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Lucy Warwick-Ching NOVEMBER 22 2022

Are cohabitation agreements worthwhile?

My partner and I plan to move in together and I am pregnant with our first child. We don't expect to marry, but should we be drawing up any kind of legal agreement to protect our finances? I have heard of cohabitation agreements, but are these worth the paper they're written on?



Kate Van Rol, barrister at 4PB

Kate Van Rol, barrister at 4PB, a chamber of family law barristers, says cohabitation agreements, so long as they are properly drafted, are legally binding contracts that can be enforced by the courts. There are many reasons a couple may choose to live together but not marry, but it's important to be aware that choosing not to marry severely limits your financial rights as regards each other.

Cohabitation agreement rules differ slightly across the UK nations, but all will spell out exactly what each partner is entitled to if they split up. An agreement is a document that two parties who are living together (or who plan to live together) can formulate and

sign. It affords legal rights and protections that would be assumed automatically with marriage and gives you some financial and legal certainty should one of you become ill, pass away, or you break up. Any parties living together can sign cohabitation agreements — you do not have to be romantically involved.

A cohabitation agreement will give you certain rights including those relating to financial security, property rights, access to pensions and other financial assets, tax benefits and rights relating to children. They can be tailor made to meet your needs.

Take financial security. You will not automatically be entitled to each other's assets without a marriage, civil partnership or cohabitation agreement. When the relationship breaks up, or on the death of one party, you will not necessarily have any rights to these assets, or your property (depending on the terms of your tenancy agreement or mortgage) unless they are left to you by agreement or in a will. A cohabitation agreement can bestow tax advantages you would otherwise not be entitled to.

Let's look at rights relating to a child. The father will only have parental responsibility if he is named on the baby's birth certificate. Parental responsibility gives each parent the right to make important decisions about the child including decisions relating to their education and healthcare.

In terms of next of kin status without an agreement, you will not automatically be informed should your partner be involved in an accident, fall unwell or pass away. You will not receive medical updates, or be able to have a say in medical decisions or if it came to it, funeral plans.

If you do want to create a cohabitation agreement, start by considering your assets and those of your partner, and your suggested division of these assets in the event of death or separation. This could include the property and any savings, investments or pensions.

You can either draft a cohabitation agreement between yourselves or with the assistance of a family lawyer. The cost will depend on the complexity of the agreement.

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