
FREETHS

Cohabitation

There is no such thing as a “common law wife”

Surprised? So are most people when they hear that. The problem is that most people receive that news too late in the day.

People who live together usually only have an interest in the property or assets owned by their partner if it is legally in joint names.

However, the law that governs this area is very limited and often causes more problems than it solves.

Splitting up

When a cohabiting couple separate it is not the same as two people getting divorced. The law treats cohabiting people very differently. Even if one partner has made financial contributions it does not guarantee that this individual will acquire any interest in the asset that they have been contributing towards.

Most of the problems in this area of law relate to issues that arise about who owns what share of the home that is occupied by the couple. If that property is jointly owned the situation is usually very clear. However, as is often the case, if the property is legally owned by just one of the partners, with the other contributing financially, many problems can arise.

There are many ways to address these issues. Documents about who owns what share of an asset can be prepared. Additionally, a document called a cohabitation agreement may be helpful. This agreement can clearly set out what the parties have agreed and amongst other things it will:

- Clearly define the couples' individual financial responsibilities within the relationship;
- Set out what interest each partner has in the other's assets; and
- What should happen if the relationship comes to an end.

Any such agreement cannot be 100% binding. However, if a court had to become involved upon the breakdown of a relationship the document is clear evidence of what the couple intended at the time it was signed. It would carry weight with any judge being asked to make a decision about how the assets of a couple should be divided.

The moral of the story? It is better to have something in writing rather than nothing at all. Couples who choose to live together have little protection from the law. New law is planned to change this, but in the meantime anyone would be best advised to seek professional legal advice about their particular circumstances.

For more advice on these issues contact a member of the family team on [0845 128 6960](tel:08451286960) or email welcome@freeths.co.uk