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Cohabitation agreements

Cohabitation agreements are drawn up when couples decide not to marry but wish to regulate their property rights and make arrangements for mutual financial support and looking after their children.

Advantages

A cohabitation agreement helps to clarify the often complicated financial commitments involved in a long term relationship, especially where children are involved.

It focuses the mind on future planning. Strangely, being forced to think about how you will deal with unplanned events, such as another child, long term illness, death or separation, can also give you an unexpected sense of confidence for a more stable future.

Whilst the court has the power to overturn or disregard the agreement, in whole or in part, if you have both had independent legal advice and have fully and honestly shared with each other your financial position, it is unlikely to do so.

What is in it?

A cohabitation agreement should be tailor made to your specific circumstances. However, a typical cohabitation agreement will contain:

- A statement setting out what the agreement is for and whether it is intended to be legally binding or not.
- Details of the parties, i.e. you and your partner. This would include basic identification details like names and addresses but also a disclosure of their finances.

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- How long the agreement is to last for. This can be for life but it is wise to allow for reviews, say every five years or after a major event such as a home purchase or the birth of a child.
- How you intend to deal with any property either owned prior to the relationship or acquired during the relationship. Will any property owned solely by one partner be transferred into joint names? If not will the non-owning partner's rights be protected with a trust deed? How will savings, pensions and endowment policies be dealt with?
- How the couples day-to-day income and expenses are to be dealt with and whether any maintenance would be payable on a split.
- How children will be brought up and what arrangements would be made if the couple split.
- What each partners' intentions are on their death. But note that, whilst this is evidence of your desires, inheritance issues are best dealt with by making a will.

There is no guarantee that a court will uphold a cohabitation agreement if it were contested. But to best ensure that it does you must ensure that the correct procedures are followed and that the agreement it is properly worded to clearly show the intentions of both partners.

If you would like further information concerning cohabitation agreements please contact Tony, Rachel or Anne or visit www.gardandco.com.

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