

## COHABITATION – LIVING TOGETHER BUT NOW SEPARATING?

**A** 'Common Law wife/husband/partner' is in fact a myth. It is a term that is not recognised by the Courts, and therefore, in the eyes of the Law, there is no such thing as a Common Law spouse.

When people have lived and built a life together there is often property that is held either jointly or in the sole name of one partner. On separation a division of these assets is required, but there is no set formula and the law is complex. Whilst it is preferable for all parties to reach an amicable agreement, this is not always possible.

Mediation should usually be considered in the first instance. Mediation can help the parties to resolve their differences and is often cheaper than Court proceedings. If, however, Court proceedings are



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required, expert legal advice and representation is essential.

An option for cohabiting couples is to enter into a Cohabitation Agreement when they start living together setting out what the parties intentions are in respect of assets that they own or contributions that they have made. A Cohabitation Agreement can protect your interests and potentially save you legal costs in the future.

It is also sensible for cohabiting couples to carefully

If you are not married or in a Civil Partnership and you separate from your cohabiting partner you do not have the same legal rights as married couples or civil partners who are divorcing.



consider the way that they hold property, for example as Joint Tenants or Tenants in Common. Having the correct arrangements in place can give you peace of mind and can help limit the issues in dispute if you separate.

Cohabiting couples should also carefully consider making wills as their partners will not automatically benefit from their estate if they do not.

Disputes concerning children are very similar whether you are married or cohabiting and the power of the Court to make contact and residence orders are the same. However, there can be an issue as to whether or not an unmarried father has acquired legal rights, known as Parental Responsibility, in respect of his child.

The Parker Arrenberg family department has extensive experience in the field of 'Cohabitation' and the issues affecting those that cohabit and can advise and assist you at any stage. It is never too early to speak to us in total confidence