

COHABITATION

Increasingly more and more people are choosing to cohabit rather than marry or enter into a civil partnership. It is estimated that cohabiting heterosexual couples now make up 14% of all partnerships compared to just 5% in 1986.

There are a number of myths surrounding cohabitation:

- common law marriage - *There is no such thing in law.*
- that a certain length of cohabitation entitles people to rights in the other's property – This is not true, cohabiting couples do not have any rights in the other's property simply by virtue of living with them.

Cohabiting couples do not have any more legal protection or legal rights, than a brother and sister, or friends, who happen to live together. They certainly do not have the same rights as a married couple, or a couple who have entered into a civil partnership.

Cohabitation Agreements

It is highly advisable for all couples that are contemplating living together (whether heterosexual or same sex) to enter into a cohabitation agreement. This is a document setting out the agreements between the parties, and what they intend their rights to be.

Cohabitation agreements are very useful for recording the intentions of both parties, providing certainty, protecting both parties' interests, and focusing each party's minds on the implications of their actions.

Before entering into an agreement both parties will need to obtain independent legal advice, and need to understand that they will be legally bound by the agreement. They must also both be fully aware of the other party's financial and other circumstances.

Cohabitation agreements become void upon marriage or civil partnership.

The most important part of the cohabitation agreement is of course the arrangements that will be put in place if the cohabitation ceases. There is no legal process for a couple to follow when cohabitation ends, unlike a marriage where there is Divorce and financial claims. It is therefore essential that a couple think about what they would want to happen, so that each has certainty and protection in the event of a breakup.

Cohabitation Disputes

When cohabiting couples break up there are many issues to consider. There is no legal process to go through like Divorce or financial claims for married couples. The Courts cannot therefore intervene to make Orders, except in relation to property such as a jointly owned house.

Neither party has a right to claim maintenance from the other, only maintenance for any children. Child maintenance can be dealt with by the Child Support Agency, or by agreement. Please see our 'Arrangements for Children' fact sheet.

This area of law is very complicated and is subject to change at the moment, and so you should seek specific legal advice on your situation.