

CO-HABITING COUPLES

The law relating to the division of capital assets for unmarried couples is completely different to the law relating to the dissolution of a marriage or a civil partnership. There is a misconception about the 'common law spouse'. Parties that have been living together, particularly for a long period of time, believe that they have the same legal rights as married couple upon relationship breakdown. This is not the case.

1

COHABITATION AGREEMENT

Unmarried partners may wish to enter into a Cohabitation Agreement. This sets out who owns what and how you will split your property, its contents, personal belongings, savings and other assets, should the relationship break down.

It can cover how you will support your children, over and above any legal requirement to maintain them, as well as how you would deal with bank accounts, debts, and joint purchases such as a car.



2

PROPERTY

If you own a property as 'joint tenants' and are unmarried the law assumes that you intended to own the property in equal shares. This can be altered by you both signing a Deed declaring otherwise or, in very limited circumstances as a result of assurances provided to the extent that they create a Trust.

If you own the property as "tenants in common", the shares in which the property is owned by each of you should be set out in a properly drawn up legal document, called a 'Declaration of Trust'. Upon separation you will each be entitled to your specific share of the property as set out in the Declaration of Trust. If there is no such Declaration and there is a dispute about ownership, then an application may be made to the Court.



3

POSSESSIONS

The person who paid for the item is normally the owner, and their former partner will not have any claim to it, unless he or she can establish that the item was gifted to him or her. Property bought from money in a joint account will be owned jointly.

4

PENSIONS

Cohabitees may need to review any pension provision. Payments to unmarried couples are often treated as discretionary, which means that Trustees will look at financial dependency and take a view on payment. A specific nomination of the other party may be required to benefit from the private/occupational policy.

5

MAINTENANCE

There is no duty between unmarried couple to support the other. Cohabitees have no right to maintenance under the existing law.

6

CHILDREN

Depending on the circumstances, one parent may be able to claim maintenance, a lump sum or property rights against the other, on behalf of a child.

Both parents have a responsibility to house their children. In some situations, this may result in the parent with the main care of the child/ren staying living in the former family home until the child/ren becomes an adult and ceases full time education.

CREIGHTON
& PARTNERS

SOLICITORS

TEL: 020 7976 2233