

ARE YOU LIVING TOGETHER BUT NOT MARRIED?

Did you know that you and your family may not be protected in the event of a break-up?



Denise Head, Managing Partner and Family Law specialist at Bates Wells & Braithwaite Ipswich, explains

Even in this day and age, unmarried couples living together do not have the same legal rights as either married couples or as those who have entered into a civil partnership.

Pressure for change continues but, in the UK (unlike some foreign jurisdictions), the law does not currently acknowledge the rights of cohabiting couples who are the fastest growing type of family structure in the UK. It is crucial therefore that, if you are in this group, you are aware, and seek advice about, what your rights are, not only after a break-up but if you already live together or are thinking of doing so.

THE BASIC FACTS:

- There is no such thing as "common law husband and wife".
- Cohabitees often have little or no legal protection at the end of a relationship regardless of its longevity.
- Although joint property can be shared, if the house is in one party's sole name (on the title deeds or at the Land Registry), the prospects of seeking a share of this asset are significantly reduced if you are not married. There is no automatic right to a share in the property and this will have to be dealt with under the complicated laws of property and of trusts.
- There is no right to claim maintenance if you are the financially weaker party. The only statutory obligation is for the payment of child maintenance.
- There is no ability to share pensions.
- If one party dies during the relationship, the surviving partner may not have an automatic right to remain in their home and might have to take lengthy and expensive court proceedings just to be able to stay in their home. They may also lose out on tax advantages that exist for married couples in the event of the death of one of them.

HOW DO YOU PROTECT YOURSELF

Seek advice as soon as possible – This might not most seem the most romantic option if you are about to start your life together but it will save considerable distress, upset and confusion later on if the relationship was to flounder. Similarly, it is best to seek advice when a relationship breaks up so that you can be clear as early as possible, what your options might be and resolve things with the least disruption and distress as possible, as soon as possible.

A Cohabitation or Living Together Agreement – The best and easiest way to avoid any dispute in the future and to minimise difficulty at the end of a relationship is to set everything out in writing. This can include interests in property, who pays for what and what is to happen if the relationship does not last.

Make a Will – This can cover what you would like to happen in the event of your death and can also include provisions for the non property owning partner to be able to stay in their home should the other pass away. It could also include other capital and ongoing financial provision for the surviving partner and children. It might be helpful when considering the terms of a Will, to obtain financial advice to help with tax planning so as to minimise the amount of Inheritance Tax that may be payable.

Declaration of Trust – Perhaps you have bought a property jointly but contributed different amounts or have purchased in one name only but the other has paid some money towards it. Those interests can be set out in writing – speak to your solicitor about this. This can help in situations where either or both parties have contributed to the purchase costs or even renovation works.

Written agreement upon separation – This will ensure that the terms of any relationship breakdown is clear and unambiguous and sets out each party's entitlements and obligations.

We at Bates Wells and Braithwaite have a wealth of experience in advising cohabiting couples, both before and after their relationship has broken down and can help with all of those issues and options set out in this article.

Please contact us at: www.bates-wells.co.uk