

# BARKER GOTELEE

## S O L I C I T O R S

### LIVING TOGETHER AGREEMENTS

In 2001 the Census recorded over 2,000,000 cohabiting couples in England and Wales. Recent forecasts predict that by 2031 there will be 3.8 million cohabiting couples. Given this, it is alarming that couples who no longer wish to live together are currently reliant upon a patchwork of complex property, trust and tax laws to determine claims in relation to property, as opposed to being able to avail themselves of the more discretionary and generous arrangements afforded to divorcing couples.

For farming families one of the worst possible consequences of a family member separating from a partner may be the departing party claiming a share in a farmhouse, that has formed part of a farm managed by a family over many generations. This situation can all too easily arise where the one of the couple is the owner of the farmhouse and has allowed his or her former loved-one to make a financial contribution to the property, little knowing at the time that this may give rise to a claim.

A claim by a former partner for a share in a property owned in the sole name of the other person, even where entirely without merit, can have enormous nuisance value and in farming families can strike at the very heart of all that successive generations have tried to build-up over many years. Direct financial contributions by the departing party towards a mortgage on the property or an indirect contribution, such as paying for a conservatory, may be sufficient to establish an interest in a property, particularly if coupled with evidence of discussions or a promise to the effect that the benefit of the property is to be shared. Worse still a recent case has established that even where the departing partner has not made either type of contribution the court will give consideration to whether other types of financial contribution, such as paying household bills might give rise to a claim.

At the very least a successful claim may result in a large lump sum of money being found by the family to buy-off the departing party's share. At worst it may result in a sale of the farmhouse on the open market to an unrelated third party.



The legal position is fraught with pitfalls as it stands today but may be considerably worse for the partner who owns the property in the event that the recommendations in the recent Law Commission report "Cohabitation: The Financial Consequences of relationship Breakdown" become law, as they are expected to, although there is no timetable for the law reform yet. The report proposes that couples who have lived together for a minimum period (yet to be determined but probably between two and five years) be eligible for apply for financial provision from each other upon separation. Such provision can include property transfers, settlements and sales, but may also include lump sums of money and pension sharing orders.

In the event that these recommendations become law, and couples have chosen not to opt-out by written agreement, then it may no longer be necessary for a non-owning partner to prove a financial contribution to benefit from a property, other types of contribution, such as bringing up children, may do.

As the law stands any individual who is part of a couple living together and owns a property needs to be extremely cautious. Financial contributions towards a property or its expenses should not be accepted without first entering into a written agreement setting out exactly what that contribution will or will not buy the other party. This is the most basic form of agreement that will suffice, however many couples wish to be more expansive in their arrangements and choose to have a Living Together Agreement that deals with all aspects of their cohabitation for both the present and their future. Properly drafted and executed Living-Together agreements should effectively safe-guard property rights.

Couples who have lived together, but are separating and have children should be aware that additional rights, over and above those specified above, may be afforded to the parent with care of the children in the event of a relationship breakdown.

For more information about Living Together Agreement please see [www.clear.gb.com](http://www.clear.gb.com)  
Direct email: [ncola.furmston@barkergotelee.co.uk](mailto:ncola.furmston@barkergotelee.co.uk)