



Pictons Says How to Protect Yourself When Cohabiting- No Such Thing As Common Law Marriage Says Sunday Times

It's a popular myth for many people, including a lot of cohabiting couples that there is such a thing as a 'common law' marriage which would give couples who live together, especially for those in long term relationships, the same rights as legally married husbands or wives.

While many women especially might think that they and their children are securely protected should the relationship break down between the cohabiting couple there is currently very little in the law that protects them financially. Even after 25 years the less well off party could be stranded without a penny.

In a British 'Social Attitudes Survey' an astonishing 51% of people thought that unmarried couples who live together 'probably or definitely' had a 'common law marriage' status. Although marriage rates are rising slowly, the popularity of cohabitation has never been greater. When marriage does occur it's often with the children present as bridesmaids or page boys.

Siobhan Rooney, a Partner and Family Law specialist at award winning leading regional law firm Pictons says "In the House of Lords there is currently a private members bill, the Cohabitation Rights Bill, which proposes that couples who have lived together for more than two years should be granted many of the rights of those who are married. While there is currently greater protection for cohabiting couples in Scotland there is no equivalent law in the rest of the UK.

"We think that with so many couples living together and having families, it is vitally important that people make provision now with the options that are available. With the help of a lawyer it is easy to create a cohabitation agreement that protects both parties and, where relevant, children too in the case of a split. We always recommend that couples make their own wills and they can also put both names on a tenancy agreement or take out a joint mortgage. All of these help to ensure the financial security of unmarried couples and their children.

"The private members bill on cohabitation will require couples to opt out of a legal commitment rather than opt in. This is almost enforced marriage by the state. A landmark case in Scotland involved an older couple who split up after 5 years. The woman, whose former partner had encouraged her to sell her flat when they moved in with each other, successfully sued her ex on the basis that her flat was now worth almost £40,000 more than at the time she sold it and he was held responsible for the difference. I think what is preferable is that people have the choice on whether they want to get married or not and if it's the latter they should take the necessary legal precautions that are available to them now to ensure their future financial security."

If you would like to talk to someone about making a cohabitation agreement or what it involves then please contact Siobhan or one of her team on 0845 263 7505 or email us via info@pictons.co.uk