

Cohabitation - myths vs reality



Nearly one in five couples in the UK now choose to cohabit rather than marry.

Figures from the Office for National Statistics have revealed that cohabiting couples are now the fastest growing family type in the UK, with 3.3m families documented in 2016 - more than double the 1.5m recorded in 1996.

Most of the public are however unaware of their rights (or rather, lack of rights) as a cohabitee rather than spouse. According to a recent survey, almost one half of UK citizens aged 18-24 believe that cohabiting couples have the same legal rights as married couples.

Sadly nothing could be further from the truth. The concept of “common law marriage” is a myth. The law doesn’t recognise the idea (though it still appears on some official surveys and similar). Likewise it is a misconception that long term living together offers similar rights to being married.

The law regards Cohabitees much like strangers. It is often women who suffer most from that approach. Gender pay gaps are still a reality and of course many women sacrifice key years of their career to have children so that their earning power is curtailed. As a result they tend to be less well off than their male cohabitees.

When a married couple are get divorced what is known as the “sharing principle” applies - where the matrimonial assets are shared equally between husband and wife. This is just not an available option for cohabiting couples.

Couples considering living together and not marrying are advised to gather all the facts about what they would be entitled to on separation and to plan accordingly. Couples can arrange property ownership in the way that best protects them both.

Couples can also set out their rights and obligations in a “Cohabitation Agreement”, a legal document that sets out who owns what and in what shares joint assets are owned. Couples can document how they will split their home, its contents, personal belongings, savings and other assets should the relationship break down.

They can also deal with support for their children over and above any legal requirements to maintain them.

More recently momentum has been building to introduce legislation to protect people who live together as a couple. Attempts have been made since 2014 to introduce a Private Members Bill to protect cohabitants. In November 2016 Resolution, the national organisation of Family Lawyers that campaigns for improvements to the family justice system, called once again for the government to finally provide legal protection and rights given that Cohabitation is here to stay as the family status of choice for many of us.

This Fact Sheet is for information only and is not intended to be a substitute for legal advice.

If you would like advice in relation to a cohabitation dispute or would like us to prepare a Cohabitation Agreement please contact our family solicitor - Noelle Heath:

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