

**CITY OF SYDNEY RELATIONSHIP DECLARATION
INFORMATION PACK**

September 2005

Introduction

The City of Sydney adopted the City of Sydney Relationships Declaration program as a means of recognising the partnership status of both same-sex and mixed-sex couples.

Under the program two people may declare that they are partners and have this declaration recorded in the City of Sydney Relationships Register.

While making a relationship declaration does not confer legal rights in the way marriage does, it may be used to demonstrate the existence of a de facto relationship within the meaning of the NSW *Property (Relationships) Act 1984* and other legislation.

The City of Sydney reserves the right to cease the keeping of the Relationships Register at any time.

The relationship declaration

Couples who participate in this program will be able to make a written declaration before a witness or witnesses that they are a couple or are partners.

If they wish, they may also make a written declaration about the length of time they have been a couple or partners.

They may also make a written declaration that they are mutually committed to sharing their lives together.

Couples who make a relationship declaration will receive a copy of their declaration in the form a certificate from the City of Sydney.

Their relationship declaration will be recorded in the City of Sydney Relationships Register.

Confidentiality of data

The collection, access and storage of information in connection with the City of Sydney Relationships Register will be undertaken in accordance with the Privacy and Personal Information Protection Act 1998.

The City of Sydney Relationships Register will not be made available for inspection by members of the public.

If the applicants consent, City of Sydney may use the information provided on an application form to produce anonymous statistics. By providing this information, applicants consent to it being held and used for this purpose.

Specific entries in the Register will only be made available on demand to certain public officials, for example, the police in connection with their legitimate enquiries.

Couples may obtain copies of their own Register entry upon presentation of identification. The City of Sydney may make a charge to recover the cost of providing copies.

Should couples wish to make their individual entry available to a third party, they must submit a written request to City of Sydney.

The Register and all related documents are stored in a secure environment within City of Sydney premises and access is strictly controlled.

Recorded names

All records relating to applicants for participation in the program will be recorded as shown in the documents provided as identification.

Conditions for making a relationship declaration and recording the declaration in the Relationships Register

1. The making of a relationship declaration is by appointment only and subject to City of Sydney receiving the application form with the required documentation and payment of the application fee.
2. Applicants must complete and sign the application form to confirm that there are no reasons why they should not make a relationship declaration and the declaration recorded in the Register.
3. All documents provided in a foreign language must be translated into English by an authorised translation service.
4. City of Sydney reserves the right to refuse an application to make a relationship declaration.
5. City of Sydney reserves the right to subsequently note on its records of a relationship declaration any information it receives stating that false or misleading information has been provided.

Age

1. Persons applying to register must be aged 16 or over on the date of application. Any person aged 18 or over applying to register with a person aged under 18 on the date of application must sign a statement that they are not in a position of trust over that person. [see note (i)]
2. Any person under the age of 18 on the date of application must submit written consent to their making a relationship declaration from their parent(s) or legal guardian(s). The consent must be signed by a Justice of the Peace verifying that the document was signed in his/her presence by the parent(s) or guardian(s).
3. Partners must provide evidence of their date of birth. Acceptable forms of evidence are:
 - birth certificate
 - passport

Related persons

4. Relationships will not be registered if the partners are related. [see note (ii)].

Previous relationship declarations

5. A person who has previously made a relationship declaration shall not be permitted to make a relationship declaration without first having requested in writing that the termination of the relationship be recorded in the Register (see point 10 below).

Fee

6. The fee for making a relationship declaration and having the declaration recorded in the City of Sydney Relationships Register is \$57.50.
7. Fifty percent of the fee will be refunded if either person applying to make a relationship declaration and gives notice of his or her intent not proceed within 21 days of applying to make a relationship declaration.
8. No refund will be made if either person applying to make a relationship declaration decides not to proceed with making the declaration more than 21 days after applying to make the declaration or fails to make the declaration.
9. Following application, if a couple fails to make a relationship declaration, original application details will be destroyed. Statistical information may be kept.

Recording the termination of a relationship

10. The City of Sydney cannot amend the relationship declarations that individuals have made. Either party or both parties to a relationship declaration may request that The City of Sydney to record on the Relationship Register that the relationship has terminated. Any such request must be made in writing. Upon receiving such a request in writing, the City of Sydney shall record in register that it has received notification of the termination of the relationship. Where the notification has been received from one party only, the City of Sydney shall provide a copy of the notice of termination to the other party.

Legal consequences of making a relationship declaration

11. Making a relationship declaration does not change the legal status of the persons making the declaration. The fact two people have made a relationship declaration may be presented as evidence of the existence of that relationship in legal proceedings.
12. People contemplating making a relationship declaration should be aware that legal proceedings involving de facto relationships may be commenced under the law of NSW. NSW laws enabling such proceedings to be commenced include:

the *Property (Relationships) Act 1984* – where the relationship has ended and there is a dispute between the partners about the distribution of property and assets;

the *Wills, Probate And Administration Act 1898* – where a deceased person has died intestate (ie without making a will), the Act sets out the inheritance rights of a surviving de facto partner; and

the *Family Provision Act 1982* – this Act enables a surviving de facto partner to make a claim on their deceased partner’s estate if they believe the deceased has failed to adequately provide for them in their will.

13. In such legal proceedings, the issue of whether a de facto relationship existed or how long the relationship existed may be in dispute. In such disputes a Court will examine the evidence presented to it to determine whether a de facto relationship existed or how long it existed.
14. This evidence may include a relationship declaration recorded in the City of Sydney Relationships Register. A Court may consider the fact that a relationship declaration was made, the words used in the relationship declaration and the circumstances in which the declaration was made, for example whether it was made during a private interview or during a ceremony in the presence of family or friends.
15. The *Property (Relationships) Act*, the *Wills, Probate And Administration Act*, the *Family Provision Act* and several other NSW laws all use the definition of “de facto relationship” in the *Property (Relationships) Act*. Section 4 of that Act defines a de facto relationship as:

“a relationship between two adult persons:

- (a) who live together as a couple, and
- (b) who are not married to one another or related by family.

16. Section 4 of the *Property (Relationships) Act* also lists a number of factors which a Court may take into account when determining whether or not a de facto relationship exists or had existed. None of these factors are essential to establish the existence of a de facto relationship. Rather, a Court has discretion to examine evidence which demonstrates the presence or absence of each of the factors.

These factors are:

- (a) the duration of the relationship,
- (b) the nature and extent of common residence,
- (c) whether or not a sexual relationship exists,
- (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties,
- (e) the ownership, use and acquisition of property,

- (f) the degree of mutual commitment to a shared life,
- (g) the care and support of children,
- (h) the performance of household duties,
- (i) the reputation and public aspects of the relationship.”

17. Two people who state they are mutually committed to sharing their life together may be providing evidence about “the degree of mutual commitment to a shared life”. Two people who make their declarations with family and friends present may be providing evidence about “the reputation and public aspects of [their] relationship”.
18. A couple who states the length of time they have been in their relationship in their relationship declaration, may be providing evidence of “the duration of [their] relationship”.
19. A couple who make a declaration about the duration of their relationship may also decrease the risk of the date of their relationship declaration being regarded as the commencement date of their relationship.
20. People who want more information about the consequences of making a relationship declaration and having it recorded in the City of Sydney Relationships Register should consult a solicitor.
21. People contemplating making a relationship declaration may also wish to consult a solicitor about other steps they may take to provide evidence of their relationship.

Procedure for making a relationship declaration

1. People wishing to make a relationship declaration shall apply to do by completing and signing the City of Sydney Relationships Register application form (attached to this information kit).
2. The application form must be signed by both partners making the application and lodged in person by both of them at a place nominated in this information kit or at such other place as may be nominated by the City of Sydney.
3. A relationship declaration shall not be made or recorded in the Relationships Register less than 30 days after the application to make a relationship declaration has been lodged.
4. Persons may make their relationship declaration:

During a private appointment with an officer of the City of Sydney designated to officiate at the making of relationship declarations. Such declarations may be made at a place nominated in this information kit or at such other place as may be nominated by the City of Sydney.

During a ceremony of the declarants' own design, at a time and place of their choosing. A person nominated by the declarants shall officiate at the making of such declarations.

5. Persons wishing to make a relationship declaration by private appointment shall make all arrangements relating to the place, time and date for that appointment when they lodge their application.
6. Persons wishing to make a relationship declaration at the Town Hall on a day designated by the Lord Mayor shall nominate the designated day when they lodge their application.
7. If the preferred date is not available, couples will be offered an alternative. The City of Sydney will advise the appointment date and time as soon as practicable.
8. Persons wishing to make a relationship declaration during a ceremony of at time and place of their choosing shall notify the following to the City of Sydney in writing at least seven (7) days before the date of the making of the relationship declaration:

The time, date and place at which the relationship declaration shall be made; and

The name, address and contact telephone numbers of the person who will officiate at the relationship declaration.

9. The person officiating at the making of a relationship declaration shall:

ascertain that both persons who have applied to make the relationship declaration are present;

request that they each sign the relationship declaration certificates;

witness their signing the relationship declaration certificates; and

sign the relationship declaration certificate as the person officiating.

10. Where a relation declarations are made at a place other than the Town Hall, a place nominated in this Information Pack or such other place as may be nominated by the City of Sydney, the person

officiating at the making of the relationship declaration shall be responsible for:

making arrangements with the City of Sydney to collect or otherwise obtain the declaration certificates which the declarants will sign; and

returning the certificate which is to be lodged on the Relationships Register to the City of Sydney within seven (7) days of the declaration being made.

Further information about Town Hall relationship declarations

1. The City of Sydney does not conduct ceremonies in association with the making of relationship declarations. As the making of a relationship declaration will usually take less than five minutes, there is ample time for a ceremony.
2. The City of Sydney may, due to space reasons, limit the number of people who may attend the making of a relationship declaration at the Town Hall. Intending declarants will be informed of any such limitations.
3. Any ceremony arranged in conjunction with the registration should be completed within the allocated time. Couples should indicate on the application form whether they prefer a 10 or 30 minute appointment and ceremony with the Lord Mayor or a private celebrant.
4. Couples must ensure that they and their party keep to their allocated time slot in order not to inconvenience other couples.
5. The making of the relationship declaration will take less than five minutes, after which the couple will receive one signed copy of the document.
6. There are no changing facilities available to couples. Couples will be advised to arrive at the Sydney Town Hall dressed for the occasion. Where special assistance is required, couples should contact the City of Sydney in advance to discuss their needs.
7. Photography and video filming of the Relationship Declaration and any ceremony conducted in conjunction with it is allowed.
8. City of Sydney will provide a compact disc/tape player at ceremonies. Couples should nominate one member of their party to operate the compact disc/tape player at their ceremony.
9. Disruptive behaviour on City of Sydney premises will result in the couple and their guests being asked

to leave the premises and the making of the relationship declaration shall not be proceeded with.

10. Couples and their guests are asked to show consideration for other couples and members of the public refraining from littering and obstructing the pavement outside the nominated venue. The throwing of confetti or rice is not permitted.
11. The City of Sydney venues are to be used for the making of relationship declarations and any ceremony in conjunction with it only and couples must arrange an alternative venue for any subsequent celebration.

Nominated venues

1. One Stop Shop, Open Monday to Friday 8.00am to 6.00pm, Level 2, Town Hall House, 456 Kent Street, Sydney 2000
 2. Glebe Neighbourhood Service Centre, M - F 8.30am - 6.00pm, Glebe Town Hall, 160 St. Johns Road, Glebe 2037 NSC
 3. King Cross Neighbourhood Service Centre, M - F 8:30am–6:00pm, Sat 9:00am-12 midday, 50-52 Darlinghurst Road, Kings Cross 2011
 4. Redfern Neighbourhood Service Centre, M – F 8:00am – 5:30pm Sat 9:00am - 12noon. 158 Redfern Street, Redfern 2016.
22. The Sydney Town Hall, One Stop Shop, Kings Cross and Redfern NSC's are fully wheelchair accessible. Glebe NSC currently is not but plans are in progress to change this situation.

Notes:

23. *For the purpose of the City of Sydney Relationship Declaration, a person is in a position of trust over another person if:*
 - a. they are that person's step-parent, guardian or foster parent;*
 - b. they are that person's school teacher and the other person is their pupil;*
 - c. they have an established personal relationship with the other person in connection with the provision of religious, sporting, musical or other instruction to that other person;*
 - d. they are a custodial officer of an institution of which the other person is an inmate; or*
 - e. they are a health professional and the other person is their patient.*
24. *For the purpose of the City of Sydney Relationship Declaration, a person is related to another person if:*
 - a. they are the ancestor or descendant of that person;*
 - b. they are the brother, sister, half-brother or half-sister of that person; or*

they are, or have been at any time, the adopted parent or adopted child of that person under any law of any place, whether in or out of Australia, relating to the adoption of children.

Further information

Further information is available from:

City of Sydney Relationships Register program
GPO Box 1591
Sydney NSW 2001

relationshipdeclaration@cityofsydney.nsw.gov.au