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Article

The myths and risks of living together

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by **Howard Gardener, partner specialising in family law**

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“If you are one of the four million couples living together in England and Wales”, warns Howard Gardener of Phillips Solicitors, “you should know that you have significantly fewer rights and responsibilities than your friends who are married or who have formed a civil partnership. There is **no** such thing as ‘common law marriage’. Nor does having a child together give you legal rights.”

But – there are some positive and responsible steps you can take **now** to protect yourself and your partner should you decide to separate or if one of you dies:

1. Draw up a ‘Living Together Agreement’ or ‘Cohabitation Agreement’, which will help protect your finances by clarifying financial commitments, especially if a house is involved. It sets out the rights of both parties and it’s for unmarried couples living together, whether you are a man and a woman or a same sex couple. It will allow you to govern how you will divide up the property should you split up; protect your finances; look ahead and put in place contingency plans for unexpected events such as children, separation, long-term illness or death.
2. Prepare a Trust Deed - very sensible and in my view essential if you are purchasing your home together. It’s especially important if you are making unequal contributions to the purchase price, mortgage payments, or do not want the survivor to receive all on death or half on separation. A Trust Deed will ensure each person’s share is treated as being separate so that upon the first death, the share will pass to whoever it has been left to in the Will, or if there is no Will, to the next of kin. It will also confirm how the sale proceeds would be distributed should you decide to separate and sell the property.

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3. Make a Will – absolutely essential if you want your partner to inherit your assets.

Remember that if your partner dies without leaving a Will, you will not automatically inherit anything unless you owned your property jointly.

Howard Gardener, senior partner at Phillips, specialising in family law, comments: 'If you're reading this and already living with your partner, it's not too late to put in place a Living Together Agreement, Trust Deed and Will. Discussing what goes into your Agreement can be emotionally difficult but can bring a maturity to the relationship by talking through major decisions. They are relatively cheap and easy to make, so don't risk future recriminations and nasty surprises - act now.'

ENDS

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