

The image features a warm, golden sunset background with a bright sun on the right. In the center, the silhouettes of a family of four—a man, a woman, and two children—are shown holding hands. On the left side, there are some thin, green, grass-like lines. A pink arrow-shaped box on the left contains the text 'A quick guide to:'. At the bottom, a dark green banner contains the title 'Unmarried Couples' in white serif font. A solid pink rectangle is located in the bottom right corner.

A quick guide to:

Unmarried Couples

Unmarried Couples

Our Private Law department can offer advice and assistance to unmarried couples. The law relating to the division of capital assets for unmarried couples is completely different to the type of Orders that can be made upon 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.

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.

When a couple reside together and one of the individuals owns that property in their sole name then it is very difficult for the other individual to establish an interest in that property. The Court will give consideration to common intention and/or contribution before determining whether a Trust has been created granting them a share in that property.

We can assist whether you are seeking to establish a financial interest in a property or trying to establish that your former partner has no interest in a property.

Possessions, Pensions & Maintenance

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.

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.

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

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. The claim can be made under Schedule 1 of the Children Act 1989.

Both parents have a responsibility to house their child/ren. 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.

Unmarried couples with children should give particular thought to making Wills for financial provision and to make provision for guardianship of the children in the event of the death of one or both parents.

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