

Do I need a post-nuptial agreement?

Marriage comes not only with emotional attachment but also financial implications, and it is important to consider these when embarking on marriage. A post-nuptial agreement is one way of making sure that the finances and assets of both you and your partner are accounted for once you have entered into a marriage.

What is a Post-Nuptial Agreement?

Couples who are already married can enter into an Agreement that defines what will happen to their finances and assets if the marriage breaks down.

A post-nuptial agreement can act to prevent costly, time-consuming and emotionally draining disputes over the division of both parties' finances and assets in the unfortunate event of marriage separation.

Are Post-Nuptial Agreements binding in Court?

Although upon divorce Post-Nuptial Agreements are not strictly binding, it has become increasingly common that Post-Nuptial Agreements are taken into consideration when the Court is deciding how the separating couple's assets and finances should be divided. In order to ensure that the Agreement is as persuasive as possible to the Court, both parties will need to set out their respective financial circumstances in full and take independent legal advice on the Agreement and its effects.

Agreements are more likely to be considered if they are recent, or if the circumstances of both parties have not changed since the agreement, and if both parties knew exactly what they were getting into when the Agreement was made.

What can a Post-Nuptial Agreement cover?

Post-Nuptial Agreements are very individual to the couples concerned but the kind of things that they can cover include:

- What would happen to the family home or any property that party brought into the marriage
- What would happen to any property given or inherited to party during the marriage
- What would happen to money held in joint accounts and any property purchased jointly
- What would happen to pensions
- How would debts be dealt with

- Whether either party would receive any maintenance and, if so, for how long
- Any arrangements made for current children or children in the future, both in financial and in practical terms.

What happens if the parties have children AFTER the Agreement?

A Post-Nuptial Agreement cannot prejudice the interests of any children in the family. It is common to stipulate that the Agreement is reviewed if and when children are born into the marriage so that the children's needs can be considered and assessed.

The agreement can then be amended accordingly, taking into account the expectations of both parties.

If the Court is asked to intervene in financial arrangements in the event of a divorce, any children concerned are always taken as the first consideration. If the Court considers that a Post-Nuptial Agreement may adversely affect the children, the agreement is likely to be disregarded by the Court.

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 an initial conversation.

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