

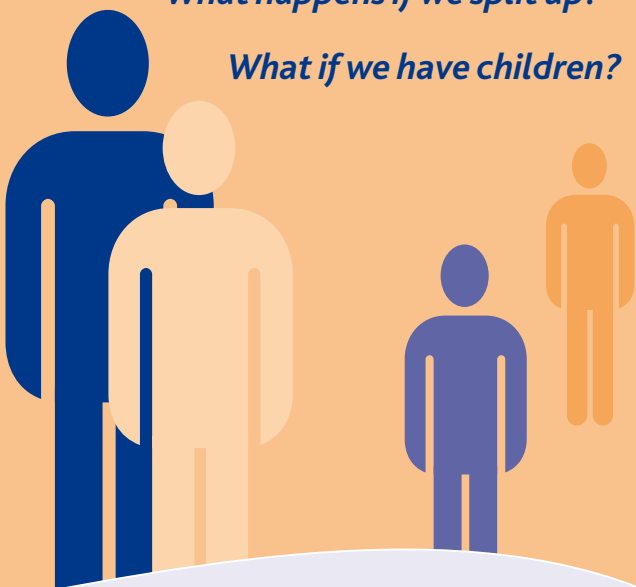
Living together

Your rights if
you are not married

*How is living together different
from being married?*

What happens if we split up?

What if we have children?



0845 345 4 345

www.communitylegaladvice.org.uk

See page 10 for useful phone
numbers and website addresses

A free and confidential advice
service paid for by Legal Aid

community
legal advice

Community Legal Advice

This guide has been produced by Community Legal Advice (CLA), a free and confidential advice service paid for by legal aid.

Community Legal Advice provides:

- advice leaflets on a range of topics
- a helpline **0845 345 4 345**
- a website

www.communitylegaladvice.org.uk

People on a low income can get free, specialist legal advice from the CLA helpline.



What's the difference between living together and being married?

Legally, there are big differences between living with your partner and being married to them. Living together does not give you legal rights over each other, or legal duties and responsibilities to each other. The terms 'common-law wife' or 'common-law marriage' have no meaning when it comes to legal rights in England and Wales.

If you separate, it can be harder to sort out your affairs if you are not married, particularly if you have money and assets (a house, for example) that you share. And splitting up might leave you in a difficult situation because, for example, you can't claim maintenance from your partner, however long you have lived together.

Another important difference is that, if one of you dies, the other has no automatic right to inherit their property, as you would if you were married.

Can we make our relationship legal?

You don't need to make your relationship 'legal' but it can be a good idea to put in writing any agreement about what things you'll share, and how. This means that, if you ever split up, you'll each know where you stand, and it should avoid costly arguments.

You can do this by preparing a 'living together agreement'. This is a document in which you can include such things as who will pay for what and how you will share the home. You can also say what you think would be fair if you split up. You can prepare a living together agreement yourselves, but it's a good idea to ask a solicitor to help you draw one up, to make sure it will be legally binding.

You can download a sample living together agreement from the **Advice Now** website, at www.advicenow.org.uk/living-together

If you're gay or lesbian

If you're gay or lesbian, you can form a civil partnership instead of getting married. The law is mostly the same for marriages and civil partnerships, and the information in this leaflet about being married also applies to being in a civil partnership.

What should we do if we're buying a home together?

If you want to buy a home together, there are broadly two ways you can share the ownership:

- 'joint tenancy', which means you each hold an equal half share in the home but, as long as the joint tenancy exists, neither of you can take the other person's share.
- 'tenancy in common', which means you hold the property in shares and you can state how much you each hold when you buy the property – it doesn't have to be equal.

An importance difference between these types of shared ownership is what will happen, and what options you have, if you split up or if you or your partner dies.

The solicitor you use when buying a home should be able to explain the differences in detail, to make sure you get the arrangement that best suits your needs.

What should I do if I want to split up with my partner?

If you're thinking about splitting up, it's a good idea to get some advice from a solicitor who specialises in family and relationship matters. He or she will tell you where you stand and help you work out your options. You may decide, after a first meeting with a solicitor, that you can sort things out yourself, but at least you will do this knowing about your legal position.

You should try to find a solicitor who has experience of dealing with the problems of unmarried couples, as it is a difficult area of the law.

You can find solicitors in your area through:

- **Resolution**, the association of specialist family solicitors – phone **01689 820272** or visit www.resolution.org.uk
- **Community Legal Advice** – phone **0845 345 4 345** or visit www.communitylegaladvice.org.uk

What rights do I have if I live in my partner's home and we are splitting up?

Living in your partner's home does not give you any automatic rights there. So if they want to sell it, you may not be able to stop them, or to stay living there.

However, if your partner has agreed to share the ownership with you, you should have a say in what happens. But if this agreement was only spoken, you're in a difficult situation and you'll need legal advice. If you have something written down, you're in a much stronger position.

Your position is also stronger if you contribute to the home by helping to pay for it or doing work on it. But this is complicated, and if your partner is trying to sell the home or make you leave you should seek advice from a family solicitor who has experience in this area. See the opposite page for how to find solicitors in your area.

Who has to pay the bills and debts?

While you're living together, you can of course decide between you who will pay what. But you should be aware of your responsibilities if your relationship breaks down, or your partner leaves.

The law says that if you take on a debt (a mortgage or a loan, say) jointly, then you will be 'jointly and severally liable' for it. This means that if one of you does not pay your share, the other can be made to pay the whole lot. If one of you stays living in the home after you separate, then that person would normally pay the mortgage and other bills to do with the home.

In a similar way, you may also have to pay for all the utility bills, such as gas and electricity bills, if your partner does not pay their share.

However, if a loan or debt is in your partner's name only, you can't be made to pay it if he or she does not.

What happens to the things we own if we're splitting up?

If you're splitting up, you need to agree with your partner who will keep what. If you can't do this between you, it's worth trying mediation. In mediation an independent person (the mediator) will help you find a solution that you're both happy with. See 'If you want to try mediation', on page 8.

If you can't come to an agreement, then, legally, who owns each item depends on who paid for it, or whether you each paid a part of it, or whether it was paid for out of joint money.

Obviously, in many cases, you can't cut in half something you both paid for. So, unless you can agree about the things you own jointly, you may have an expensive legal battle that could cost far more than the things themselves are worth. It's therefore worth trying mediation if you and your partner can't sort things out yourselves.

If you want to try mediation

If you and your partner separate, you can use mediation to help you come to an agreement about how to divide up the things you own. If you have children, you can also use mediation to agree where they will live, and how you will each arrange to see them. Several organisations can provide details of family mediators in your area:

- Family Mediation helpline
phone: 0845 60 26 627
www.familymediationhelpline.co.uk
- UK College of Family Mediators
phone: 0845 65 85 258
www.ukcfm.co.uk
- Family Mediators' Association
phone: 0808 200 0033
www.thefma.co.uk

What happens to the children if we split up?

If you have children, sorting out what will happen to them is often the most distressing and difficult part of separating. You will need to work out where the children will live (called 'residence'), and how often they should see the parent they don't live with (called 'contact'). You could use mediation to help with this – see 'If you want to try mediation', left.

If mediation isn't suitable for you, or if it doesn't work, you can apply to the court for an order. You do not need a solicitor to do this, but you should get some legal advice before you start so you know where you stand. See 'Where can I get further help and advice?' on page 10 for how to find a solicitor.

Legally, you or your partner's rights in relation to the children depends on who has 'parental responsibility'. In many cases this will be obvious, because you and your partner will be named on their birth certificates. But if, for example, you or your partner had children from a previous relationship before you started living together, the new partner may not have parental responsibility. This means they may have no automatic right to decide what happens to the children.

For more about court orders for children, see the leaflet, 'Children and the Family Courts'. To get hold of a copy, contact your local county court – its number will be listed in the phone book under 'Courts'. You can also download it from the Courts Service website (www.hmcourts-service.gov.uk).

Where can I get help and advice?

For most people, the first step is to speak to a solicitor who specialises in family law.

You can find solicitors in your area through:

- **Resolution**, the association of specialist family solicitors – phone **01689 820272** or visit www.resolution.org.uk
- **The Law Society of England and Wales** – phone **020 7242 1222** or visit www.lawsociety.org.uk

If you feel you can't afford a solicitor, you may be able to receive legal aid to cover your legal costs. See 'Can I get legal aid?' on page 12 for more about this.

Community Legal Advice

You may have other problems, apart from your relationship breakdown itself, such as concerns about benefits and tax credits, debt, employment or housing. Community Legal Advice can help with these. It's a free, independent and confidential advice service paid for by the government.

- If you have a low income, including benefits, and qualify for legal aid, you can call for independent advice about debt, education, benefits and tax credits, employment and housing problems.

- If you don't qualify for legal aid, or if you have another type of problem, we can put you in touch with other organisations, helplines or local advice services that can help, and we can direct you to other legal information resources.

How to contact us

You can speak to our advisers in several ways:

- Call us on **0845 345 4 345** from 9am to 8pm Monday to Friday, 9am to 12.30pm Saturday. Calls cost no more than 4p per minute from a BT landline. Calls from mobiles are usually more. Worried about the cost? Ask an adviser to call you back.
- Request a callback through our website, at www.communitylegaladvice.org.uk
- Text 'legalaid' and your name to **80010** and we'll call you back within 24 hours.

Help on the internet

Our website www.communitylegaladvice.org.uk has lots of help, including:

- our online directory of advisers, organised by areas of law
- more information about legal aid and who can get it
- online factsheets and leaflets that you can download, on lots of topics, and
- links to specialist organisations, charities and support groups in your area.

Can I get legal aid?

If you need help with the costs of legal advice, you can apply for legal aid. Whether you will get it will depend on:

- the type of legal problem you have
- your disposable (spare) income and how much disposable capital (money, property, belongings) you have
- whether there is a reasonable chance of winning your case, and
- whether it is worth the time and money needed to win.

There is an online calculator on our website, at www.communitylegaladvice.org.uk/en/legalaid where you can see whether you could be financially eligible for legal aid.

What if I think I am eligible?

If you think you could be eligible for legal aid, you should speak to a legal adviser who can deal with legal aid cases. You can search our directory to find an adviser in your area, at the 'Find a legal adviser' section of our website www.communitylegaladvice.org.uk or call our helpline 0845 345 4 345.

Help for other problems

This leaflet is one of a series of free leaflets produced by Community Legal Advice giving easy-to-read advice on a range of problem areas. The leaflets in this series are:

- C1 Dealing with rent problems**
- C2 Domestic abuse**
- C3 Fair treatment at work: your rights if you are disabled**
- C4 Your rights at work**
- C5 Dealing with debt**
- C6 Losing your home**
- C7 Claiming benefits**
- C8 Problems with school**
- C9 Mental health laws**
- C10 Community care**
- C11 Divorce and separation**
- C12 Living together**
- C13 Medical accidents**
- C14 Dealing with the police**
- C15 Care proceedings**
- C16 Claiming asylum**
- C17 Removal and deportation**
- C18 Dealing with a will**

You can order any of these leaflets free by:

- phoning **0845 3000 343**
- faxing **0845 5438 258**, or
- emailing orderleaflets@communitylegaladvice.org.uk.

All these leaflets are also available in Welsh, Braille and Audio.



The Legal Services Commission manages the Community Legal Service and Community Legal Service Fund (legal aid). To find out more about us, visit www.legalservices.gov.uk

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