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LIVING TOGETHER

Cohabitation Agreements

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What are cohabitation agreements?

A **cohabitation agreement** (or living together agreement as it is sometimes called) is a document used by couples who are neither married nor in a civil partnership, and which records what the couple have agreed about how they will own and share their property and assets.

In this way couples can avoid disputes in the event that their relationship subsequently breaks down.

It helps couples to think about and agree **how to organise their day to day finances** and ensures that if the relationship ends a procedure is in place to deal fairly with financial issues thus avoiding costly Court battles.

It is important to realise that, despite what many believe (and about one in four cohabitants think that they have the same legal protection as married couples) there is **no such thing** in English law as a '**common law**' spouse or partner.

Unmarried couples **do not have an automatic claim** against each other's property or assets, **regardless of the length** of their relationship.

Despite the Law Commission making recommendations in 2007 that the rights of cohabiting partners upon separation should be increased, the current government has indicated that it has no plans to act on the proposed reforms.

As the law stands, the only solution for cohabiting couples who want **legal protection** should they separate is either to marry or enter into a **civil partnership**, or draw up a **cohabitation agreement**.

Is an agreement enforceable?

If a cohabitation agreement is properly drafted and executed and certain protective steps taken, the agreement should be **enforceable as a contract between the couple**.

Your lawyer will give further guidance but it is important that **both parties obtain their own independent legal advice** on the agreement.

This is to avoid later allegations that one party was **unfairly pressured** into signing the agreement. For this reason it is recommended that each person takes time to consider the terms of the agreement before signing it.

Above all it is imperative that the agreement is properly and carefully drafted to **meet the couples' own individual requirements** and legal advice should be sought from a family lawyer.

What's the next step?

Before seeing a lawyer, couples should try and agree who owns what, how assets should be divided in the event they separate and what they want from the agreement.

One partner should then instruct a family law solicitor to have the agreement properly drawn up. The document is sent in draft to the other partner who will then need to see their own independent solicitor to go through it. Once both parties are satisfied with the agreement, it is signed and witnessed.

Should we do anything further?

You should consider **making a will**. If you die intestate, i.e. without leaving a will, there are strict rules which set out how assets will be divided and the law on intestacy makes **no provision for cohabiting partners**.



If you are not married or in a civil partnership, the only way you can be sure your partner will inherit if you die is to make a will.

Do you have children?

If a cohabiting couple have children, it is possible to make certain financial claims on behalf of or for the benefit of those children.

We offer a Fixed Fee initial consultation

Our Family Law team has a wealth of experience in dealing with these issues.

We offer a Fixed Fee introductory appointment to all new clients.

If you'd like to discuss your particular situation and feel that you would benefit from experienced, pragmatic and sympathetic advice, please call. [G](#)



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