

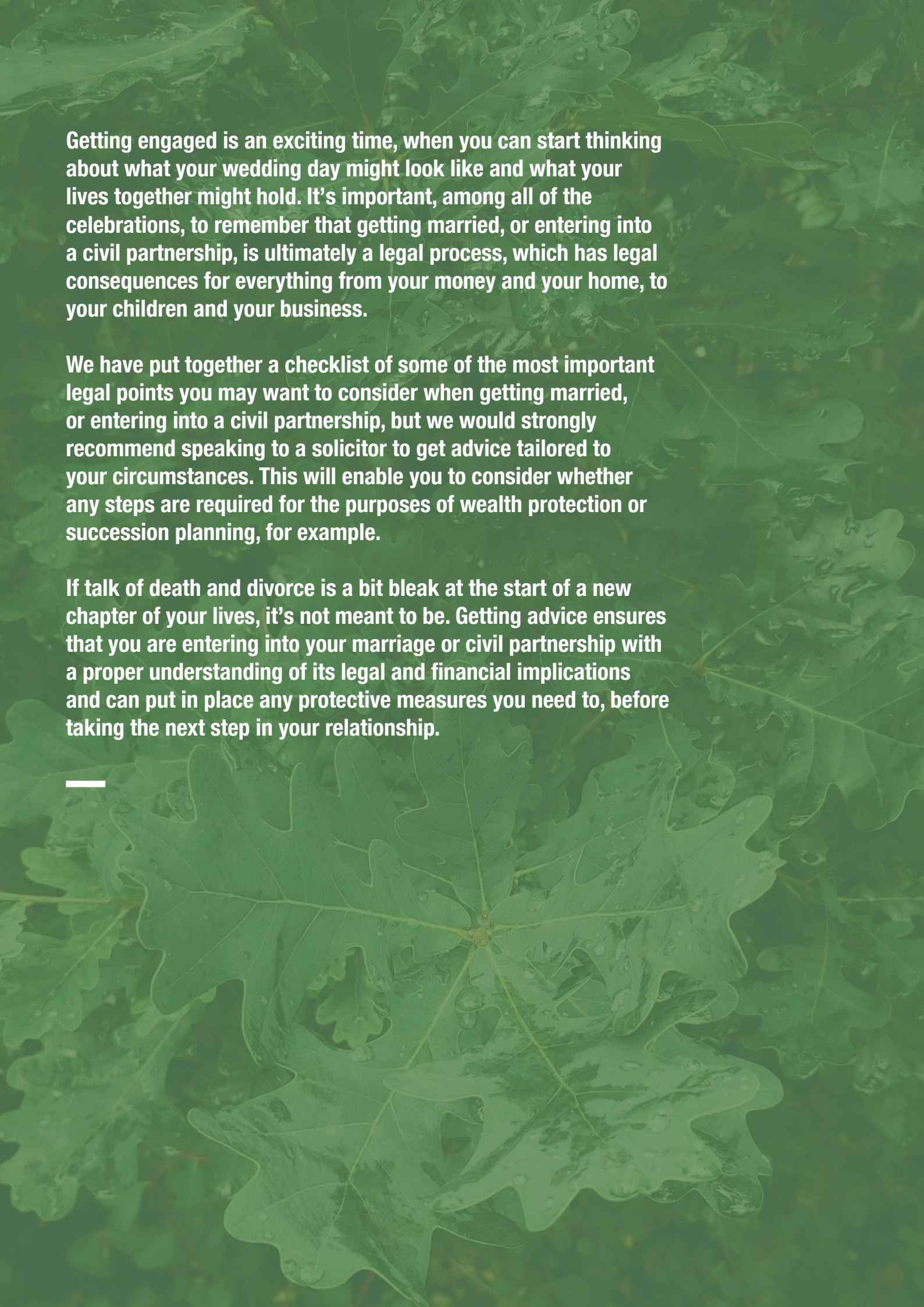


YOU'RE GETTING MARRIED

FAMILY LAW

**Important legal points to
consider when getting married.**





Getting engaged is an exciting time, when you can start thinking about what your wedding day might look like and what your lives together might hold. It's important, among all of the celebrations, to remember that getting married, or entering into a civil partnership, is ultimately a legal process, which has legal consequences for everything from your money and your home, to your children and your business.

We have put together a checklist of some of the most important legal points you may want to consider when getting married, or entering into a civil partnership, but we would strongly recommend speaking to a solicitor to get advice tailored to your circumstances. This will enable you to consider whether any steps are required for the purposes of wealth protection or succession planning, for example.

If talk of death and divorce is a bit bleak at the start of a new chapter of your lives, it's not meant to be. Getting advice ensures that you are entering into your marriage or civil partnership with a proper understanding of its legal and financial implications and can put in place any protective measures you need to, before taking the next step in your relationship.

1. WILL

If you have a Will in place already, it is important to know that getting married will invalidate your current Will. Instead, were you to die, your assets would be passed on in accordance with the intestacy rules, which prioritise your new spouse/civil partner. It is important to have a valid Will in order to:

- Simplify the administration of your estate;
- Recognise people other than your new spouse in the distribution of your estate, for example children from a previous relationship; and
- Appoint guardians for any children.

You can make a new Will in contemplation of marriage, so you don't have to wait until after you are married to make sure you are protected.

2. POWERS OF ATTORNEY

Powers of Attorney are not invalidated by marriage, so it is important to be clear that your new spouse would not be able to make decisions about your finances, or your health and welfare, if they are not included in your existing Powers of Attorney.

3. THE FAMILY HOME

Depending on whether or not you have children together already, or how long you have been living together before getting married, it is likely that as soon as you are married, there is a presumption that the family home is a joint asset, regardless of who owns it or how much each of you has contributed to buying the property. This is the case, even if you have a Deed of Trust in place – the Family Court is not restricted to the terms of the Deed, and they tend to hold very little weight.

- If you were to separate, would this feel right and fair?
- Do other assets need to be shared in order to make this fair?
- What about if family members lent you money towards the purchase of the house in good faith, believing that it would be repaid?
- If your family gave you money to buy a home, do you want to share that gift with your future spouse or would you feel that was unfair?

For those who own the house they share with their future spouse/civil partner in their sole name, it's important to understand that they would automatically have a right to live in your property too, from the time that you are married, even if you were to separate and ask them to leave in the future.

If you intend to get married, a pre-nuptial agreement (see below) may help you to protect your property.



4. TRANSFER OF ASSETS

While not strictly a legal implication of marriage, it is often the case that, during the course of a committed relationship, people transfer assets to their spouse/civil partner in order to take advantage of tax benefits or similar financial incentives. This is most common where business owners transfer shares in their business to their spouse/civil partner. It's important to understand the legal implications of doing so, as well as the financial implications, in case you and your spouse/civil partner separate in the future. By transferring assets, you may inadvertently be giving your spouse or civil partner a right to those assets, even if you were to separate. Again, a pre-nuptial agreement may be able to offer you (or your business) some protection.



5. PRE-NUPTIAL AGREEMENTS

Pre-nuptial agreements are no longer the reserve of the rich and famous. If you are contributing more financially to your future marriage, you may want to ensure that, were you and your fiancé(e) to separate, you could protect certain assets from being shared. For example, if you have inherited or been gifted a significant sum of money from family members, or you expect to in the future, you may want to ensure that you retain this, were you to separate in the future.

If you have already contributed more financially to the purchase of a property together, even if you entered into a Deed of Trust at that time which recognises your greater contribution, then the court will not adhere to the terms if you and your spouse/civil partner separate after you get married. A pre-nuptial agreement would provide you with a much greater level of protection. There are all sorts of reasons why you might require a pre-nuptial agreement, but it's most important where:

- there is a significant imbalance in your financial contributions entering your marriage; or
- you have children from a previous relationship who you would want to ensure are protected;
- you have already received or are likely to receive significant gifts or inheritance that you would rather keep in your sole ownership.

6. CHILDREN

The primary point to note is that, if you and your partner have a child together before you are married, the father does not automatically have parental responsibility. Once married, in the case of opposite-sex marriages or civil partnerships, it is automatically assumed that both are parents and have parental responsibility. This will mean both parents need to take responsibility for the financial and practical needs of the child – for example, agreeing in relation to issues such as medical care and education. Same-sex relationships are more complex but, again, once married or in a civil partnership, parental responsibility is more easily conferred than where parents are unmarried.

OUR EXPERIENCE

We offer one-hour fixed fee appointments so that we can discuss the legal implications of your marriage with you in greater detail. After that meeting, we will follow up in writing, so that you have a record of the issues which you may want to give some further thought, and we can assist you with putting in place any of the precautions which we recommend, should you choose to do so. Importantly, you will be going into married life with knowledge of where you stand legally and financially.

Chambers and The Legal 500, the two leading independent legal guides, rank our Family Law team as the best in the region. We'll apply our experience and insight to help you agree on what's best for you, and then make sure you achieve it.

"Stephens Scown has a clear understanding of the key issues in relation to the matter."

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Legal 500 (2025)

"They are exceptional. Stephens Scown has talent at all levels. The partners, trainees and newly qualified lawyers are all impressive. They provide a Rolls-Royce service."

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