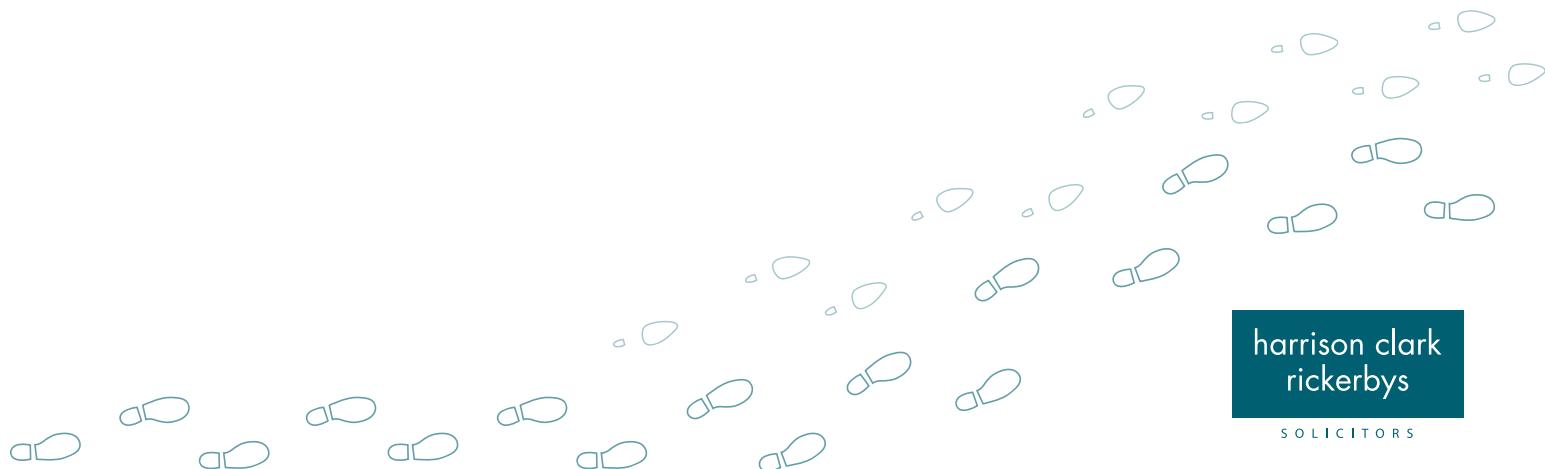




MOMENTS THAT MATTER

MAKING LIVING TOGETHER WORK



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MAKING LIVING TOGETHER WORK

The last thing you will want to think about when embarking on a new relationship is how to best protect yourself if things go wrong, but the consequences of not doing so can be costly, time consuming and emotionally exhausting.



Living together is very different to being married or in a civil partnership when the relationship breaks down or one of the parties dies unexpectedly. In short the rights of cohabiting couples are remarkably limited and in this, the first edition of Moments that Matter, senior lawyers from our private client and family law teams look at what can be done to make sure living together works.



Robert Beaumont
Partner, Dispute Resolution



James Osborne
Associate, Family Law

When a dispute arises between cohabiting couples about the financial contributions each party has made to aspects of a relationship, for example the purchase of a house, or home improvements such as a new kitchen or bathroom, the court will look for evidence. In the absence of a written agreement that can involve uncertainty whilst the parties try and demonstrate what they had intended at the outset. Far better to avoid those problems from the outset by entering into an express written agreement before you begin living together.

The type of agreement you need depends on what aspects of your financial relationship you are seeking to protect. **A Living Together Agreement** sets out key and clear information about the contributions each party makes to the relationship and what happens to each party's assets should the relationship end. It can include property and savings acquired or contributed from the date of the agreement and separation.

"Always document your intentions. Verbal agreements are insufficient."

– James Osborne

A **Declaration of Trust** deals only with the ownership of your house but is necessary where one party has contributed to the purchase of the property but is not named as a legal owner, or where the property is owned jointly but not equally because one party has contributed a greater deposit.

In both cases such agreements provide clarity on the breakdown of the relationship and should help avoid costly arguments at a time when both parties simply wish to move on with their lives.

We all aspire to buying our own homes and putting down roots at some stage of our lives and often that will coincide with making a longer term commitment to a partner. But just how does the legal process of buying our first home work?



Budgeting for the purchase and all the associated costs is something most first time buyers find daunting but a good solicitor will provide advice and guidance on the affordability of the purchase. Legal fees, deposits, stamp duty and service charges can all seem overwhelming at the outset but we can help you navigate through the whole process.

Solicitors will carry out proper searches against your property and investigate the legal title on your behalf. We will guide you through the terms of your mortgage offer and advise on how to protect gifts and loans from family members. We can also advise on whether joint owners should hold the property as joint tenants or tenants in common and whether a Declaration of Trust is necessary.

We do not carry out surveys on the property, arrange mortgages or deal with price negotiations but we will liaise with those professionals who are acting on your behalf to do so to make the transaction complete smoothly. Remember buying a house is not a quick process and on average takes 8 to 12 weeks - time for us to advise you carefully and thoroughly on the most expensive purchase you have made to date.

You will have time to consider what documentation you need to properly record the terms of your ownership as a couple and still choose new carpets and curtains!

Key moment actions

- Setting up a home together should be a time of certainty. Make sure you both understand the rules with a Living Together Agreement.
- Buying your first house is a big financial commitment. A Declaration of Trust protects both parties.
- Making a will is essential to protect a surviving partner and your children in the event of your death.



Zoe Touhey
Partner, Real Estate

“Protecting your loved ones by making a will is probably the most important thing you will ever do” – David King



Sadly most of us will never live to a hundred and some of us will die in tragic and unexpected circumstances before we've had the chance to plan making a will. Beginning a new living-together relationship is therefore an ideal time to make sure you have protected your partner and any children you have by making a will.

When someone dies without making a will there are strict legal rules that decide how and when their estate is divided amongst their family. Not surprisingly given all we have said so far those rules do not recognise couples who are not legally married or in a civil partnership. Children can end up inheriting assets such as the family home that should be protected for the surviving partner whose only recourse becomes a costly court case against their own family.

A properly drafted will made by both parties to the relationship will avoid any issues and need not be complicated or expensive. By using trusts you can ensure that the surviving partner can remain in the family home and that children inherit at a more sensible age than 18. It's also important to appoint a guardian to look after the children in the event that both mum and dad pass away.

Making a will should never be overlooked at any age and especially when living together and raising children without being married. It's an essential document to protect everyone from the unthinkable.



David King
Partner, Wills, Trusts and Estates





Dawn Oliver

Partner, Head of Wills, Trusts and Estates

Did you know...?

- There have been numerous calls for reform of the law relating to cohabitation following a consultation by The Law Commission in 2007 and in a report published by them in 2011 but no changes have yet been implemented.
- In June 2018 a briefing paper was published by the House of Commons confirming that the number of opposite sex cohabitating couples had more than doubled in the last 20 years and the number of cohabitating same sex couples had increased five fold.
- As well as the issues outlined in this issue of Moments that Matter a cohabitant cannot rely on their former partner's contributions for the purposes of state pensions though reforms to occupational pensions in recent years mean that cohabitants are generally treated the same as married couples.
- The rules regarding Inheritance Tax reliefs that apply on the death of spouses do not apply to cohabiting couples and often cause financial hardship. This is another area highlighted that is long overdue for reform.
- Despite an Early Day Motion in November 2017 and Private Members Bills introduced on several occasions in both houses most recently in July 2017, no further progress has been made and the future for cohabiting couples looks to remain as uncertain as it has ever been.

YOUR JOURNEY

A PASSION FOR PEOPLE

Beginning a relationship



Owning your home



Getting married



Writing your will



Planning for your future



Living together



Protecting you at work



Becoming parents



Leaving a relationship



Looking after your family



Talk to us

If you would like to know more about our services or how we could support you, please call us for an informal, no-obligation chat.

Dawn Oliver

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