

Wollen Michelmore

SOLICITORS

LIVING TOGETHER BLISSFULLY (unaware)?

As Cohabitation Awareness Week commences, local Family Law Solicitor, Rebecca Procter, calls on unmarried couples to take action to protect themselves financially as they could be vulnerable if the relationship breaks down.

The National Cohabitation Awareness Week is being led by Family Lawyer Group, Resolution, who are campaigning for a fairer family justice system. Its aim is to raise awareness about the lack of rights that exist for unmarried couples who live together.

There are about 7 million people in the UK living in this type of relationship, making this the fastest growing family type in the country.

Nearly one third of adults in the England and Wales mistakenly think that couples acquire “common law” rights having been together for a certain amount of time or having children together. This is not the case and relying on non-existing protections can put unmarried partners at a significant disadvantage if the relationship breaks down.

There is no automatic legal responsibility to support the other financially as if you had been married and if there is a separation, a court cannot divide finances or property in a way simply which may be considered “fair”.

Whilst parents have financial obligations towards their children, whether living together or not, there are no equivalent responsibilities for a partner. Partners have no legal entitlement to financial support from the other, irrespective of circumstances. This means a person could be left with little income, no home and no access to pension or savings.

For example, Fred’s name is on the Deeds to the house and Vera’s is not. Vera has little income, having stayed at home and looked after the children. When they separate after twenty years, Vera has no claim on Fred’s income which is substantially higher, she may have no claim on the house and she has no claim on Fred’s pension.

By way of further example, Sam purchases a property in his/her sole name. During the relationship Bill spends over £40,000 on the property and much time on improvements. If they split, Bill does not have any automatic entitlement to a share of the property, notwithstanding the significant contribution.

Whilst the law does not currently provide protection, some action may help.

- A Cohabitation Agreement can set out both parties' intentions around property, finances and how they should support their children if they separate.
- If acquiring a property, then ensure both names are on the Deeds to the home and a Declaration of Trust can be prepared setting out the respective interests, particularly if there is an intention that ownership should be in unequal shares.
- Take out Life Insurance and making new Wills (there are no automatic rights to inheritance).

Rebecca Procter said, "The sad reality is that unmarried couples have very limited legal rights and responsibility towards each other if the relationship breaks down. I regularly meet clients who have been affected in this way and because of the lack of legal protection, there are times where I simply cannot help them.

I urge all cohabiting couples to consider basic protections; such as a Cohabitation Agreement to protect both partners if they separate or to consider Life Insurance. It is also important to ensure you have an up to date Will. By setting out your intention in these documents, you will be in a much better situation in the event the unexpected happens".

If you have any queries which arise from this article, please do not hesitate to contact Rebecca Procter at our Torquay Office on 01803 213251 or our Dartmouth Office on 01803 832191.