

For more information on pensions visit:  
[www.direct.gov.uk/pensions](http://www.direct.gov.uk/pensions)

# OTHER RIGHTS AND RESPONSIBILITIES



## Discrimination

Under the Equality Act 2010 it is unlawful discrimination for people who are married or in a civil partnership to be treated less favourably in employment than people who are not married or in a civil partnership.

Equality legislation also protects people in relation to sexual orientation, which means that you cannot be treated less fairly as a same-sex couple than a mixed-sex couple would be treated.

For example, if the hotel you choose for your honeymoon refuses to book the honeymoon suite for you because you are a same-sex couple this would be unlawful discrimination.

For advice on what to do if you experience discrimination see:  
[www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

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## Housing rights

Generally speaking the only person who has a legal right to live in a property is the person who owns it. However, under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and the Civil Partnership Act 2004, as a spouse or civil partner you have the right to occupy the property which you have lived in with your spouse / partner even if they are the legal owner of the property.

The same Acts also provide protection for people experiencing domestic violence, by enabling a spouse or civil partner to exclude a violent spouse / partner from the family home (even if they own it).

For more information see: [scotland.shelter.org.uk/get\\_advice/advice\\_topics/families\\_and\\_households/living\\_together](https://scotland.shelter.org.uk/get_advice/advice_topics/families_and_households/living_together)

## Financial support

If you are in a marriage or a civil partnership you have an obligation to support one another financially.

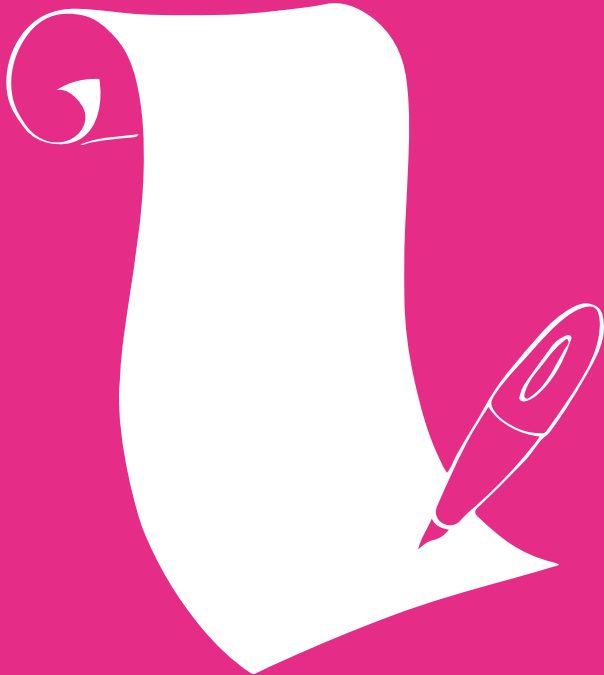
## Next of kin

Although there is no one legal definition of next of kin, various pieces of law set out who is “nearest relative” and who is able to make decisions on behalf of people if they are unable to do so themselves, and hospitals etc usually state that they will only provide information, for example about a patient’s condition, to next of kin.

As a spouse or civil partner you will be treated as your partner’s nearest relative and you are included in legislation which provides for decisions to be made on behalf of another person.



# WILLS AND SUCCESSION



## Why draw up a will?

Writing a will enables you to have control over what will happen to your estate, in other words your house, savings and any other property you own, when you die. When someone dies without a will they are described as “intestate” and the law sets out the way in which their estate must be divided up in these circumstances.

Having a will also makes things much simpler for your family when you die because they can distribute your property according to your wishes and don’t have to deal with the more complicated legal processes which might have to take place if you die intestate.

In Scotland, if you have a will before you marry or register a civil partnership, that will continues in force, so you may well want to update it.

## Do you need legal advice / a solicitor to do it for you?

It is possible to write a legally enforceable will yourself, without a solicitor, as long as you sign it. However, it is advisable to get a will drawn up by a solicitor because they will make sure that it is valid and also provide you with advice about tax efficient ways you can deal with your property.

## Writing a will

When writing your will you will need to appoint an executor who will be responsible for gathering in your estate, distributing it according to your wishes, and dealing with the legal practicalities involved. Most people choose a family member or trusted friend to be their executor.

In Scotland it is not possible to prevent your spouse, civil partner, or children from inheriting from you when you die by excluding them from your will, because

they have a legal right to part of your estate. If you don't include them in your will they will be able to make a claim on your estate from your executor. A solicitor will be able to advise you on the implications of this.

## Inheritance tax

Inheritance tax is payable to HMRC on the value of a person's estate when they die. The tax only has to be paid on the part of the person's estate which is valued over the threshold or "nil rate band" for that year. In 2014-2015 the threshold is £325 000.

Generally, inheritance tax is paid out of the estate of the person who has died and will be dealt with by the executor of their will. It is however possible to leave things to people in your will and state that the beneficiary has to pay the tax themselves.

If you are in a same-sex or mixed-sex marriage or in a civil partnership any »

part of your estate which is left to your spouse or civil partner will not be charged inheritance tax.

## What happens if your partner dies without a will?

If your spouse or civil partner dies intestate you will be entitled to inherit a proportion of their estate. This will include the house they own, the furniture and furnishings within that house, and a financial provision. If you and your partner have children together, or your partner has children from another relationship, the financial provision you receive will be less, with some going to the children.

## Registering a partner's death

A spouse or civil partner has a right to register their partner's death and claim benefit to help with funeral costs, or any other benefits that apply. The Law Society of Scotland provides information and

advice on end-of-life questions you may have: [www.lawscot.org.uk](http://www.lawscot.org.uk)

## Wrongful death

Just as with mixed-sex married couples, same-sex spouses or civil partners have the right to claim damages under the Damages (Scotland) Act 2011 from a person causing the death of your partner in a wrongful act, and to claim compensation from the Criminal Injuries Compensation Scheme for the death of your partner in a criminal act.

# SUPPORT AVAILABLE IF YOUR RELATIONSHIP GOES WRONG



## Support

Whether you are married or in a civil partnership, like any relationship you may find that problems develop that prove hard to solve on your own.

Any couple in Scotland can get help from agencies such as the Spark or Relationships Scotland, who provide information, advice, and counselling services:

[www.thespark.org.uk](http://www.thespark.org.uk)

[www.relationships-scotland.org.uk](http://www.relationships-scotland.org.uk)

## Domestic abuse

If you suffer domestic abuse, you are entitled to the same legal protections regardless of whether you are in a same-sex or mixed-sex relationship. Laws protecting you from domestic abuse include the provisions of the Matrimonial Homes (Family Protection) (Scotland) Act 1981, the Civil Partnership Act 2004, and the Protection from Abuse (Scotland) Act 2001. »

There are a number of protective measures that can be put in place. For instance, you can apply to court for specific orders to keep an abusive partner away from you, or out of the house, even if they own it. The police must enforce these, and some orders may be granted with the power to arrest an abusive partner who breaches them.

If you need to talk to someone about an abusive relationship you can contact:

The Scottish Domestic Abuse Helpline:  
0800 027 1234, [www.sdah.info](http://www.sdah.info)  
(helpline open 24 hours)

Broken Rainbow: 0800 999 5428,  
[www.brokenrainbow.org.uk](http://www.brokenrainbow.org.uk)  
(helpline opening hours listed on website)

Scottish Women's Aid:  
[www.scottishwomensaid.org.uk](http://www.scottishwomensaid.org.uk)

The Men's Advice Line:  
[www.mensadviceline.org.uk](http://www.mensadviceline.org.uk)

## Beyond repair?

If you feel your relationship has broken down beyond repair you may wish to end your marriage or civil partnership. You can find out more information on how to get a divorce or dissolve your civil partnership in the next section.

# ENDING A MARRIAGE OR CIVIL PARTNERSHIP



If things do not work out and you decide to end your relationship you may wish to apply for a divorce (if you are married) or a dissolution (if you are in a civil partnership).

## Getting a divorce or dissolution in Scotland

If you live in Scotland and want to get a divorce or dissolution you must apply to the Sheriff Court.

It is always a good idea to get legal advice. If you and your spouse / partner both agree to the divorce / dissolution and to the way that your property will be divided, and you have no children under 16, then you can apply for divorce / dissolution under the simplified procedure, which involves filling in a form and submitting it to the court.

You can download the form specific to your circumstances at: [www.scotcourts.gov.uk/rules-and-practice/forms/sheriff-court-](http://www.scotcourts.gov.uk/rules-and-practice/forms/sheriff-court-)

## forms/simplified-divorce-and-simplified-dissolution-of-civil-partnership-forms

In all other cases you will need to make a full application to the court and will need legal advice.

Divorce or dissolution will only be granted if the marriage or civil partnership has irretrievably broken down (or one of you has an interim gender recognition certificate). Irretrievable breakdown can be established by proving one of the following circumstances:

### **By mutual agreement after one year's non-cohabitation:**

Where the partners have lived apart for a minimum of one year and they both agree to the divorce / dissolution.

### **After two years' non-cohabitation with no agreement:**

Where the partners have lived apart for a minimum of two years and

only one partner wants the divorce / dissolution.

### **'Unreasonable behaviour':**

Where the partner applying for the divorce or dissolution shows that the other partner has behaved in such a way that it would be unreasonable to expect the applicant partner to continue living with them. That behaviour could include for example domestic abuse, or depending on the circumstances, sexual infidelity.

### **Adultery:**

This applies to divorce for marriage, but does not apply to dissolution of civil partnership. Adultery is a concept with a very specific meaning in Scots law, referring to penetrative heterosexual intercourse with someone other than the spouse. Adultery is a basis for divorce in both same-sex and mixed-sex marriages, while 'unreasonable behaviour' (above) can cover a wider range of sexual infidelities including mixed-sex or same-sex infidelity,



and is a basis for both divorce and dissolution of civil partnership.

A divorce / dissolution can also be granted if an interim gender recognition certificate has been issued to one partner, and either partner decides they want a divorce / dissolution as a result. For more information on Gender Recognition see pages 22-27.

## **What happens when a divorce / dissolution is granted?**

When the court grants a divorce or dissolution it can rule on a division of property between the partners. The rules are the same as for property division in divorces between mixed-sex couples: the basic rule is that any property obtained by either partner during the marriage / partnership (except gifts or bequests made to one or the other partner) is split equally between the partners, but the court may adjust this.

The court can also make decisions about whether a lump sum or periodical allowance should be paid to either of the partners and can rule on whether any pension funds which the couple have should be shared and, if so, how these should be distributed.

If you have a pre-nuptial agreement with your spouse or civil partner, the court will take it into account in deciding how to divide property, but only if it decides that the agreement was fair and reasonable at the time you signed it.

## **Reverting to a previous name following divorce or dissolution**

If you divorce or dissolve a civil partnership you can simply go back to using your previous surname, and letting people know, without having to officially record the change. However if you went through the formal change of name procedure with National Records of Scotland (NRS) then »

you will have to go through that official procedure again to change your name back and have your birth entry amended.

## **What happens if there are children involved?**

For general information on parenting see pages 30-32.

## **When both partners have parental responsibilities and rights (PRRs) for a child**

When you apply for divorce or dissolution you can ask the court to rule on issues relating to your children such as which spouse / partner they should live with. If you and your spouse / partner are finding it very difficult to come to an agreement about contact with and residence of your children, then the court may suggest a child welfare hearing is held to make a decision as quickly as possible.

Where a child resides with you after the divorce / dissolution, you can also ask the court to make an order for aliment (financial provision) which would require a payment by your former spouse / partner to help with the costs of looking after your child.

## **If you don't have PRRs for a child**

If your spouse / partner has a child who lived with you, but you don't have PRRs for the child, then you would have to ask the court to make an order for you to have contact with them, otherwise you would have no right to see the child. Whether or not you do this, your spouse / partner may be able to apply for aliment from you to help them with the costs of looking after the child.

## **Mediation**

Prior to seeking a divorce or dissolution you may want to consider whether you and your spouse / partner could reach

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agreement on matters such as how to divide your property or how you will share residence and contact with your children. This will enable the court proceedings to be much less contentious and speed things up considerably.

Mediation is a very useful way to work through such decisions with an impartial third party. For more information see: [www.relationships-scotland.org.uk/family-mediation](http://www.relationships-scotland.org.uk/family-mediation)



Photo: Susan and Julie have their civil partnership in Aberdeenshire – [Aberdeenphoto.com](http://Aberdeenphoto.com) (April 2013)





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# TARTAN PARTNERSHIPS



## B E S P O K E   E V E N T   M A N A G E M E N T

Tartan Partnerships is a unique service striving to deliver a high quality service to all, regardless of race, religion or sexuality. Whilst our specialty is organising civil partnerships, weddings and commitments, we offer a similar bespoke approach to all events, including birthdays, dinner parties, funerals, and naming ceremonies.

We operate with a clear purpose – to support our clients in preparing for their special event, and to ensure that the event runs smoothly and without difficulty. Our experience in organising our own civil partnership was that a surprising number of businesses still don't offer comparable services to 'traditional' weddings, which makes approaching venues awkward, isolating and difficult. We firmly believe that this

should not happen, and work only with businesses who understand our philosophy and our clients needs. We strive to use Scottish produce and services whenever able, and are keen to promote our beautiful country beyond the UK.

The 'partnership' extends beyond the events we organise; we are dedicated to only working alongside other businesses or organisations who share our goals. In turn, we form a unique network of businesses and services, that come together to make sure your event is the unique, personalised and memorable event you seek. Whether you are arranging an event for five or five hundred, with a budget of a few hundred or a few thousand, we are happy to meet with you for a no-obligation discussion to see how we can help.

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# *Our personal ceremonies reflect the unique love you share*

## *They're unique*

Every Humanist wedding is different, because it's all about you!

*"We had the most amazing day. Our ceremony was just as we wanted..."*

Only you know why you love one another, and what you want to achieve in your marriage, so your Celebrant will help create a ceremony that reflects who you are, and what you think and feel.

Your ceremony can take place indoors or outdoors. It can be simple or elaborate, traditional or contemporary. It usually includes readings, music, and an exchange of rings, but it can also incorporate symbolic gestures, like handfasting or the lighting of candles. The choice is yours.

## *They're meaningful*

One of the attractions of a Humanist wedding is that it's non-religious, so you're free to say in your own words why you're here, where you're going and what you're promising. Another is that our Celebrant won't tell you what marriage means. Instead, they'll ask what it means to you, then help you write your ceremony so you can tell your family and friends.

Scotland is one of the few countries in the world where Humanist marriage ceremonies are fully legal, and recognised throughout the world. Your wedding can take place anywhere, so whether it's on a beach or up a mountain, in a keep or a castle, your back garden or a grand hotel, you're free to marry wherever you want, and declare your love in a way that feels right for you.



**Humanist Society Scotland** is proud to have campaigned alongside the Equality Network for equal marriage in Scotland. We look forward to conducting Scotland's first same-sex marriage on 31 December 2014 and many more thereafter.



## *They're joyful*

Marriage is an equal partnership based on mutual love and respect, so while Humanist weddings are dignified and deeply personal they're also great fun! Here are just some of the things our couples have told us.

*"We had the most amazing day. Our ceremony was just as we wanted: very personal, very moving, and at times very entertaining! I've never experienced so many tears of joy and laughter!"*

*"The ceremony was incredible! You made it seem the most natural thing in the world. Having our friends play music made it really personal, and it was amazing to share the day with so many of the most important people in our lives. It was filled with laughter and love – exactly as we wanted."*

*"Our intimate and personal ceremony was thanks to your help in crafting our words. Everyone said they'd never been at such a personalised and relaxed wedding, ever!"*

## *They're practical*

HSS Celebrants are authorised by the Registrar General of Scotland to conduct legal marriage ceremonies anywhere safe and dignified, so you don't need a separate civil marriage.

## *What is Humanism?*

Humanists include atheists and agnostics who make sense of the world using reason, experience and shared human values. We base our ethics on the goals of human welfare, happiness and fulfilment. We take responsibility for our actions, and seek to make the best of the one life we have by creating meaning and purpose for ourselves, individually and together.

For more information, or to find a Celebrant, please contact us or visit our website:

[www.humanism-scotland.org.uk](http://www.humanism-scotland.org.uk)





a **faith** worth  
**thinking** about



**Scottish Unitarians** are proud to have been at the forefront of the campaign for Equal Marriage that resulted in the Scottish Parliament passing the Marriage and Civil Partnership (Scotland) Act 2014.

We welcome all couples who wish to be married, to register a civil partnership or to receive a blessing, in our churches or at other venues.

You are warmly invited to attend Sunday services at our churches in Aberdeen, Dundee, Edinburgh and Glasgow, where our Beloved Community supports the pursuit of individual spirituality within communities of diverse beliefs.

[www.sua.org.uk](http://www.sua.org.uk)

The Scottish Unitarian Association is a registered Scottish charity, Scottish charity no. SC 007592



## Metropolitan Community Church in Glasgow

Metropolitan Community Churches are proud to have been conducting same-sex ceremonies in the UK since 1971 and we are delighted to be able to add same-sex marriage to the services we offer in Scotland.

Contact **Rev Jane Clarke**.

[revclarke@mccinglasgow.co.uk](mailto:revclarke@mccinglasgow.co.uk)  
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[www.mccinglasgow.co.uk](http://www.mccinglasgow.co.uk)

MCC in Glasgow is a registered charity: SCO43529

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When it comes to selecting a venue for a same-sex Wedding or Civil Partnership it is important to know that you are being looked after by an understanding team. Strathblane Country House invites you to "make our house your house for the day (and night ...)" And you can rest assured that as a gay-run establishment we know how to get things right.

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**Interfaith Celebrants Jane Patmore and Angie Alexandra answer your questions.**

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[www.gaymarriagescotland.org](http://www.gaymarriagescotland.org)  
[www.scottishweddingceremony.co.uk](http://www.scottishweddingceremony.co.uk)

To find interfaith celebrants in the Highlands, Islands and North of Scotland, contact:



**Angie Alexandra**

01309 692523 / 07940 735555  
angelaalexandra@aol.com

To find interfaith celebrants in the Central Belt and South of Scotland, contact:



**Jane Patmore**

07788 711421  
jane@yourserviceinScotland.co.uk

## Q: What choices do I have for my ceremony?

**A:** Scotland is a fantastic place to be married or have your civil partnership. We can hold your legal ceremony outside or inside, on a beach or in a castle, on a mountain or in a romantic hotel. There is choice about the type of ceremony you can have and flexibility about the words you can say to each other.

## Q: What is different about the ceremonies that you offer?

**A:** As Interfaith Celebrants we can offer the freedom and flexibility to reflect whatever beliefs you and your partner hold. We can hold a non-religious or humanistic ceremony, or we can include spiritual or religious elements, if that is what you want. We can include vows, blessings, readings, music and rituals from any origin – non-religious or religious. The ceremony is personal and unique, created especially for you.

## Q: How can I personalise my ceremony?

**A:** There are many ways in which you can make your ceremony personal. You could involve family and friends, write your own vows, or include a specially created ritual such as a personalised handfasting or a candle lighting ceremony. We have a many different examples and we can help you with ideas from some of the inspiring and beautiful ceremonies that we have held.



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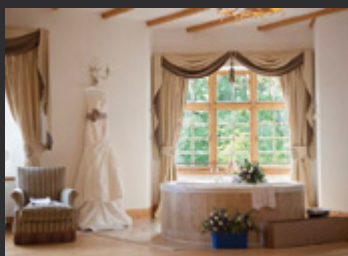
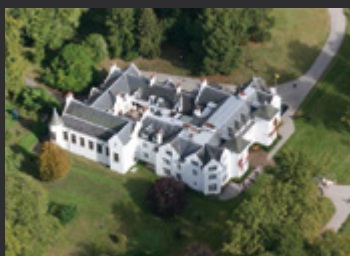


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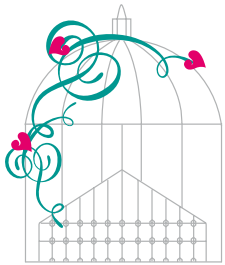
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You may also wish to consider holding your ceremony at our offices in Leith or South Queensferry - For details about our offices - Visit our website [www.edinburgh.gov.uk/registrars](http://www.edinburgh.gov.uk/registrars) Or Email us at [registrars.lothianchambers@edinburgh.gov.uk](mailto:registrars.lothianchambers@edinburgh.gov.uk). We will keep you updated on all events related to your paperwork. For booking help or just enquiries, get in touch with Lothian Chambers, Edinburgh.





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Photo: Douglas and Peter convert their Scottish civil partnership to marriage in Melbourne, Australia – Same Love Photography (16 December 2014)





Photo: Jerry and Larry at the unveiling of the date for equal marriage in Scotland – Tinged Memories Photography (13 October 2014)





**FURTHER  
INFORMATION**

# USEFUL CONTACTS



---

## **Equality Network**

For more information on our work:  
[www.equality-network.org](http://www.equality-network.org)

## **Scottish Transgender Alliance**

Part of the Equality Network. For more information:  
[www.scottishtrans.org](http://www.scottishtrans.org)

## **BLM**

For more information on BLM:  
[www.blmlaw.com](http://www.blmlaw.com)

## **National Records of Scotland (NRS)**

For more information on Marriage and Civil Partnership in Scotland:  
[www.nrscotland.gov.uk](http://www.nrscotland.gov.uk)

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## **Scottish Government**

For more information on Marriage and Civil Partnership law in Scotland:

[www.scotland.gov.uk/topics/justice/law/17867/samesex](http://www.scotland.gov.uk/topics/justice/law/17867/samesex)

## **Gender Recognition Panel (GRP)**

For further information on gender recognition: [www.grp.gov.uk](http://www.grp.gov.uk)

## **Equality Advisory and Support Service (EASS)**

For advice on incidents of discrimination: [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

## **UK Visas and Immigration (UKVI)**

For further information on UK immigration rules: [www.gov.uk/government/organisations/uk-visas-and-immigration](http://www.gov.uk/government/organisations/uk-visas-and-immigration)

## **DirectGov**

For further information on benefits and tax: [www.gov.uk](http://www.gov.uk)

## **Revenue and Customs (HMRC)**

For further information on benefits and tax: [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

## **Relationships Scotland**

For advice and support on relationships: [www.relationships-scotland.org.uk](http://www.relationships-scotland.org.uk)

## **The Spark**

For advice and support on relationships: [www.thespark.org.uk](http://www.thespark.org.uk)



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# THE ROAD TO EQUAL MARRIAGE IN SCOTLAND

Some of the key milestones on the road to equal marriage in Scotland

**1981** |||||  
Homosexuality decriminalised

**1997** |||||  
Equality Network established

**1999** |||||  
Call for equal partnership rights headlines our first Holyrood election manifesto

**2004** |||||  
The Civil Partnership Act 2004 passed, first civil partnerships take place a year later

**2008** |||||  
Equality Network launches Equal Marriage, the UK's first major campaign for same-sex marriage and mixed-sex civil partnership

**May 2011** |||||  
Four of Scotland's five main political parties make manifesto commitments on equal marriage and First Minister Alex Salmond announces his personal support

**2 Sep 2011** |||||  
The Scottish Government launch the UK's first consultation on same-sex marriage

**31 Jan 2012** |||||  
All four Scottish Parliament opposition leaders sign our Equal Marriage pledge

**17 Jul 2012** |||||  
The Scottish Government announce they will bring forward legislation after publishing the same-sex marriage consultation results

---

## 12 Dec 2012

Draft Marriage and Civil Partnership (Scotland) Bill published for consultation

## 24 Jun 2013

Political leaders, religious ministers, and Scottish celebrities back equal marriage in our It's Time video campaign

## 27 Jun 2013

Marriage and Civil Partnership (Scotland) Bill introduced to Scottish Parliament

## 4 Feb 2014

The Scottish Parliament passes the Marriage and Civil Partnership (Scotland) Act 2014 by an overwhelming majority of 105 votes to 18

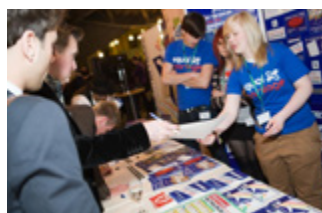
## 16 Dec 2014

Marriage and Civil Partnership (Scotland) Act 2014 comes into effect

## 31 Dec 2014

First same-sex marriage ceremonies

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For the first time in Scotland, marriage between two people of the same sex will be recognised and regulated. This is an exciting time, and a time when expert advice tailored to your individual circumstances is crucial. The changes in the law will impact upon you whether you are living together, entering into a civil partnership or getting married.

BLM has one of Scotland's leading family law practices supporting clients through all legal issues affecting marriage, co-habitation, civil partnership and child related issues. Members of our expert team have a specific interest in advising members of the LGBTI community and fully support the new legislation. They regularly advise on a broad range of matters, including:

- Living together and cohabitation agreements
- Civil Partnerships
- Pre nuptial and pre partnership agreements
- Divorce and financial provision
- Maintenance agreements
- Parental rights and responsibilities
- Adoption
- Interdict and non-harassment orders



*“experienced, pragmatic and sympathetic, but never at the expense of being extremely professional, efficient and effective”.*

## Chambers & Partners 2014

We recently advised a client who was involved in the breakdown of a civil partnership. The matter was complicated by the involvement of property, monetary contributions and business assets. The agreement to dissolve the partnership was reached amicably and we were able to successfully protect our client’s assets. This is just one example of the kind of case with which our solicitors are on hand to assist.

We understand that each individual case is different and quite often emotional. The team is experienced in handling various forms of alternative dispute resolution and will explore the options with clients to choose the most appropriate action.

If you would like any advice regarding the legal implications of your upcoming marriage or civil partnership, or would like to discuss any other family law issues, please contact Siobhan Kelly, partner, on 0141 353 2121 or [siobhan.kelly@blmlaw.com](mailto:siobhan.kelly@blmlaw.com).





# EQUALITY NETWORK



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The Equality Network is Scotland's national lesbian, gay, bisexual, transgender and intersex (LGBTI) equality and human rights charity.

We were established in 1997 by LGBTI activists who believed that Scotland needed a national organisation to voice the concerns of LGBTI people and to work to secure full equality in the law and society.

## **Our work**

Our work has always been based in the priorities of LGBTI people, as identified through regular consultation and engagement with LGBTI communities and individuals across Scotland.

Over the past seventeen years a key priority for LGBTI people has been to remove inequality from the law in Scotland, including lifting the ban on same-sex marriage.

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Since 1997 the Equality Network has led successful campaigns to:

- ✓ Repeal Section 28
- ✓ Equalise the age of consent
- ✓ Allow gender recognition
- ✓ Introduce civil partnerships
- ✓ Allow same-sex adoption and fostering
- ✓ Reform sexual offences laws
- ✓ Establish hate crime laws
- ✓ Secure equal marriage


While our national campaigns have secured major steps forward in legal equality such as equal marriage, our work with key public services and organisations across Scottish society helps to ensure that LGBTI people receive equal treatment in their day-to-day lives.

For more information on our work visit our website at: [www.equality-network.org](http://www.equality-network.org)

## Scottish Transgender Alliance

**The Scottish Transgender Alliance is Scotland's national project working to improve gender identity and gender reassignment equality and human rights. We are part of the Equality Network.**

We provide expert training and policy guidance to employers and service providers across Scotland. We also inform trans people about their rights and provide trans equality conferences and skills development events to assist trans people to engage with public bodies.

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 [www.scottishtrans.org](http://www.scottishtrans.org)

 [www.facebook.com/scottishtrans.org](http://www.facebook.com/scottishtrans.org)

 [www.twitter.com/scottishtrans](http://www.twitter.com/scottishtrans)

 [www.youtube.com/scottishtrans](http://www.youtube.com/scottishtrans)

# EQUALITY NETWORK

LGBTI Equality and Human Rights in Scotland



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