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Not married or civil partners but planning to buy home together?

Advice from
Vicky Gallier
of Knights
Solicitors

WHEN you need dependable legal services, turn to a law firm with a wealth of experience. Based in Tunbridge Wells, Knights Solicitors is a successful practice well known for public law, planning, property, criminal and regulatory, employment, family, farming, agriculture, and private law services.

Considerations for Cohabitees

When a couple who are neither married nor in a civil partnership decide to buy a home together, there are a number of matters they should consider in order to try to avoid uncertainty, disagreements or an unintended outcome in the future.

If the property is to be in their joint names, should they own as tenants in common or as beneficial joint tenants?

Owning as beneficial joint tenants means that the couple are deemed to own equally and if one of them dies, the property will automatically pass to the other.

Owning as tenants in common, however, will mean that if one of the couple dies, their beneficial interest in the property would not automatically pass to the other but would pass in accordance with the terms of the deceased's will or under the rules of intestacy if there is no valid will.

Each owner should therefore ensure that their will is up to date if they want their share of the property, or indeed any of their estate, to pass to their partner on their death.

Owning as tenants in common enables a couple to specify in a deed of trust that they do not own in equal shares, for example if one of them is paying more than the other for the purchase of the property.

Cohabitees should be aware that they currently do not benefit from the same inheritance tax exemption as couples who are married or in a civil partnership.

This potential inheritance tax liability, and whether to take further legal or financial advice, should therefore be considered.

An often overlooked but useful tool for setting out full details of all the arrangements agreed between a couple is the



YOUR PARTNERS IN LAW

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cohabitation agreement. This document can record matters such as the ownership of assets and possessions, the payment of household expenses, the payment of debts and the financial arrangements if the relationship ends.

A cohabitation agreement, properly negotiated through and drafted by solicitors acting for each party, would show the couple's intentions, give some certainty between them and, hopefully, avoid arguments in the future.

Child Maintenance

When parents separate and one becomes the main carer, the other is required to provide regular financial support to help with their child's everyday living expenses. This is known as child maintenance.

If the parties can agree these payments between themselves, there does not need to be any formal arrangement.

The child maintenance calculator on the website www.gov.uk/calculate-your-child-maintenance could be used as a guideline or basis for the agreement.

The parties might wish to set out their informal agreement in writing to avoid uncertainty, and

may use a family-based arrangement form downloaded from the Child Maintenance Options website.

If the parties can not agree the level of maintenance, or if maintenance is otherwise not paid, an application can be made to the Child Maintenance Service for assessment, collection and enforcement. Please note, though, that fees are payable to the CMS to use its services.

There are times, however, when the CMS cannot help and a court order might be necessary.

A court may make an order for child maintenance where the CMS does not have jurisdiction, for example if the payer or child lives outside the UK, if the parties live together in the same household or if the payer is not the natural or adoptive parent.

The court may also order specific types of payments additional to those that would be payable via the CMS – for example the payment of school fees, to meet costs if the child has a disability, or to top up a maintenance calculation if the payer has a high income.

A divorcing couple may make provision in their financial settlement order for the payment

of child maintenance provided that they do this by consent. This might be useful where they have agreed payments different from those that would be calculated by the CMS, or if

payments are to continue for a longer period, for example until their child leaves university. A solicitor can advise you on all of this and, if needed, can help you to seek the right order for you

and your family.
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