

VAITILINGAM **KAY**

PRENUPTIAL
AGREEMENT

FACT SHEET



Pre-nuptial agreements are no longer just fixtures in high-profile/ celebrity marriages. More and more couples are investigating prenuptial agreements to protect their assets. Heartbreak can be very costly. A well-prepared prenuptial agreement can be invaluable in protecting one's wealth.

This short fact-sheet has been prepared to guide those who have current or future wealth to protect and to dispel some of the myths around such agreements.



What is a pre-nuptial agreement?

A pre-nuptial agreement is a legal contract entered into prior to marriage and commonly includes provisions as to how property and assets are to be divided, as well as any spousal support, should the relationship permanently breakdown.

Are they binding in the UK?

Pre-nuptial Agreements are not legally binding in England and Wales. However, the Court will uphold a Nuptial Agreement that is freely entered into by both parties with a full understanding of its implications unless in the circumstances it would not be fair to uphold the Agreement. *Provided this test is met, parties to a prenup are therefore very likely to be held to the terms of the Agreement.*

Why enter into a pre-nuptial agreement?

Money can be a sensitive topic in a relationship. A prenuptial agreement provides certainty and a reduction in protracted and contested disputes at the time of divorce.

There are many reasons to think about entering into an agreement:

- To protect inherited money or assets
- To protect wealth generated before the marriage
- To cap any future maintenance/income claim from their spouse (particularly those with high earnings)
- To safeguard savings or expected future inheritance
- If you/ your partner have children from a previous relationship, to protect and preserve assets for their benefit
- To ensure any business assets are protected

What is included in a pre-nuptial agreement?

Every prenuptial agreement is unique and is tailored to individual circumstances.

Some agreements deal with the division of both assets and income. Some deal only with asset division. Agreements can also set out how assets are to be managed during the marriage and how future property purchases are to be held.

What happens to assets if there is no pre-nuptial agreement in place?

Without a pre-nuptial agreement, the starting point is that all assets accrued during the marriage will be divided equally. The matrimonial home is almost always considered a matrimonial asset, so even if it was owned by one of party solely prior to the marriage, it will be subject to equal division.

Further information: -

The Law Commission recommends that parties must take independent (i.e. separate) legal advice on the terms of an agreement.

The team at Vaitilingam Kay can guide you through the steps you can take to reduce costly arguments over property and other assets on divorce.

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

*If you are already married, it is not too late to protect assets as a Post-Nuptial Agreement can be entered into and will be treated in the same way as a pre-nuptial Agreement.

