

# Cohabitation

## The facts about living together as a couple



Fact Sheet



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### Overview

**Cohabitation** – def. “an arrangement where two people who are not married live together in a romantic relationship and/or sexually intimate relationship on a long term or permanent basis.”

Cohabitation usually refers to couples who live together, but are not married or in a civil partnership. The number of cohabiting couples has risen by approximately 30% in the past decade and has more than doubled since the mid-1990's.

### What are my legal rights?

Cohabitation does not give someone the same legal rights and responsibilities as those who are married or in a civil partnership. Generally speaking, they are far fewer and while the term 'common-law wife or husband' is frequently used, it does not have any legal recognition.

Here are a few things you should know if you decide to live with someone:

#### Property

- Cohabitation does not give you any automatic rights to the home you share.

#### Finances

- If a cohabiting couple have separate bank accounts, neither has a right to share in money held in the others accounts.
- Cohabiting couples are taxed separately and do not get the benefits of those who are married.
- Neither partner has a legal duty to support the other financially.

#### Children

- if a father or female partner is not married to or in a civil partnership with the mother of a child born before 2003, they do not have parental responsibility or a say in decisions such as the child's education and religion. (If a child was born after 2003 and the father is named on the birth certificate, he will have parental responsibility.)
- A mother can appoint a guardian to look after the child on her death and a father can appoint a guardian to look after the child on his death if he has parental responsibility, but cohabiting parents cannot make decisions for each other.
- Both parents are responsible for financially supporting their children and have a right to contact with their child regardless of their relationship status.

#### Inheritance

- If a cohabiting person dies without leaving a Will, their partner has no right to inherit.
- Unlike married couples, any money or property inherited from an unmarried partner is not exempt from inheritance tax.
- Any money in the deceased's bank account in his or her sole name will be the property of his/her estate and cannot be accessed until all is settled (except for funeral expenses and inheritance tax).

#### Separation

- An unmarried couple can separate informally without the intervention of a court. The court does have power to make orders relating to the care of the children.
- If a cohabiting couple has a joint bank account and the relationship ends, the money will belong to both parties.
- Voluntary agreements to pay maintenance to each other may be difficult to enforce.

## What can I do to protect myself?

A Cohabitation Agreement/Living Together Agreement can be prepared to cover key issues of your relationship, including those covered in this factsheet. This document can help reduce the likelihood of dispute if the relationship later fails.

### **Property**

A Declaration of Trust is a document which sets out the shares that each person has in the property, whether owned jointly or in one name (if any).

### **Parental Responsibility**

An unmarried father or female partner of a child's mother can gain parental responsibility for a child if he/she was born before December 2003 by:

- registering (or re-registering) the birth of the child with the child's mother and being named on the birth certificate
- making a Parental Responsibility Agreement with the mother and registering it at court
- obtaining a Parental Responsibility Order
- becoming the child's guardian (which would take effect on the mother's death)
- marrying the mother or entering into a civil partnership.

These options are also available if the child was born after 2003 but the father or female partner was not named on the birth certificate.

### **Inheritance**

It is important for co-habiting parties to have wills to ensure that each have made appropriate provision for the other and for it to be clear how they wish their estates to be dealt with. If they do not, either could claim against the deceased's estate for provision.

### **Pension**

You may not qualify for dependant's pension.



Find out how we can help,  
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