

# The Myth of a 'Common Law' Marriage



**Although the number of cohabiting couples in the UK is 2.2 million and the Government forecasts that there will be 3.8 million cohabiting couples by 2013, the law in this area is a shambles.**



Sadly many people are left vulnerable on relationship breakdown because they mistakenly believe the myth that they have the same rights as married couples. The truth is very different. All too often one of the partners is left with nothing. Rights are limited.

The starting position is that unmarried couples have no claims against each other's property or assets. There are exceptions if the couple have children in that the person with whom the child resides has claims for child maintenance and possibly housing. If a couple own a house together in joint names each may be entitled to a 50% share. If however the house is owned by one person only, the other would have to prove a financial contribution or a common intention of beneficial interest. The law regarding this area is very complex.

The Government's Law Commission report earlier this year recommended a change in the law so that after a period of time living together the parties should acquire certain rights however the report has been shelved whilst it is seen what similar arrangements are worked out in Scotland.

There may be some glimmer of hope in that this autumn Lord Lester, a veteran human rights lawyer, will introduce a private bill in Parliament on rights for cohabitants.

In the meantime, cohabitation contracts may be one way to minimise the uncertainty and potential unfairness of the present law.

They are not very common in the UK as most couples do not think entering into one is romantic. However, given the problems that can and do occur on separation, these arrangements can be a sensible precaution.

Bina is Head of Family Law at Smith Partnership Leicester, Chair of Leicestershire Resolution and has a specialism in advising Cohabitees upon relationship breakdown. She can be contacted on 0116 247 2016 or [bina.modi@smithpartnership.co.uk](mailto:bina.modi@smithpartnership.co.uk). Initial free telephone consultations are also available.



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