

CULLIMORE S O L I C I T O R S DUTTON

THE MYTH OF THE COMMON LAW MARRIAGE

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Cohabitation is the lifestyle of choice for many couples these days as the marriage rate continues to decrease and more children are being born outside marriage. There is a common misconception that cohabiting couples and their children have similar protections to married couples but in England and Wales this is false and there are many pitfalls for the unwary. Cohabiting couples simply do not have the protections available to married couples. It is important to take expert legal advice.

WHAT STEPS SHOULD YOU TAKE IF PLANNING TO MOVE IN TOGETHER?

If you are cohabiting or planning to cohabit then it is worthwhile having a Cohabitation Deed drawn up to regulate things like:

- The shares you each have in the home if it is owned by either or both of you
- Regulating whether or not the non-owning partner is to have any share in the property
- Who will be responsible for improvements and contributions to the home
- Meeting the outgoings in the property whether owned or rented
- Bills and insurances
- Joint accounts
- Ownership of contents
- What happens if the relationship breaks down
- What happens if one of you dies
- What happens if you have children
- Potential negative equity

WHAT STEPS SHOULD YOU TAKE IF YOU ARE A COHABITING COUPLE PLANNING TO SEPARATE?

Consider a Deed of Separation to regulate:

- The occupation of the home
- One party buying out the other
- Sale and division of the net equity
- A deferred sale
- Division of contents and chattels
- Child maintenance
- Arrangements for any children

WHAT RIGHTS DO MARRIED COUPLES OR CIVIL PARTNERS HAVE THAT COHABITING COUPLES DO NOT?

- Rights to receive a spouse's pension on death of partner
- Sale and division of proceeds based on fairness and needs not pure legal interests
- Deferred sale possible to protect children from homelessness (although in non-marriage situations an application under the Children Act is possible)
- Rights to a financial remedy which prioritises the interests of any children of the family
- Rights to receive spousal maintenance if one party has a greater income and the other needs financial support
- Rights to pension sharing as this is only available to divorcing couples
- Rights to remain in occupation of the family home

For more information regarding **Cohabitation Deeds** or **Deeds of Separation** please contact a member of the Family Law Team at Cullimore Dutton Solicitors using the contact details below.

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