

The image features a warm, golden sunset background. In the center, there are dark silhouettes of a family of four: a man, a woman, and two children, all holding hands. On the left side, there are some thin, light-colored lines representing grass or reeds. A pink arrow-shaped box on the left contains the text 'A quick guide to:'. At the bottom, a dark green banner contains the main title 'Pre-nuptial & Post-Nuptial Agreements' in white serif font. A solid pink rectangle is located in the bottom right corner.

A quick guide to:

# Pre-nuptial & Post-Nuptial Agreements

# What is a pre-nuptial agreement/post-nuptial agreement?

A **pre-nuptial agreement** (“pre-nup”) is a contract entered into by a couple before they get married that sets out what will happen to their assets in the event that the marriage breaks down.

A **post-nuptial agreement** (“post-nup”) works to achieve this too, however, this is entered into after a couple have married.

# Who may need a pre-nup/post-nup?

A pre-nup or post-nup is not just for the extremely wealthy and it could be advisable to enter into an agreement in the following situations;

1. A second marriage between parties who wish to preserve their pre-acquired wealth for the benefit of the children of the previous marriage(s)
2. Where one or both of the parties wishes to ring fence inheritances they expect to receive.
3. Marriages where there are substantial trust assets, including where such assets are derived from gifts or inheritances.

# Current legal position

Although pre-nups and post nups are not legally binding in England and Wales, properly drafted Agreements are more likely to be upheld by the Court now, than they have ever been before.

On divorce, the Court has very wide discretionary powers to distribute matrimonial assets as it sees fit to achieve a fair and reasonable balance between the parties having regard to their needs and resources, the needs of any relevant children and all the circumstances of the case. A pre-nup will be one of the circumstances which the Court will take into account.

A properly prepared pre-nup or post-nup gives the best protection currently available to the economically stronger spouse.

# Current Legal Position

*In order to have the best chance of being upheld, pre-nups and post-nups;*

1. Contents should be fair.
2. Both parties must obtain separate independent legal advice before entering into the agreement to ensure they understand what they are agreeing to.
3. Both parties must provide disclosure of their financial circumstances (usually summarised and attached to the pre-nup or post-nup in the form of a schedule).
4. Both parties should consider and reflect on the terms of the proposed agreement, at least 1 month before the wedding date. Couples who leave it too close their wedding date may be best advised to start their discussions for their agreement but sign a post-nup after the date of the wedding.
5. There must no question of duress, undue influence or misrepresentation. Both parties must enter the agreement freely.

# Living Abroad

Parties may need legal advice from foreign lawyers if they live or expect to live abroad. Indeed, it may be necessary to have a separate pre-nup or post-nup in each of the countries where the parties may live. Parties with dual nationality should pay particular attention to this.

# Meet the Team



Tony McGovern  
Director  
26 – 28 Bedford  
Row, London,  
WC1R 4HE  
T: 020 7976 2233



Pradeep Shina  
Associate Solicitor  
No 2 The Court Yard,  
57A Church Street,  
Staines Upon  
Thames, TW18 4XS  
T: 01784 426710



Manveen Padda  
Solicitor  
29th Floor, 1 Canada  
Square, London, E14  
5DY  
T: 020 7712 1585



Tanya Jamal  
Solicitor  
29th Floor, 1  
Canada Square,  
London, E14 5DY  
T: 020 7712 1585