

# Cohabitation Agreements

Planning ahead to provide  
peace of mind



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# What are Cohabitation Agreements?

**Many people mistakenly believe that simply living together can give you the same rights as marriage. They believe that “common-law marriage” is a recognised legal status. However, they are wrong.**

Cohabiting couples do not have any legal duty to support the other including after a separation. In addition, a cohabiting couple can separate without having to go through any formal process.

However, for cohabiting couples splitting up can be more difficult because there is no single law dealing with financial and other issues.

It is important that you seek legal advice in relation to your options.

## What else do I need to think about?

**You must think about protecting your finances before living with your partner.**

If you move into a property in your partner's sole name, then just because you make contributions to any mortgage payments or bills/does not mean that you would legally have an automatic claim against the equity in that property. If a property was however purchased in joint names, you would have a claim against the equity. It is therefore important that you seek legal advice at the first available opportunity.



## How can we help you?

### **At Chafes Hague Lambert we can assist you in relation to the following:-**

- Providing you with advice before you move in with your partner about how you could protect your finances
- Drafting a 'Cohabitation or Living Together Agreement' which can outline how outgoings will be shared between you and your partner, and how property and other assets will be divided in the event that your relationship breaks down
- Providing you with advice on separation about ownership of the home, whether it is jointly owned or in the sole name of either of you and the extent of your interest in the equity of that property
- Negotiating with the other party on separation relating to the division of jointly owned assets including bank accounts, property and personal possessions
- Advising in relation to child maintenance and other financial arrangements for children
- Making Court applications to determine the extent of an interest in the family home, an order for sale, or postponement of sale if necessary.

## Frequently asked questions

### **Q. When is the appropriate time to seek legal advice?**

The best time to seek legal advice is before you move in together, so that legal and practical arrangements are in place to protect your finances. You should also consider whether you think that a 'Cohabitation or Living Together Agreement' should be entered into.

If you are renting a property then you will need to consider who should be on the tenancy agreement. If you are buying a house then you will need to consider how you are going to own the property; should you both have an equal share or should any difference in your capital contributions to the purchase be reflected in a Declaration of Trust. You should also consider making a Will particularly if you have children from a previous relationship or marriage.

### **Q. If I am in a long term relationship, does that mean I automatically have a claim against my partner's assets?**

No, the length of a relationship does not give you an automatic right to your partner's assets. The duration of a relationship is only a relevant consideration when deciding a financial settlement for the breakdown of a marriage.

### **Q. What practical arrangements can I put in place to protect my position whilst I am living with my partner?**

You could make sure that you don't agree to putting debts in the joint names of both of you, as if the relationship breaks down later on, you will be jointly liable for these debts. Similarly you could agree to keep your bank accounts in your sole names, otherwise, on a relationship breakdown, your partner could run up an overdraft on the account.

### **Q. Are 'Cohabitation Agreements' legally binding?**

Cohabitation or Living Together Agreements will generally be upheld if the result is fair, you both received legal advice and provided full disclosure of your financial positions. We would ensure that any Cohabitation Agreement drafted was compliant with general contractual principles.

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