

## **Cohabitation**

### **The financial implications of separating from your partner if you are not married**



For cohabitating couples, the first thing to understand is that there is no such thing as 'common law marriage'. Regardless of how long you have been living together and whether or not you have children together, you do not have the same rights as a husband and wife.

#### **Your rights**

##### **Financial Rights**

With the exception of claims relating to any children of your relationship (see below), the financial relationship between you and your partner is regulated by civil, rather than family, law.

For cohabitating couples, there is no provision for maintenance or redistribution of property when you separate, and no principle of sharing assets accrued during the relationship. This can be very difficult if one party has done very well for themselves during the relationship and the other party is in a weaker financial position. It can seem unfair, especially if you have made joint decisions during the relationship which led to the current situation. Perhaps one party sacrificed their career to support the other's career by relocating, or there was a joint decision that one party should stay at home to look after the children.

Although as separating unmarried partners you do not have a claim for a share of the other's assets, you may feel that the legal ownership of an asset does not reflect what is referred to as 'beneficial ownership'.

A good example of this might be related to property, where the family home is owned in one person's name. It may be that you have contributed to this property financially, or that your partner had always encouraged you to consider the property to be as much yours as theirs. Alternatively, the property may be owned in joint names but your partner has never contributed to the property.

The court does have the power to make a declaration as to beneficial ownership. If you feel that the beneficial ownership of the property does not follow the legal ownership then you may have a claim under the Trust of Land and Appointment of Trustees Act 1996. This is a complicated area of law which is very fact specific. If you believe that you may have a claim then it is important to seek specialist legal advice as early as possible.

##### **Claims for the benefit of the children of the relationship**

If you have children together, then child maintenance is payable in accordance with the current Child Maintenance Service (CMS) calculation. There is no claim for maintenance for yourself, known as spousal maintenance, if you are not married.

Where there are children the court can make an order under Schedule 1 of the Children Act 1989 for the following:-

1. A lump sum, to be paid by one partner to the other for the benefit of the child
2. The transfer or purchase of a property for a set period of time, usually until the child reaches the age of 18 or completing full time secondary or university education. The property would then revert back to the original owner.
3. Payment of child maintenance in the following limited circumstances:-
  - When the non-resident parent's income is higher than the limit for the CMS to deal with the application.
  - In respect of educational expenses
  - For expenses connected to a disability

For more information, see our fact sheet on financial arrangements for children.

[https://1gu3xt3qq8id2mr6f51sklsr-wpengine.netdna-ssl.com/wp-content/uploads/2015/12/Financial\\_Arrangements\\_for\\_Children.pdf](https://1gu3xt3qq8id2mr6f51sklsr-wpengine.netdna-ssl.com/wp-content/uploads/2015/12/Financial_Arrangements_for_Children.pdf)

If you would like to calculate child maintenance, follow this link to our online calculator.

<https://www.familylawpartners.co.uk/what-we-do/child-maintenance-calculator/>

### **How can we help?**

We can advise you in relation to your rights and responsibilities relating to the separation.

Alternatively, if you are thinking about living with a partner in the future and want avoid the risks mentioned in this factsheet, we can offer advice about entering into a cohabitation agreement.

A cohabitation agreement (sometimes referred to as a 'living together agreement') is a contract that sets out your intentions at the outset as to:-

1. How the day to day household finances will be managed, for example who will pay what?
2. What each person will be responsible for and entitled to should the relationship end.

For more information about entering into a cohabitation agreement, follow this link:

[https://1gu3xt3qq8id2mr6f51sklsr-wpengine.netdna-ssl.com/wp-content/uploads/2015/12/Cohabitation\\_Living\\_Together\\_Agreements.pdf](https://1gu3xt3qq8id2mr6f51sklsr-wpengine.netdna-ssl.com/wp-content/uploads/2015/12/Cohabitation_Living_Together_Agreements.pdf)

### **Contact details**

If you would like to discuss issues arising in this factsheet or if there is some other legal issue we can help you with then please contact a member of the team on 01273 646900 or by email: [info@familylawpartners.co.uk](mailto:info@familylawpartners.co.uk)

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