

## Living Together Dangerous Myths

Weddings are at an all-time low as more and more couples choose to live together. This could have a lot to do with the £20,000 average cost of a wedding but, by not marrying, couples leave themselves open to financial and emotional turmoil should the relationship sour.

The law in the UK is very different for people who marry rather than just live together. As unromantic as it may seem, drawing up a legally binding cohabitation agreement can alleviate any concerns right from the start, allowing couples to concentrate on, well, living together.

### Here are some common myths about living together dispelled:

#### **“I am a common law wife/husband.”**

This is the most common misconception but there is no such thing as a common law spouse. Living together does not give a couple any of the rights and claims they would have if they were married or in a civil partnership. But there are many ways to record and protect the rights of cohabiting parties and getting clear advice on your situation can save a lot of heartache in the long run.

#### **“We have lived together for many years so I have a financial claim against my partner’s house.”**

You don’t. Whether you’ve lived together for three years or 30 years, there is no magic number after which a person can claim a financial interest against their partner’s property. It may be possible to make a claim if a financial contribution has been made, but this is by no means automatic. The best way is to own any property in joint names and to record any agreement you have reached in a “Living Together Agreement”.

#### **“We have children so I have a financial claim against my partner’s house.”**

Not true, even if the non-owner is caring for the children. It is possible for a claim to be made for the children, but even if a home was provided for them while they were minors, and in which the non-owner lived too, this would revert to the owner when the children have grown up.

#### **“My partner cannot force me to leave our home if we split up.”**

Yes she (or he) can. As a cohabitee, if you do not jointly own the property, you have no right of occupation and therefore no right to remain there. If the home is rented but you are not joint tenants, you have no right to remain either. It is sometimes possible to get short-term rights to stay by applying to the Court.

#### **“I pay 50% of the joint mortgage and so I am not liable for my partner’s share.”**

Yes you are. A mortgage is a ‘joint and several’ liability. This means that both parties are liable to pay the entire mortgage. The lender is not concerned who pays what, as long as it is paid. If one party pays 99%, the lender can still go after that person for the other 1% and vice versa. The same is true for Council Tax, both parties are responsible, regardless of whether only one contributes or not.

#### **“I paid the deposit on the joint home I share with my partner so I will automatically get that money back first if we sell it.”**

You won’t, even if registered in your joint names. Unless you have further documentation, it will be deemed that you own a half share, regardless of contributions. If you have paid unequal contributions or agree that one party should have a greater interest than the other, then you should have a Declaration of Trust drawn up, which clearly states the percentage each of you has in the property.

#### **“I have told my partner she/he can have my assets if I die before her/him.”**

She (or he) might not receive these. If a person dies without a Will, their estate is divided according to the ‘intestacy rules’. This means that a distant relative could inherit the person’s house and all their estate even if someone has lived with their partner for years. The survivor won’t even be able to access money held in the other’s sole bank accounts. It is vital to have a valid Will.

## Living Together Dangerous Myths

**“I have made a Will leaving my share of the home I own with my mother/sister/ brother etc to my partner.”**

On its own, this gift may not be valid. If you own a property jointly you could own as either ‘joint tenants’ or ‘tenants in common’. As joint tenants if one of you dies, the other owner automatically inherits the whole of the property. This is irrespective of any provision that you make in a Will. So, if you want someone other than the joint owner to inherit your share, you must either purchase as ‘tenants in common’ or ‘sever the joint tenancy’. It is a straightforward procedure to ‘sever’ a joint tenancy. It is also important to have a valid Will after severance.

**“I am the father of my partner’s children so I have parental rights.”**

Not necessarily true. If you are not married to the mother and are not named on the birth certificate you have no automatic rights. Even if you are named on the birth certificate, you do not have automatic rights if your child or children were born before December 2003. Strictly speaking, you don’t even have the right to authorise medical treatment. You can obtain parental responsibility through the courts.

**“I have debts so I don’t have to pay maintenance for my children to my ex-partner.”**

Yes you do. The Child Support Agency deals with child maintenance and bases payments on income (after deductions for tax, national insurance contributions and pension payments are made). If you have other children living with you, or the children who you pay for stay with you overnight on average one night a week or more, this could be taken into account.