

Your survival guide to living together

The Supreme Court gave judgment in *Jones v Kernott* in November 2011 which could affect the two million or so couples who live together in the UK. Many of them own property together but if they split up, their rights are limited.

During the time that they lived together, Miss Jones and Mr Kernott shared the mortgage payments and upkeep on the house that they bought together in 1985. Mr Kernott left the house when the relationship ended in 1993 and Miss Jones remained there, paying the mortgage and raising their two children without any financial contribution from Mr Kernott. They cashed in a small joint savings policy, and Mr Kernott used that as a deposit to buy another property in his sole name.

In 2006, some 13 years after they had separated, Mr Kernott told Miss Jones that he wanted his 50% of the property value. The Court recognised Miss Jones' financial contribution and ruled that he was only entitled to 10%.

This decision has wide financial implications for couples living together and highlights the need for unmarried couples to protect themselves. Here are some suggestions:

1. **Common law spouses**

A lot of people still believe in the existence of “the common law marriage”, which gives some cohabittees the same rights as married couples. English law does not recognise such partnership and there is no such thing as a common law husband or wife! Couples who live together do NOT have the same rights as a married couple.

2. **Ownership of the house**

Where a family home is bought in the joint names of a cohabiting couple but without any express declaration of their interests, there is a presumption that if the legal title to the property is in joint names then each is entitled to 50%. Property ownership should be agreed and recorded in a Declaration of Trust, which can be drawn up by your solicitor at the time of purchase. Your options are sole ownership, equal ownership, part ownership, or owning a share on a fixed basis or even on a floating basis in proportion to the contribution made by each party.

3. **Sign a Living Together Agreement**

Consult a solicitor and draw up a Living Together Agreement to ensure that your agreed intentions about the relationship or what will happen in the event that the relationship breaks down are recorded in a binding contract. A Living Together Agreement can also cover parenting arrangements for any children.

4. **Make a Will**

If a cohabiting partner dies without leaving a Will, the surviving partner is not automatically entitled to a share in the estate. If a Will has been made but there is insufficient provision for the surviving partner and children, there will often follow a contested application against the deceased's estate which can be time consuming, expensive, and very distressing.

5. **Review your Will**

If your partner dies, inheritance tax could cripple your finances. Review your circumstances regularly and take expert advice.

6. **Tax advantages**

Cohabiting couples are taxed as single people. However, if you are cohabiting and own and sell more than one property, you may have a Capital Gains Tax advantage over married couples.

7. **Pension arrangements**

Pension sharing is available on divorce, but is not available if cohabiting partners split up, or if one partner dies. You should explore the possibility of nominating your partner as your dependent for any death in service benefits.

8. **Life insurance**

If you make a significant financial contribution to your household and have dependents or debts, then you should consider insuring your life.

9. **Women and their careers**

If a woman gives up work to care for children, her earning potential can diminish. Wives who divorce their husbands are entitled to share in the couple's assets including maintenance. Women who cohabit have no such automatic rights.

10. **Marriage**

If you live together, marry and later divorce then the period of cohabitation will be considered when assessing the overall length of the marriage and the financial settlement. Enter into a Pre-nuptial Agreement before marriage to protect your position.

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