

Managing Relationships

Pre-Nuptial Agreements – these are arrangements that can be put in to place before a marriage or a civil partnership takes place to demonstrate what you and your partner intend to happen to any assets, property or money in the event of the marriage failing.

Post-Nuptial Agreement – these agreements are created after the marriage or civil partnership and set out the couple's intentions as to how assets, property or money should be treated in the event of a divorce or dissolution of the civil partnership.

Are they legally binding?

The final say in financial matters on divorce or dissolution is still the court's and you cannot prevent the other party making an application to the court for a financial remedy other than the one set out in the pre/post nuptial agreement. However, in 2010 the Supreme Court said 'the court should give effect to a nuptial agreement that is freely entered in to by each party with a full appreciation of it's implications unless in the circumstances prevailing it would not be fair to hold the parties to their agreement.'

This case provides strong support for the enforceability of a pre/post nuptial agreement. However it is important to note that they are not allowed to prejudice the reasonable requirements of any children of the family.

Do I need one?

- Such an agreement could be useful in the following circumstances;
- Where it might be difficult to split an asset or property 50/50
- Where you want to preserve assets or property for children from a previous relationship
- Where you want to protect inherited money or assets
- Where you have substantial savings to safeguard
- Where you have a business that you would like to retain control of
- Where your partner has outstanding debt and you want to protect yourself from liability

Best Approach

It is important that that any court considering the validity of the agreement can see that it was created in circumstances where each party was fully aware of the other's financial position and was able to take independent advice on the agreement.

Living Together Agreements

Can be useful for couples who intend to cohabit but not to marry or become civil partners. It allows couples to set down their intentions as to how any property brought to the relationship is to be resolved should the relationship fail at some future point. This is helpful since the law does not offer any specific remedy for those who consider themselves to be 'common law' spouses.