

Relationship Agreements

Whether you are embarking on a new relationship and living together, are engaged to be married or will be formalising a civil partnership by registration, agreements can be effectively used to protect your assets and clarify how financial aspects of your relationship will be dealt with should the relationship break down.

We deal with **living together agreements** for cohabitants, **pre-registration agreements** for civil partners, **pre-nuptial agreements** for engaged couples, **post-nuptial agreements** for married couples and **separation agreements** for married couples.

Pre-nuptial agreements set out what you and your future spouse agree should happen in relation to your finances (and other issues as appropriate) if you separate. They are not legally binding on the court but are taken into consideration provided they have not failed to take into account subsequent factors that have occurred e.g. the birth of a child, serious illness. They are more persuasive if they are formally drawn up by lawyers, both parties receive independent legal advice, there is no undue pressure to make the agreement and it is made well in advance of your intended wedding day. Both parties must make full and frank disclosure of their financial positions.

In the event of relationship breakdown either party can apply to the court for financial relief and in deciding the case the court address all the circumstances of the case including the weight to be attached to the pre-nuptial agreement. The pre-nuptial agreement is likely to carry more weight if the marriage is short and the circumstances of the relationship are relatively unchanged from when the agreement was made.

The pre-nuptial agreement will detail the extent of both parties' property, assets, debts, income and contributions and will set out how they will be divided in divorce proceedings at different stages of the relationship, such as after a specific period of marriage, after the birth of a child, in the event of serious illness and other life-changing events.

Entering into a pre-nuptial agreement provides a degree of certainty as to how your assets and income will be divided if your marriage ends and enables you to agree to protect any assets that are inherited or pre-acquired. It enables you to take a degree of control now over future problems that could occur thus avoiding significant stress and legal costs should the marriage break down in the future.

It is likely that future legislation will make pre-nuptial agreements enforceable. Agreements entered into in other countries may be enforceable in those jurisdictions.

Post-nuptial agreements have recently been upheld by the courts. A financial settlement was entered into by a married couple on the brink of divorce and was treated by the court as a post-nuptial settlement and upheld by the court as valid and binding. It is arguable that a pre-nuptial agreement should be converted to a post-nuptial agreement following marriage to increase its potential validity.

Pre-registration agreements follow the same principles as pre-nuptial agreements and should be entered into by civil partners prior to their civil partnership. They are perhaps more important for civil partners, as they are more likely to need to protect their own asset base.

Separation agreements are agreements entered into by separating or separated couples proposing to issue divorce proceedings in the future on the ground that the marriage has irretrievably broken down as the parties have lived apart for a continuous period of at least 2 years and the Respondent consents to a divorce. The agreement can set out financial and other issues agreed to.

In subsequent divorce proceedings, the agreement can be incorporated into a court order by consent to finalise financial matters if it remains a fair agreement, the agreement has not been breached and there have been no relevant intervening changes in circumstances.

Parental Responsibility Agreements are agreements made between the mother of the child and either an unmarried father without parental responsibility or a step-parent. The agreement can be registered by your lawyer and will then enable the other person to acquire parental responsibility for the child.

An unmarried father does not automatically have parental responsibility for his child and will not have it unless he was named as the father on the birth certificate for births on 1st December 2003 and onwards, subsequently marries the child's mother or enters into a parental responsibility agreement.

Parental responsibility gives you the right to make decisions and exercise your responsibilities as a parent. When more than one person has parental responsibility, conflict can arise as they may have differing views on the child's upbringing and seek to exercise their parental responsibility independently and in conflict with the other person's views. For example there may be a dispute as to where the child should live, who the child has contact with and when, which school it attends or who should keep the child's passport. When conflicts arise, they can be resolved by applying to the court for an order under section 8 of the Children Act 1989. Applications can be made to the court for residence, contact, specific issue, prohibited steps orders as required.