

Living together? How safe are you?

by Tom FitzPatrick, **FitzPatricks solicitors**

The popular idea of a Common Law marriage simply does not exist. There is no such thing. If you live together informally, you may suffer badly – legally speaking – if your relationship breaks up or your partner dies, compared with spouses or civil partners.

Wills: if a co-habitant dies without a will, his assets pass to the next of kin. The co-habitant/partner gets nothing and cannot administer the estate, however long and close the relationship. In a same sex relationship, the relationship must have lasted for two years before any legal rights are acquired but there is no legal provision in an informal different sex relationship. Dangerous.

Tax: for spouses or civil partners, where one makes a gift to the other in a will, or during lifetime, the gift is free from Inheritance Tax when the first partner dies. Co-habitants pay Inheritance Tax twice. Costly.

Pensions: pensions usually contain pension rights for widow(er)s but may not consider surviving partners – it depends on the terms of the pension plan. Worrying.

Health: only if a Lasting Power of Attorney has been signed – which cannot be before 1st October – will one partner have any right to look after the health and welfare of the other. Unsympathetic.

Protection: co-habitants need a Declaration of Trust for jointly owned property. In a marriage or civil partnership, there are principles determining the division of assets on death or divorce. This is

not so for co-habitants. Judges spend hours trying to work out the intentions the parties had when the relationship started, in order to be fair to both. The parties will both end up dissatisfied – and then they receive the bills from their lawyers. Far better to reach agreement while you are on speaking terms.

Parents: unmarried fathers do not have the same automatic rights for their children as unmarried mothers. Tricky.

Previous relationships: if your partner is still married to, or in a legal civil partnership with, someone else, or if there are children from a former rela-

tionship, you may be left out entirely. Ouch.

People of all ages co-habit – many simply for companionship. This may have income tax advantages, but it can also be financially risky.

If you marry or become civil partners, remember that this will totally revoke any previous will – unless it was made in contemplation of the happy event.

It may be time you visited your solicitor to sort things out. *For more information and advice on family matters, contact FitzPatricks solicitors tel: 01444 870123 www.fitzpatricks-law.co.uk*

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