



# Attention Cohabiting Couples! How Well Are Your Assets Protected?

The choice to live with a romantic partner before or instead of marriage/civil partnership is an increasingly popular choice, and the [Office for National Statistics](#) highlights the steady decline of marriage rates in England and Wales over the past few years. Despite increasing numbers of cohabitants, many consider that the law has not 'caught up' to provide adequate protection if the relationship breaks down.

## What are the challenges for cohabitants?

There is no such concept as a '[common law marriage](#)'. The law treats cohabitants as two unrelated individuals and makes no account for the relationship between them.

Financial claims for cohabitants are limited to those arising under the law of property and trusts. Unlike married couples, separating cohabitants are not guaranteed rights regarding their partner's property. The courts cannot override legal ownership principles to divide property as they would have had a divorce occurred.

In the event of death, a surviving cohabitant cannot inherit property or assets as an automatic right under the intestacy rules and would be unable to make decisions for the other in the event of accident or illness on the basis that they are cohabitant and partner alone.

The law disproportionately prejudices women as there is no obligation on cohabiting couples to pay financial maintenance to the other on separation – meaning that once any children of the relationship reach 18, the primary caregiver may be left without provision to house and sustain themselves.

[2023 saw the Labour Party pledge reform](#) for the law on cohabiting couples in the event of a [Labour Government](#); this may now be on their agenda. Currently, however, there is no such protection. There are options for cohabitants to begin protecting their interests now.

## What can I do to protect my assets as a cohabitant?

One of the most common ways to protect assets is by way of a [cohabitation agreement](#).

A cohabitation agreement is a document entered into by partners who live together and is used to record each

party's rights and responsibilities both during and after cohabitation. This shows the couple's intentions, which helps to determine the outcome of any dispute.

Having a cohabitation agreement at the outset can help avoid lengthy disagreements and possible litigation if the relationship or cohabitation comes to an end.

A cohabitation agreement can help you regulate your financial and property affairs regarding the following:

- Your rights concerning the property in which you live
- Your financial status and responsibilities
- Ownership of personal property, including items such as cars, furniture, art, and collectors' items.

## How we can help

Rules of contract govern cohabitation agreements and can, therefore, be challenged by the court on contractual principles. To protect your position, it is important to seek independent legal advice to prevent the validity being questioned.

The Family team at Lester Aldridge has extensive experience in assisting cohabiting partners and preparing cohabitation agreements and is happy to help with any cohabitation queries that may arise.

[Joanna Kay](#), Partner in the [Family team](#), comments, "It will be interesting to see whether or not the Labour government now looks to reform the position for cohabitants and, if so, how far they will go. However, to help protect their position and know where they stand in the event of a relationship breakdown, our cohabiting clients often welcome the opportunity to enter into a cohabitation agreement."