



Cohabiting - The Legal Myth

In today's society more and more people cohabit than ever before. Often couples live together for years and mistakenly believe that they are entitled to the same rights over property as married couples.

However, in law the 'common law wife/husband' no longer exists. Couples who are not married do not share the same rights as married couples.

When couples who live together are not married, property law governs the ownership of property such as the family home.

The factors that need to be considered for unmarried couples on separation are different from those on divorce. How the property is held, and in whose name it is held, are of key importance, as the law, which provides courts with the power to adjust property rights for married couples on divorce, does not generally apply to unmarried couples.



Living Together Agreement

In order to avoid any misunderstandings, and in order to protect both parties' positions if the couple were to separate either amicably or otherwise, it is advisable for people living together to have a 'Living Together Agreement'. This sets out clearly what would happen to property and possessions should they separate at a later date.

A Living Together Agreement can protect both the interests of a non-owning partner, and a partner who has made greater contributions. Such an agreement can therefore help to protect both individuals in a relationship and could prevent a great deal of heartache and legal costs if there were to be an acrimonious separation at a later date.

Pre-Marital Agreements

Agreements of this nature are not only important for cohabiting couples. When individuals marry, one person may bring much greater wealth to the marriage than the other and may want to protect their position. The Matrimonial Causes Act applies to married couples, and on divorce, regulates the division of the matrimonial assets.

Following the recent case of Radmacher, there is now a rebuttable presumption that couples will be held to a pre-marital agreement unless they did not enter the agreement freely or fully appreciate its implications, or the agreement was entered voluntarily and understood but it would not be fair to hold the couple to it.

Many believe that Pre-Marital Agreements and Living Together Agreements are unnecessary and that their relationship with their partner, is so solid that such an agreement would be a waste of time and money.

However, considering statistically the number of marriage and relationship breakdowns which occur each year in this country, these agreements do make sense. However, the law is complex, and anyone considering these types of agreement should consult a lawyer.

Quality Support Service

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Our legal advisers are able to take advantage of the considerable specialist knowledge of our Directors in areas such as tax and financial planning, company, and business and property law. Our matrimonial and family lawyer team are therefore able to offer an immediate in-house support system, and give assistance to our clients in these areas, should the need arise.

We are well respected in the area and have important close links with accountants, financial advisers and property agents. We are happy to refer our clients for additional assistance when needed.