

VAITILINGAM **KAY**

COHABITATION AGREEMENT

FACT SHEET



Few people are aware of their rights (or lack thereof) should they break-up after living together.

Despite common belief, there is no such thing as a “common-law marriage” meaning that the distribution of assets after a break-up can end in lengthy and costly disputes. The ownership of the home an unmarried couple share and the value invested in it, is often the biggest source of contention.

Cohabiting couples can overcome deficiencies in the law by taking advice at the time they buy a property or agree to move in together. This short fact-sheet has been prepared to guide those who are intending to purchase a property with their partner (or already share a home with a partner) and wish to regulate or protect their current and future financial arrangements.



What is a cohabitation agreement?

A cohabitation agreement is a contract between you and your partner. It sets out how you intend to manage your finances while you live together and what should happen in the event of your separation.

Are they binding in the UK?

Yes, cohabitation agreements are legally binding contracts, providing they are drafted and executed properly and are signed as a deed. It is essential to obtain legal advice before preparing such an agreement.

Why enter into a cohabitation agreement?

- To save emotional and financial heartache in the future.
- To eliminate (or significantly reduce) any areas of potential dispute on separation.
- To protect assets (if, for example, you are meeting all or a significant proportion of the deposit monies for a property purchase); or
- To ensure you and any children of the relationship are protected should you be the weaker financial party.

What is included in a cohabitation agreement?

A cohabitation agreement can:

- Set out who owns what in in what proportions
- Document how you will divide property/ contents/ personal belongings/ savings and other assets should the relationship breakdown.
- Record how you will manage your day to day finances while you live together, for example how much each contributes to rent or mortgage and bills, and whether you will take out life insurance on each other.
- Set out how each of you will support any children, over and above any legal requirement to maintain them.

*If you are intending to get married in the future, then you can agree that the terms of the cohabitation agreement either terminate or subsist on marriage. It is also advisable to consider a prenuptial agreement in these circumstances. Vaitilingam Kay can provide advice on both.

What other legal issues should be considered?

- Pension planning: unmarried couples are not entitled to receive the state pension or bereavement allowance for deceased partners. You can instruct your pension scheme where you want the benefits to go on death.
- Drawing up a will: if you are cohabiting, it is essential you have a valid will as cohabitants do not automatically have rights to their partner's estate if they die without leaving a will.

What happens to assets if there is no cohabitation agreement in place?

Unlike on divorce there is no particular set of rules that automatically apply if you separate with someone you have been living with.

Cohabiting couples have no legal duty to support each other financially, either while you are living together or if you separate. Nor do you automatically share ownership of your possessions, savings, investments and so on.

If one cohabiting partner dies without leaving a will, the surviving partner will not automatically inherit anything - unless the couple jointly own property.

Absent a cohabitation agreement, disputes often arise where a non-owning partner makes a claim to share in the property if the relationship ends, by attempting to demonstrate a "beneficial interest" (e.g. by making financial contributions such as paying the mortgage).

Further information: -

The team at Vaitilingam Kay can guide you through the steps you can take to reduce costly arguments on separation.

If you would like some initial advice or wish to chat through the pros and cons of entering into a cohabitation agreement please get in touch with our approachable and skilled team.