

PRE-NUPTIAL AND PRE-PARTNERSHIP AGREEMENTS

Pre-nuptial agreements are agreements made by couples in contemplation of their forthcoming marriage. Pre-partnership agreements are agreements made by same sex couples in contemplation of their forthcoming civil partnership.

Pre-nuptial and pre-partnership agreements set out what should happen should the marriage or partnership fail. They are widespread in the US where they are enforceable and celebrities and businessmen frequently use them in order to protect their assets.

Although pre-nuptial and pre-partnership agreements are not actually legally enforceable in the UK courts, they are becoming more persuasive and are used as a starting point to ascertain what the parties' intentions were before the marriage or civil partnership.

The more recent the agreement, and so the shorter the marriage or partnership, the better the chance the agreement stands of being upheld by the UK courts. This is because the circumstances at the time of the dissolution of the marriage or partnership are more likely to be the same as the circumstances contemplated when the agreement was made.

Pre-nuptial and pre-partnership agreements cannot be made once the parties have married or become civil partners although it may be possible to enter into a 'post-nuptial agreement'

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

Upon entering into the agreement both parties should fully intend to be legally bound by it.