



MARRIAGE v COHABITATION

Statistics show a decline in the number of marriages and an increase in un-married couples living together. In Stockport the number of couples living together between 1991-2001 has almost doubled.



Clients are however often unaware of the different remedies available upon relationship breakdown. Mrs Smith for example, has been married for 15 years. The matrimonial home is in her husband's sole name. She has not contributed to the mortgage and has not worked, staying at home to bring up the children. She has no pension provision, whilst her husband during the marriage, has acquired a reasonable pension. Upon Divorce, she may apply to the Court for spousal maintenance (in addition to child support) and for a share in the matrimonial home. The non-financial contribution she has made to family life will be given equal weight to her husband's financial contribution. She can also seek compensation for her lack of pension provision.



Miss Brown's situation is identical to Mrs Smith except she is unmarried. She believes that she is a "common-law wife" with all the rights available to Mrs Smith. The term "common-law wife" has no legal meaning and unless Miss Brown's name is on the Deeds to her home she will have to demonstrate that she has a beneficial interest in the property by reference to complex Trust Law. If she cannot do so, then she will find that she has no financial interest in her home. She will not be able to claim maintenance for herself, nor will she be able to make a claim against her ex-partner's pension.

The Law Commission has published proposals for a change in the law as it relates to co-habiting couples upon relationship breakdown. However to date Parliament has blocked any change in the law. People who intend to cohabit may wish to consider putting their intentions into an agreement known as a cohabitation agreement.



Whether you are married or unmarried, relationship breakdown is a traumatic time and advice from an experienced Family Lawyer at an early stage, can be of great reassurance.

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