

## The [Bolt Burdon](#) Private Client Bulletin 7 April 2006

### COMMON LAW WIFE - NOT SO COMMON

It comes as a shock to many that in resolving financial issues in family disputes there is no legal recognition of a common law spouse.

Surprisingly few people who choose to live together appreciate that in this context no legal definition of cohabitation exists. Despite the considerable numbers who prefer not to 'formalise' their relationship, the law neither recognises a common-law status nor offers the same statutory remedies as in marriage. For many young professionals, living together can be a preamble to marriage or an option preferable to a formal union, a commitment equal to marriage. Unfortunately, if the relationship does not work out, resolving the issues between them can become an extremely expensive exercise.

Alternatively, at the outset of living together a couple could enter into a Cohabitation Agreement drafted to detail the ownership of personal belongings for example furniture, real property and importantly their intentions regarding ownership at the commencement of living together. If a property is purchased together a conveyancing solicitor will advise a couple to draft a Deed of Trust to reflect the terms of ownership. A Cohabitation Agreement will both reinforce this Deed and detail the intentions concerning personal property brought into the relationship or purchased subsequently.

If a property is purchased in one's sole name the other may believe they have come to acquire an interest in that property because they have lived there for a number of years or, perhaps, due to their contributions towards the household. Unfortunately, to acquire such an interest requires much more - usually that during express discussions between the couple a common intention is established that the 'non owner' has an interest in the property. He would also need to demonstrate that he acted to his detriment in relying on that agreement by for example, making a direct contribution to the purchase price or the mortgage.

A failure to meet such stringent and specific criteria can result in one leaving a relationship with little or no financial reward. The drafting of a Cohabitation Agreement need not necessarily herald the beginning of a scary and 'serious' contractual commitment but will, undoubtedly, clarify one's entitlement and ease the pain of breaking up.

If you have any queries you can phone or email Glenn Smyth on [glennsmyth@boltburdon.co.uk](mailto:glennsmyth@boltburdon.co.uk) or [rodsmith@boltburdon.co.uk](mailto:rodsmith@boltburdon.co.uk) or phone 020 7288 4700. Our full range of services includes Financial Planning, Trusts Wills & Probate, Property, Matrimonial and Family Law, Commercial Law, Commercial Dispute Resolution, Debt Collection, Compensation Claim Litigation. Visit our web site at [www.boltburdon.co.uk](http://www.boltburdon.co.uk) Regulated by the Law Society. Authorised and regulated by the Financial Services Authority. To stop receiving this bulletin, reply stating 'unsubscribe'.