

## What rights do unmarried couples have upon relationship breakdown?

Couples who live together do not have the same rights and responsibilities towards each other as married couples. **The concept of a "common law marriage" is a myth.**

If a cohabitation relationship breaks down, the Court has no power to order maintenance for an ex-partner and only limited powers to transfer assets between them. In considering this, the Court will look at how the ownership of assets has been documented by the couple. This may involve one of them having to make an application to the Court under the Trusts of Land and Appointment of Trustees Act 1996 for the Court to declare the nature or extent of their interest in the property.

## How is the title to the property held?

Where property is owned jointly and there is no express declaration of the beneficial interests at the time of purchase then the starting point is that the couple own the property in equal shares. However, that presumption can be overturned by evidence that the couple's **common intention** was different, either at the time of purchase or subsequently. This can be inferred from the conduct and dealings between them. If it is clear that their intention has changed over time but it is not clear exactly what their shares are, then the court can decide what is fair having regard to the dealings between them.

If one of the cohabitants owns a property in their sole name, in order for their partner to establish a beneficial interest in it, they would need to prove that they had made a contribution to the purchase/upkeep and improvement of the property or that there were express discussions and consequential reliance upon those discussions to their detriment.

## Can I prevent my partner from acquiring any rights in my property?

If one party already holds a property in their sole name, they may wish to consider entering into a **cohabitation agreement** which is designed to provide evidence to support the couple's intentions as to the arrangement of their finances when they move in together. This may need to be updated over time.

In respect of any property a couple may acquire in joint names, the best way of protecting their respective interests is to set out the terms of ownership in a **deed of trust**.

## How can I obtain financial provision for my children when my relationship comes to an end?

The normal claims for Child Support can of course be made through the Child Maintenance Service (CMS).

The position is markedly different to the position in the event of a divorce. Nevertheless under Schedule 1 of the Children Act 1989, the Court can make a number of orders to benefit children financially at the end of their unmarried parents' relationship, whether or not their parents have ever lived together.

Potential awards include:

- **Child maintenance:** this can be awarded by the Court only if the income of the non-resident parent is greater than the maximum threshold set by the CMS. A child over 18 can apply themselves for financial support for further education or vocational training.
- **Lump sums:** these are capital awards ordered for specific payments, for example or for past expenditure, e.g. reimbursement of expenses connected with the birth, and for future expenditure, e.g. a family car, a school fees fund or legal costs. Any number of lump sum applications can be made until the child is 18.
- **Transfers or settlements of property:** the Court will order this when it is necessary for the purpose of providing the child with somewhere to live. The applicant parent will have no interest in the property and it will revert to the non-resident parent upon completion of the child's full-time education or increasingly until the child is 21 or completes their first degree.

Here at Cirencester solicitors **Alison Fielden & Co.** our experienced Family Law Solicitors, Heather Weavill and Steven Barratt, can advise you on steps to be taken and arrange the production of necessary documents. Please ring on 01285 653261 to arrange an appointment.