



## **FAMILY LAW DEPARTMENT FACTSHEET – COHABITANTS AND PROPERTY**

Purchasing a home with your partner is an exciting time and when you find that perfect property for you both we understand that you want to get everything sorted and move in as quickly as possible.

However, considering the following issues now can help avoid any difficulties later on, should you separate. Of course, separation is not what you are thinking about now but, if it does happen, it is important that you know your position.

Be aware that if your relationship breaks down, you will not have the same rights in terms of claims on each other's assets that married couples have. Unfortunately, there are many people who believe that they are "common law husband and wife" and have claims as a result. This is simply not true.

There are steps that you can take now to avoid any lengthy or costly discussions in the future.

1. Speak with each other about how you are to maintain any mortgage and outgoings on the property i.e. who is to pay what. Defining these arrangements between you at the outset can help later on.
2. If you are purchasing property with your partner, contributing equally to the purchase price and intend for the property to be shared between you equally then you should both be named as legal owners. If you want the ability to leave your share in a Will to whomever you wish then you should hold the property as "Tenants in Common". If you are happy for the property to pass to the surviving owner on your death then you may choose to hold the property as "Joint Tenants".
3. If you are to contribute equally to the purchase price but intend to hold the property in the sole name of one of you, which occasionally happens for different reasons, be aware that if there is dispute about interest in the property, the non-legal owner will have to provide proof of their contribution and there is no guarantee that they will benefit from any increase in the property value or receive more than their contribution.

It would be far better for any contribution to be secured in the property by way of a charge or by entering a Declaration of Trust to define the interest in the property at the outset.

4. If you are to contribute equally to the purchase price of the property but then one of you is to pay the mortgage going forward be clear about whether you intend this to affect what % interest you each have in the property. Once you have made a decision you should be clear about that in the conveyancing process so that you hold the property correctly and have your positions secured.
5. If one of you is contributing a greater amount to the purchase price of the property or is to contribute the entirety of the purchase price then you will need to consider matters carefully.

If you do not define the interests that you each hold in the property and your relationship breaks down, you may each receive 50% of the equity in the property and not a greater % to reflect any greater contribution. If this is not what you intend then discuss matters now and clarify your intentions.

If one of you pays for the property entirely and holds it in their sole name then you need to be clear about whether the other has any interest in the property at all and, if so, on what basis. This area is complex and, if you are at all unsure then often it is better for a Cohabitation Agreement to be put in place at the outset, so that you and your partner can move forward with clarity.

6. Finally, the birth of any children to you and your partner can affect matters and it might be possible on separation for claims to be raised against property on behalf of the children.

Issues concerning property on the separation of cohabiting couples is a particularly intricate area and if you wish to discuss any of the above further you should contact Louise Chipchase in our Family Department at [l.chipchase@wwf.co.uk](mailto:l.chipchase@wwf.co.uk) or on 01905 731 731.



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