

Do I need a no-nup?

More and more couples are choosing not to marry. Instead, many opt for cohabitation. This can be for many reasons and choosing to cohabit is typically a life choice. However, it also has legal implications, especially when buying property together or having children. The laws for non-married cohabiting partners are not the same as those for married couples. Litigation upon separation can be costly, time-consuming and emotionally draining. No-Nups can be a way in which to minimise disputes between couples upon separation.

So what are No-Nups?

A No-Nup is more traditionally known as a Cohabitation Agreement. In short, these agreements set out who owns what and in what proportion. It lets you document how you will provide for your children and how you will split your property, its contents, personal belongings and other assets should the relationship break down.

The agreement can also be used to clarify how cohabiting couples will manage their day-to-day finances.

When should non-married couples consider a No-Nup?

If you are buying property together or live in a property owned by one of you...

The family home is often the main and most valuable asset of the relationship. A couple should give careful consideration to whether they wish to purchase the home as “joint tenants”, as “tenants in common” or in one party’s sole name.

As “joint tenants”, upon separation, each person takes half of the equity in the home and if one of them dies, the survivor inherits the whole property. This is the preferred route where equal contributions are being made to the purchase and any mortgage repayments.

As “tenants in common”, the property is held jointly but as separate shares so that if one party passes away, their share will pass according to their Will and will not automatically be inherited by the other person. This would be the typical route where one party makes a greater contribution to the property. Where there are unequal contributions, it is also prudent to set out the division of the equity in a ‘declaration of trust’ agreement.

Where ownership of family property is in the sole name of one spouse, it is usually a sensible precaution to enter a written agreement to define and secure the financial interest of the non-owner who otherwise could be entitled to nothing.

If you have children...

Depending on the circumstances, one parent may be able to claim maintenance, a lump sum or property rights against the other, on behalf of a child.

The parent who is not living with the child (the non-resident parent) may be required to pay child support via the Child Maintenance Service unless maintenance can be agreed. A No-Nup can be utilised to record the parties’ financial obligations and intentions towards children of the relationship upon breakdown.

If you hold pensions...

Occupational pension schemes often do not recognise partners who live together and may only allow a survivor’s pension to be paid to a surviving unmarried partner if the survivor was financially dependent on the pension scheme member.

Cohabiting partners have no rights under the state pension system. A specific nomination of the other party may be required to benefit from the private/occupational policy.

In the absence of a No-Nup, litigation to resolve these issues can cost upwards of £10,000. No-Nups typically cost considerably less and litigation can be avoided.

Blaser Mills’ Family & Divorce team are highly experienced solicitors who can advise you on your respective rights and obligations. Should you require further information on this matter, or any other advice concerning family or divorce matters, we are happy to discuss your options with you over the telephone at no charge.

Please call 020 3814 2020 or alternatively, email us on family@blasermills.co.uk to arrange a conversation.

General legal information can be found at our website www.blasermills.co.uk