

COHABITATION AGREEMENTS

A Cohabitation Agreement offers a legal framework for unmarried couples to protect themselves from unnecessary costs and litigation should the relationship break down.

WHY SHOULD I MAKE A COHABITATION AGREEMENT?

One of the myths surrounding cohabitation is the idea of the “*common law marriage*”. A *common law marriage* is not recognised in English Law. Living with someone for a certain period does not automatically entitle you to financial support or a share of your partner’s assets, such as property or savings. Whether you already cohabit with a partner or are thinking of cohabiting, it can be helpful to understand your legal rights in the event your relationship comes to an end. You can do several things to protect yourself financially, and we can advise you on the best course of action to suit your personal circumstances. Understanding your legal rights will help prevent a difficult situation from becoming much worse.

A good cohabitation agreement can mean that areas of potential dispute on separation are reduced or eliminated. For example, many couples find that making a cohabitation agreement gives them the chance to discuss how living together will work financially. This can mean arguments about money are less likely later on.

WHAT IS A COHABITATION AGREEMENT?

A cohabitation agreement is a written document, often signed as a deed in front of witnesses. It will generally deal with who owns (and owes) what at the time of the agreement, what financial arrangements you have decided to make while living together, and how property, assets, and income should be divided if you split up.

When properly drawn up, and after each of you has had separate, independent legal advice, a court is more likely to uphold a cohabitation agreement in the event of a dispute.

WHEN SHOULD I MAKE A COHABITATION AGREEMENT?

You can make a cohabitation agreement at any time whether you are about to start living together or if you have been for many years. You may also seek the assistance of a mediator to help agree on the terms of a cohabitation agreement. See our *Mediation* guide.

AREAS YOU MAY WANT TO COVER IN A COHABITATION AGREEMENT

Your shared home:

It is important to record how this is owned; who is paying the mortgage? If there are any endowment policies or other savings arrangements linked to a mortgage, how will they be dealt with if you split up? Are you going to insure each other’s lives?

Money and paying bills

Many people find it convenient to have a joint bank account when they live together. Will the contributions to this account be equal, and if not, will you consider the money in the joint account equally owned? What will the joint account be used for, and when should your personal bank accounts be used instead? If you are not using a joint account, who will pay which of the household bills? What about credit cards and debts?

Pensions

Often overlooked, pensions sometimes allow you to make provisions for loved ones. You may wish, for example, to agree on nominations for death-in-service benefits.

Personal possessions

You should consider who owns what and/or will keep items such as furniture and cars. It may be worth setting down now a way to sort out any disagreements.

Children

Although not legally binding, you might like to provide for any children above the minimum expected by the child support system (e.g. for school or university fees) and set down some expectations about how children would be cared for if you were to live apart.

ANYTHING ELSE I SHOULD KNOW?

You may need to review the agreement if you move house, have children or your circumstances change significantly. Therefore, it’s vital to ensure that the agreement is kept up to date.

You should also make a Will so that your wishes can be put into effect if you die whilst living with someone. See our *Wills – Why Make A Will guide?*

This guide is intended to be general information and not to be relied upon as legal advice. This is a complex area, and each case is different. We would suggest you contact us to obtain complete and proper legal advice.