

Pension provision

The Civil Partnership Act will have an impact on two areas of pension provision:

- the retrospective provision of guaranteed minimum pensions;
- pension sharing upon divorce.

Pension providers will have to provide retrospective access to guaranteed minimum pensions for a surviving civil partner. The Treasury has indicated that public sector schemes will consider civil partners in the same way they consider spouses. Private sector schemes, such as USS, are not obliged to provide the same benefits. For example, a spouse would automatically receive 50% of their deceased partner's pension under USS Scheme rules. This benefit may not be automatically extended to a civil partner.

The Civil Partnership Act ensures that a pension provider will provide the surviving civil partner with a pension to the value of the guaranteed minimum pension. This, however, will probably provide a benefit that will be considerably less than a spouse's or a dependant's pension. It is therefore recommended that individuals refer to the pension scheme's rules and contact the provider if they are in any doubt about their partner's benefits or the level of them. Discrepancies may be resolved by future Pensions Bills.

The Act gives a civil partner the right to a pension sharing order on divorce. The Civil Partnerships Act will ensure that a pension provider will provide the surviving civil partner with a pension to the value of the guaranteed minimum pension. This, however, will

probably provide a benefit that will be considerably less than a spouse or a dependant's pension. It is therefore recommended that employees continue to nominate their partner as their dependent, rather than assuming that by registering their partnership they are automatically entitled to the same rights as married employees.

Further information

For further details and information about how to support lesbian, gay and bisexual staff, please email lgbt@ecu.ac.uk, visit www.ecu.ac.uk and see *Employing People in Higher Education: Sexual Orientation*.

June 2005

Published by The Equality Challenge Unit, 3rd Floor, 4 Tavistock Place, London WC1H 9RA

Tel: 020 7520 7060 Fax: 020 7520 7069 info@ecu.ac.uk

Designed by Siân Cardy

The Act

The Civil Partnership Act became law in the UK on 18 November 2004 and will come into force on 5 December 2005. The Act creates a new legal relationship of civil partnership that two people of the same sex can form, by signing a registration document. It is only available to same sex couples, and is not the same as marriage. As three weeks' notification has to be given before a partnership can be registered, the first partnership ceremonies cannot take place until 21 December 2005.

The legal situation before the Civil Partnership Act

The Employment Equality (Sexual Orientation) Regulations 2003 prevents employees being discriminated against on the grounds of their sexual orientation. Further information about these regulations, and their impact on Higher Education Institutions' Equality and Diversity agenda can be found in the ECU publication *Employing People in Higher Education: Sexual Orientation*. These regulations, however, did not prevent institutions from providing different benefits for employees who were married, and those who were not. For example, a benefit could be offered to the spouse of an employee, but those benefits would not have to be extended to the same sex partner of an employee. General best practice recommends that Higher Education Institutions do not discriminate in this way, but there has been no legal imperative to do so in relation to same sex couples, until the introduction of the Civil Partnership Act.

A Civil Partnership

Civil Partnership will give lesbian and gay couples the right to register their commitment to each other by formalising their permanent relationship. A civil partnership is not the same as marriage, though many of the rights conferred through civil partnership are the same as those conferred by marriage. A civil partnership is not available to couples that are of the opposite sex. One of the intentions of the government is that a civil partnership will enable lesbian and gay couples and their families to receive greater social recognition and acceptance.

The Civil Partnership Act introduces the following rights for couples registered as partners under the Act:

- a duty to provide reasonable maintenance for the civil partner and any children of the family, if the partnership is formally dissolved;
- civil partners to be assessed in the same way as spouses for child support;
- equitable treatment for the purposes of life assurance;
- employment and pension benefits;
- recognition under intestacy rules;
- access to fatal accidents compensation;
- protection from domestic violence;
- recognition for immigration and nationality purposes.

General impact on Higher Education Institutions and employees

The introduction of the Civil Partnership Act is likely to have only a limited impact on the workings of a Higher Education Institution. It would be best practice to check that no additional benefits are available to any employees solely because they are married. The most obvious exception to this is pension provision, which is outside direct institutional control. Further details can be found overleaf.

The Civil Partnership Act provides a means by which same sex partners can be more open about their relationship. This means that employees may want to be more open at work. The potential increased visibility of lesbian, gay and bisexual staff could lead to an increase in discussion and awareness of same sex partnerships. There is a possibility that this increased visibility could lead to an increase in discrimination or bullying. It is therefore important to ensure that all staff are aware of what constitutes inappropriate behaviour, and how this behaviour could be construed as bullying and harassment.

The Civil Partnerships must be registered and the register **shall be searchable by the public**. (Each jurisdiction within the UK has a system of notification not unlike the banns of marriage before a registrar.) Although this means that information about a person is in the public domain and s/he may be open about their relationship, it does not authorise an institution to discuss an individual's sexual orientation without their consent.