

**CAMERON JONES
HUSSELL & HOWE LTD
SOLICITORS**

**PRENUPTIAL/COHABITATION
AGREEMENTS**

INTRODUCTION

Cameron Jones Hussell & Howe Ltd is a local firm providing a comprehensive range of legal services to the general public. We aim to provide an effective service in a friendly and approachable manner and to combine modern ideas and technology with the traditional values of a family practice. Our ethos is “forward thinking: forward planning”

YOUR MATTER EXPLAINED

You may already have been through the trauma of a relationship breakdown. If so, you will know just how difficult this can be. If you have experienced the stress of contested proceedings in relation to finances and property you will undoubtedly wish to avoid such problems as far as possible in the future.

At this point, entering into another long term relationship, remarriage, or civil partnership may be the furthest thing from your mind but we would urge you to consider protecting your assets and

ordering your affairs, in the event of this happening. Think about prenuptial or cohabitation agreements.

**WHAT IS A PRENUPTIAL
AGREEMENT?**

This is a contract entered into before a marriage or Civil Partnership containing provisions for the division of property and financial support in the event of divorce, or civil partnership dissolution.

Presently, such agreements are likely to be upheld by a court if they are not unfair. They can still be scrutinised by a court so we cannot guarantee that the agreement will be mirrored in any Court Order.

There has been a Law Commission report which includes a draft bill that would make such agreements binding. At the present time we can say that the agreement will do no harm and may do a great deal of good.

WILL IT BE UPHELD?

The agreement is far more likely to be upheld even under the current law if certain conditions are met. We recommend that:

- a) These matters are considered at an early a stage as possible. The nearer you get to the wedding/civil partnership ceremony the more likely a court is to feel that too much pressure was brought to bear on the other party. The Law Commission proposals suggest that the agreement should be concluded at least 28 days prior to the marriage. We consider this would be the minimum and a far longer period would be preferable.
- b) It is helpful if both parties have taken legal advice and certainly have had the opportunity of taking legal advice.
- c) Ideally, there should be full financial disclosure so that each party is able to consider matters in a fully informed way.
- d) The agreement should be broadly fair and give consideration to potential changes in circumstances and review in future.

**WHY DO I NEED A COHABITATION
AGREEMENT?**

More and more couples are now living together rather than marrying. This can create complex legal issues. Many people still believe that there is such a thing as a common-law husband and wife. This is not so. Disputes between former

cohabiting couples can be very expensive and protracted and very often turn on what the intention of the couple was when they purchased a property or when one party moved into a property owned by the other. If there is little or no evidence in writing then the Court has to decide. How much better to provide that evidence from the very outset, so that both of you are clear as to what is intended, and both are able to protect their own assets and property.

As is the case of prenuptial agreements we cannot guarantee that these agreements will be upheld but provided there has been financial disclosure, legal advice (or at the very least, the opportunity to get legal advice), and there is no duress or undue influence, then it seems likely the agreement would be upheld, or at the very least would constitute a very persuasive piece of evidence. The agreement needs to be in the form of a deed and we would ensure that this is the case.

WHAT CAN BE INCLUDED?

We suggest that the agreement deals with how you wish to own your property/home; how you contribute to the outgoings, possible financial support (or not) post separation; joint accounts and credit cards; cars and personal property including furniture.

Other matters can be considered and agreements can be tailored to your needs.

COSTS

We can discuss costs with you and, if appropriate, consider a fixed fee for dealing with this on your behalf. We offer a fixed fee interview in all matters whereby we can discuss your matter for up to an hour and provide basic written advice for £95.00 plus VAT.

Please note that we cannot accept payments in excess of £500.00 in cash but need such payments to be made by cheque, standing order, bankers draft or bank transfer.

CONFIDENTIALITY

We will not discuss your business or disclose the contents of your file to any third party without your written consent except that:-

- Unless you instruct us otherwise, your file may be used for auditing or monitoring purposes and
- We are legally obliged under the Proceeds of Crime Act 2002 and other similar legislation to

report any knowledge or suspicion of money laundering to the National Criminal Intelligence Service

CONCLUSION

We hope that the above notes and observations are helpful to you and will assist you in understanding how this matter is being dealt with. Please retain it for reference and if you have any comments or observations about our services then please do not hesitate to let us know.

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This leaflet is intended as a guide for existing clients of Cameron Jones Hussell & Howe Ltd. It is not intended to be a detailed statement of the law nor does it obviate the need to take detailed legal advice.