

Pre-marital/Pre-partnership Agreements

At present, Pre-marital Agreements are not enforceable under English law however there is a move by the courts to consider their existence to be an important factor when deciding the outcome of ancillary relief proceedings.

For a Pre-marital Agreement to be considered an important factor, and for the courts to consider its terms relevant, the following points are important:

- Both parties in the relationship must have had the benefit of independent legal advice regarding the terms of the Pre-marital Agreement
- Both parties in the relationship must have provided their financial disclosure to each other and their legal advisors prior to the terms of the agreement being reached
- There must be no evidence of undue pressure being exerted to sign the document
- The agreement must provide a fair settlement, meeting the needs of both parties in the relationship and their children.
- That the Pre-marital Agreement was not made fewer than 21 days prior to the marriage.

Pre-marital agreements should be reviewed and updated regularly to ensure that transactions or acquisitions are dealt with which were not anticipated in the original agreement.

There are potential tax implications which need to be addressed before any agreement is finalised.