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How Cohabiting Couples Should Protect Their Investments



Shared home ownership by people who are not married is increasingly common. Sometimes this is because couples choose not to marry and sometimes it's because they delay getting married until sometime in the future.

When you are living together, or even sharing ownership with friends, it's essential to clarify ownership and rights over property that you buy. Otherwise, any investment you've made could be at risk or you could become involved in a costly dispute if one of the partners moves out.

There are two main options: a declaration of trust and a cohabitation agreement.

What is a declaration of trust?

A declaration of trust confirms how co-owners will divide the beneficial interest in the property. It will clarify how much of the property each person owns and how the proceeds of a sale will be divided. It can also specify who will pay the mortgage and in what proportions.

A declaration of trust is helpful if partners make unequal contributions to the purchase price or mortgage. It can also protect your investment if you contribute to the purchase but will not be the legal owner of the property. Interests in a property sometimes change over time; the declaration of trust offers a simple way to manage this and avoid disputes.

There can also be tax advantages by, for example, ensuring that sale proceeds or rental income from a second home go to a non-working partner.

A declaration of trust is also helpful if you own a property and your partner moves in. You should agree, in writing, whether your partner will have any beneficial interest in the property and, if so, how much.

What is a cohabitation agreement?

A cohabitation agreement goes further than a declaration of trust, which only considers land and property. It can also cover investments, savings, company ownership, cars and other possessions, including those owned individually or bought jointly.

A cohabitation agreement can specify how you will pay bills and outgoings and whether you are going to have a joint bank account or credit card. The agreement can also document what would happen if one partner moves out.

Couples buying a home together are often not thinking about what might happen if they split up. Fortunately, putting safeguards in place is fairly straightforward and can avoid more issues and costs later on.

The Property Team at PowellsLaw will talk you through the options and help you find the most suitable solution.

Don't Be Caught Out by Care Fees

Paying for care in later life will become a reality for more and more of us. We're living longer and more people will be drawing on finite state care funding. A natural reaction to such a big potential issue is to do nothing and hope for the best. But hope is rarely a successful strategy. It's important to take action early to minimise your exposure to care costs.

Residential care is likely to cost well in excess of £500 per week. The local authority will only contribute towards your care costs if you have assets worth less than £23,250. Your property will be part of the asset calculation unless you have a spouse or dependant close relative sharing your home.

In most cases you won't have to pay the cost of care directly as it will be recovered from your estate after you die. But the impact on your beneficiaries could be significant.

Having the right provisions in your will can help to reduce the impact and can protect at least half of the value of a combined estate. But provisions need to be carefully worded and reviewed periodically as guidance changes.

One tactic you should avoid is simply giving your assets away during your lifetime. This is unlikely to be effective as a local authority will probably deem that this was done to avoid liability for care fees.

Plan Early for Peace of Mind

Planning early is always advisable. There is very little that can be done to protect assets once a partner has died. Another advantage of planning early is that you could quite reasonably be seen as not envisaging the need for care at that time. It would then be harder for a local authority to make a case that you made provisions specifically to avoid care costs.

Perhaps the biggest benefit of early care fees planning is certainty. You will know how any fees will be covered and also understand the impact this will have on your spouse and any beneficiaries of your estate. That has to be better than worrying about what might or might not happen.

The Private Client Team at Powellslaw have significant experience in this area and will be happy to provide a free no-obligation discussion about your circumstances and options. Contact us now on **01934 623 501** and start to put your mind at ease.





Top Tips: The Divorce Process

A divorce is a formal termination of a marriage. The process is structured and prescriptive and you should make sure you fully understand the procedures and your rights from the outset to ensure you protect your interests as much as possible. Here are our top tips on the legal aspects of the process if you have decided that your relationship with your spouse has come to an end.

1. Time

You cannot start divorce proceedings unless you have been married for at least one year.

2. Consider mediation

Pursuing an acrimonious divorce settlement through the courts can be expensive and traumatic, particularly if children are involved. Mediation is often a better way to decide who gets what in a more collaborative way. Before you can apply to the court for a settlement you will have to prove that you have considered mediation.

3. Be clear about your grounds

The only ground for divorce is that the marriage has irretrievably broken down. The court will need evidence proving adultery, unreasonable behaviour, desertion for over two years, or separation – two years if both parties agree or five years if they don't.

4. How to start proceedings

Instruct a divorce solicitor who will complete the Petition. This is the document that starts the court proceedings. The solicitor will send the Petition to the court who will then issue it and send it to your spouse.

5. What happens next?

On receipt of the divorce Petition your spouse will have to send a form to the court saying whether or not they oppose the divorce. Your solicitor will be sent a copy. If your spouse does not oppose the divorce you will sign a statement in support of your Petition, which is the evidence that the court needs to enable the divorce to proceed.

6. What if my spouse doesn't agree?

Sometimes the person being divorced refuses to sign the papers or becomes obstructive. Ultimately, if your grounds for divorce are sound they can only delay rather than prevent the process occurring. An experienced solicitor will help you find a solution that allows the process to continue with or without the consent of your spouse.

7. Decree Nisi

If the case is straightforward and a judge is satisfied that grounds for divorce have been established, your solicitor will be sent the time and date when the court will pronounce the 'Decree Nisi.' This is the form saying that you are entitled to a divorce.

8. Decree Absolute

Six weeks after the Decree Nisi you can apply for Decree Absolute. This makes the divorce final. Only at this point is the divorce finalised.

Even straightforward uncontested divorces can become complicated when it comes to dividing assets and agreeing custody. The Family Team at PowellsLaw have the experience and sympathetic approach to help you through the process. Contact us today on **01934 623 501** or click here for more information.



National Minimum Wage Annual Increases

On 1st April 2019, the National Minimum Wage rates will increase as follows:

- Rate for workers **25+ year olds** (the national living wage) – from £7.83 to £8.21 per hour
- Rate for workers **21-24 year olds** – from £7.38 to £7.70 per hour
- Rate for workers **18-20 year olds** – from £5.90 to £6.15 per hour
- Rate for workers **16-17 year olds** – from £4.20 to £4.35 per hour
- Rate for **apprentices** – from £3.70 to £3.90 per hour

If you are an employer or an employee and require advice relating to the National Minimum Wage or any other employment matters, please contact Glyn Evans on **01934 637911** or email evans@powellslaw.com



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