

Your Legal Questions

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Q: My partner and I have been living together for 10 years. We have two children, age 10 and 8. The house we live in is in his name. I work part time and my money goes towards little extras like holidays. I've found out he's having an affair and I want to leave him. What are my rights as a common law wife?

A: Absolutely none, I'm afraid, the term has no legal meaning. All the Courts' powers to deal with finances on the breakdown of a marriage or civil partnership come from the Matrimonial Causes Act 1973 (as amended) and are not available for unmarried couples.

The children have rights under Schedule 1 of the Children Act 1989 . It may be possible for you to remain in the house with them until they reach the age of 18 but only if arrangements can be made for payment of the mortgage, assuming there is one. Your partner will be liable to pay you maintenance for the children, should they remain living with you, via the Child Support Agency.

As far as your own rights are concerned, you have no claims for maintenance. If you are able to show that you have contributed to the property in a capital way - if for example, you paid for the initial deposit, or an extension as opposed to just contributing to the running costs - then you may be able to prove that you have an equitable interest in the house which could be enforceable under the Trusts of Land and Appointment of Trustees Act 1996. Basically, your financial position is no different from that of a friend who has stayed in a room at your partner's house for the last ten years.

I would recommend to anyone that, before they embark on a cohabiting relationship, particularly where children are involved, they consult a Solicitor at the outset to ensure matters can be dealt with fairly in the future, should the relationship break down. Not very romantic, maybe, but failing to do so can result in huge problems.

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