



The number of cohabitating families has increased by almost 30% in the last decade, which has led to a rise in complex legal disputes after a break-up. It is a common misconception that cohabitants possess the same legal rights and obligations as a married couple or a civil partnership. There is no such thing as a 'common law' husband or wife in the eyes of the Court and therefore it is important that cohabitants are aware of their rights.

How do cohabitants rights differ to that of a married couple/civil partnership?

On a divorce or dissolution, married couples/civil partners have a right to a fair share of any assets that they own, and the Court will have discretion to consider the circumstances and history of the relationship to make an order which includes, for example;

- The sale or transfers of property; pension sharing orders, a transfer of shares in a business, for one party to pay the other maintenance. This is not an exhaustive list of the various orders that could be considered on the breakdown of a marriage.

There is no similar law governing the rights of cohabitants, regardless of the length of cohabitation or relationship and therefore the protection for cohabiting couples on the breakdown of a relationship is limited to the laws of property or, if there are children, Schedule 1 of the Children Act.

This means on a relationship breakdown, cohabitants may not be ordered to support their former partner financially with maintenance nor will one have rights to the other's assets including bank accounts, pensions or even property owned in one party's sole name unless they can establish a beneficial

interest in that property. Without any proper form of protection, you are at risk of becoming liable for bills you cannot afford alone if your partner suddenly moves out, disputes regarding property and asset ownership and being left without a home, should the relationship come to an end.

Cohabitation Agreements

Also referred to as a 'living together' agreement, a cohabitation agreement is a legally binding document entered into between couples who have chosen to live together, which clearly sets out how finances are to be handled and what should happen in the event the relationship ever breaks down.

There are a number of advantages for a couple living together to have a cohabitation agreement:

- A cohabitation agreement is a practical and cost effective way to ensure that both parties are protected.
- It avoids a lengthy timeframe and higher costs resolving matters by way of negotiation, mediation or even litigation through the courts.
- It provides certainty for both parties on what will happen in the event of a break-up and it allows for flexibility and freedom for a cohabitee to organise their financial affairs during and after the relationship.

Here at Herrington Carmichael we have an excellent family team with specialisms in preparing Cohabitation Agreements to ensure your interests are protected.

Please [click here](#) to contact the Family team.



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