



# Information on Cohabitation

Many people mistakenly believe that simply living together can give you the same rights as marriage. This can sometimes be referred to as “*the common-law marriage*”.

## The Common-Law Marriage

Cohabiting couples do not have any legal duty to support the other (including after a separation) and can separate without having to go through any formal process. This can make separating more difficult because there is no single law dealing with financial and other issues.

### Q. What can I do to protect myself?

You and your Partner could consider making either a formal Living Together Agreement or a Cohabitation Agreement. These are formal, legal documents which set out the arrangements for your finances, property or children whilst you are living with each other and for if you split-up, fall ill or die.

## What are your rights in relation to Property?

If you do not have a valid Cohabitation Agreement then your rights will depend on whether you rent or own your home.

### Renting your Home

- Tenancy is in Joint Names:

You and your ex have equal rights to keep the tenancy and you will each be legally responsible for ensuring that the rent is paid.

- Tenancy is in a Sole Name:

If the agreement is in one person’s name, the other cohabitant will only be entitled to remain living in the property for as long as the tenant gives them permission to do so.

- Council or Housing Association Tenancy:

You can speak to your landlord to seek permission to transfer the tenancy into one party’s name.

### Owning your Property

Your rights will depend on whether your home is owned either solely or jointly.

- Joint Legal Owners

Both you and your partner are entitled to live in the property unless there is a Court Order that prevents this.

- Sole Legal Owner

The non-owning party does not have any automatic right to live in the family home and in reality, they only have the right to live in the property as long as the owning party lets them

### Q. I’m not sure how the beneficial interest is held between me and my partner, how can I find out?

You should check the property’s Transfer Deeds.

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21 – 23 Union Road | New Mills  
High Peak  
SK22 3EL  
01663 743 344

**Urmston**  
2 – 4 Primrose Avenue | Urmston  
Manchester  
M41 0TY  
0161 747 7321

**Wilmslow**  
22 Church Street | Wilmslow  
Cheshire  
SK9 1AU  
01625 531 676

## Application to Court

You and your partner may not agree on whether the house you own together should be sold or there may be a dispute as to what the parties shares of the property are.

Either you or your partner can make an Application to the Court for:

- An Order for sale
- Postponement of a sale
- Declaration as to what their financial interest in the property actually is

The Court have to consider a number of factors:

- The intentions of the joint owners when they bought the property
- The purpose for which the property was held (*i.e.*, *business premises or a family home*)
- Welfare of any child under 18 who lives in the property
- Interests of any secured creditor such as a mortgage or loan company

## Other Issues

### Debts

If the debt is in your sole name, then you have the legal responsibility to pay it even if you were not responsible for running the debt up in the first place.

### Joint bank accounts

If there is a joint bank account, you will need to deal with the account otherwise the other person could run up an overdraft or could empty the account.

### Personal Possessions

If you own any items jointly, you will need to decide whether to buy out your partner's share, sell them your share or sell the item and split the proceeds

## What about Children?

The Court can order the transfer of property (including some tenancies) from one parent to either the other parent or a guardian of a child

More commonly property such as the family home may be allowed to be retained by one parent with whom the children live with until the children are 18, after which the property would then be sold and the proceeds would be paid back to the owner of the property.

The Courts are not to take into account matters that are related to the relationship between the parents such as bad behaviour, their respective age or the length of the relationship. This is because the purpose of any transfer is intended to only benefit the children not the parents.

**Our family team at Chafes Hague Lambert can guide you through your matter in an empathetic, proactive and cost-conscious way.**

To discuss your matter further please contact: -

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