

Cohabitation - What Are My Rights and Risks?

If things are starting to unravel in your relationship with your partner, it is essential that you take specialist legal advice as soon as possible so as to protect your legal position, both in relation to any **PROPERTY** you might own with your partner and also to regulate arrangements for care and maintenance of your **CHILDREN** in the event of separation.

The main issues you will have to consider are:

1. PROPERTY

(a) If this is owned solely by your partner (ie registered with the Land Registry as being legally held only by them):

- You are in a vulnerable position
- You have NO automatic right to any share of the value of that property and DO NOT necessarily even have a right to remain living in that property
- You would have to provide evidence that either there was an agreement with your partner that you would have an interest in the property and/or show you have made a financial contribution to the property.

(b) If this is owned in joint names with your partner (ie it is registered with the Land Registry as being legally held by both of you):

- Your position is still not clear as it will depend on whether you are registered as “Joint Tenants” or “Tenants in Common”
- There could still be a dispute as to your interest in the value of the property and/or whether it should be sold
- The outcome would depend on a number of complex issues such as the intention of you and your partner when the property was purchased; whether you have any children living in the property; and whether you have a mortgage
- If the court becomes involved a Judge can force or prevent a sale of the property and decide what interest you have in its value
- Usually you and your partner will be left living together in the property until a resolution to all the disputes can be achieved.

(c) if the property is rented by you and your partner

- It needs to be decided if the tenancy can be assigned (ie transferred) to one of you, or ended, if you both wanted to move out.

2. CHILDREN

It is presumed that these are children of your relationship. You both then need to consider the following points:

- Who will be the Resident Parent (ie the main carer) of the children
- Does the father have Parental Responsibility of the Children – see article *“What is my Responsibility as a Parent?”* (**Click to link**)
- How much maintenance should the non-resident parent pay – whether through an assessment by the Child Support Agency, by agreement, or by a court order – see article *“Child Support – What should I know?”* (**Click to link**)
- Whether you need to apply to the court for further provision for the children – such as a lump sum or the transfer of a property to re-house the children (although this is usually only until a child reaches the age of 18 or ceases full-time education)

3. MAINTENANCE

You are NOT entitled to claim maintenance for yourself, even if your partner has always been the main “breadwinner”.

If you are the main carer of any children you should be entitled to maintenance for the children. You would need to decide what amount this should be and, if this cannot be agreed with your partner, whether you are going to seek an assessment from the CSA and/or apply to the court.

4. PERSONAL PROPERTY (BELONGINGS)

It is generally agreed that you each retain whatever you brought into the relationship and/or bought yourself during the relationship. If you gave a present to your partner, it will remain theirs.

5. INHERITANCE

If your partner dies without having made a will to adequately provide for you, you are in a very precarious position – particularly if the property you live in is registered in their sole name. You could even be required to leave your home.

You may be entitled to make a claim against your partner’s estate, but this requires you to be able to prove certain things and can become very complex.

6. VIOLENCE /THE THREAT OF VIOLENCE

If you are suffering from domestic violence or the threat of violence you should take immediate legal advice to protect yourself and any children. Please see our separate page specifically on this important area, or contact us for help.

7. COHABITATION AGREEMENTS

We can prepare a cohabitation agreement for you and your partner NOW which will set out how, in the event of separation, you intend to divide the financial pot and what financial support will be given to the parent who will continue to care for the children. The agreement can deal with ownership of the property and its contents, joint bank accounts and other savings, as well as liabilities for the mortgage and loans. It will also regulate who pays what, towards the household expenses.

Of course the actual terms to be included in the agreement are a matter for you and your partner but you should know that it is extremely important that both parties seek independent legal advice. The agreement will need to be detailed and confirm that the parties intend to create legal relations which will then ensure that the agreement is enforceable.

In certain circumstances we may advise you to enter into a Deed of Trust which will set out the ownership and respective shares in your home. It is also important that you both have Wills to cater for your family circumstances.

If you require advice regarding your particular circumstances, please telephone us to speak to one of our specialists in this field.

Or REQUEST A CALL BACK at a time convenient to you.

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