

co-habitation – how will it affect your financial position?

People who live together, either with or without children, commonly believe that they have some financial protection under the law if they subsequently separate and decide to live apart. There is however no special protection for people who co-habit and people may acquire no interest in the house in which they have been living for many years.

when the property is in the joint names of the parties

If the property is purchased in the joint names of both of the co-habitees (or subsequently transferred to joint names) in almost all cases it will be accepted that both parties have a financial interest in that property. It is not necessarily the case that each party is entitled to 50% of the equity in that property. That depends upon the agreement made by the parties. Without appropriate documentation evidencing each parties interest disputes may arise as to the percentage interest each party has in the property.

when the property is in the sole name of one party

If a property is in the name of only one of the co-habitees the other party may gain no financial interest in that property. This can be true even if they have been contributing to the cost of running the household or have given up their employment to care for the children.

In order to gain an interest it is necessary to look at the intention of the parties at the time the property was purchased or subsequently.

In addition financial contributions can be taken as gaining an interest in the property but without agreement the Court would have to consider whether the contribution was such that a financial interest should be gained. e.g paying for an extension, or reducing the mortgage would almost certainly acquire an interest.

when the parties have a child

If the parties have a child the person caring for the child can apply to the Court for financial help under the Children Act. This can provide housing or a lump sum. However this is for the benefit of the child and is not based on any rights the person may otherwise obtain under property laws. This means that at a pre-determined time, usually when the child completes their secondary education, the property may revert to the other parent.





what can be done to protect the position of either party?

To protect the financial position of both parties it is advisable to take full legal advice at the time a property is purchased. A Solicitor will be able to ensure that at the time of purchase the percentage interest each party holds in the property is recorded. This is known as a Declaration of Trust.

Sometimes one party often moves into a property already owned by the other. Legal advice should be obtained at this time when the full circumstances of your own situation can be considered. A Co-Habitation Deed or a Declaration of Trust may be entered into which would set out what contributions are to be made by each party and what, if any, interest they are to attain. The document could also be used to deal with any other issues about the Co-Habitation.

the future

The law relating to co-habitants is currently being considered by the Law Commission and it is possible that in the future cohabitants may be able to apply for other financial assistance following the breakdown of the relationship. At the moment it is too soon to know exactly how or when any of these provisions would become law.

Knights solicitors llp have a dedicated team of family lawyers whose expertise covers all aspects of family law. If you have any queries or would like further advice about the issues raised or any other family law related matters, please contact Catherine Longshaw, Barbara White or Jim Jones.

get in touch

To find out more about what we can do for you contact:

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