

SEPARATION

Almost half of all cohabiting couples in the UK separate. Married couples are also increasingly deciding to separate for a while before issuing divorce proceedings.

Separation Agreement

Both cohabiting and married couples that separate are strongly advised to enter into a Separation Agreement. This agreement sets out the voluntary arrangements and agreements between the parties on their separation. It often contains the agreements reached regarding any property, and any children.

The existence of a Separation Agreement will not stop a couple reconciling and continuing their relationship, or starting to live together again. However, if the couple lives together for a period of six months or more after an Agreement has been made the Agreement will usually become void.

If a married couple then decides to divorce, the Court is not bound by the financial arrangements contained in the Separation Agreement, but it is very persuasive and used by the Court as a starting point. Usually Consent Orders are filed as part of the divorce proceedings incorporating the terms of the Separation Agreement. Please see our 'Financial Claims on Divorce' fact sheet.

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

Judicial Separation

This involves a court procedure that is virtually identical to that for divorce. The essential difference is that the Court pronounces a Decree of Judicial Separation rather than a Decree Absolute, and therefore the parties remain married. Please see our 'Divorce' fact sheet.