

• **DON'T JUST PLAN THE WEDDING, PLAN YOUR FUTURE**

With all the excitement, happiness and work that a wedding entails, it's not surprising that few of us take the extra steps of planning for the future. For example, how will your finances get unravelled if the relationship breaks down or if one of you dies?

In the past it was less common for there to be mention of pre-nuptial or post-nuptial agreements or the need to make wills when planning a wedding. And not many unmarried couples buying a house before they married considered a co-owners' agreement or made wills. Often this was because a lot of us like to think: 'It's not going to happen to me'.

There has been uncertainty in Jersey law for some time about the effects of pre-nuptial agreements, or 'pre-nups' as they are commonly called. Recent developments in English case law have established that the existence of these agreements can be a factor that the court will give weight to, if they meet certain criteria, such as being kept up to date with changing circumstances and being generally fair to both parties.

Couples without such an agreement, who then go through a divorce, will need to agree on a range of issues such as whether the house is kept or sold, taking into account their own and any children's needs; what they can afford; and what is fair, at a time when trust and understanding can be at an all time low. Not always an easy task.

If the parties cannot agree on those issues, then the court will need to make those decisions for them, frequently at great expense.

Where a property is jointly owned, regardless of whether the parties are married or not, if the relationship breaks down and the parties are unable to agree on what to do with the jointly owned property, a legal remedy available is "licitation" proceedings before the Royal Court. This is, in effect, an enforced sale of the property, by public auction. Either party may then ask the court to divide the proceeds of sale on the basis of contributions by each of the parties, i.e. did one pay the mortgage while the other paid certain bills? This procedure is extremely costly and time-consuming, eating away at those very proceeds that are being argued about.

Jersey also has the added complication of housing qualifications. Generally, a person without housing qualifications is not always able to own or take over the ownership of the property following the breakdown of a relationship and this is an area of law upon which detailed legal advice is needed. It is crucial for people in this position to protect their future by entering into a co-habitation agreement and a pre- or post- nuptial agreement, to secure their share of the joint investment and identify how the financial arrangements will work following any breakdown of the relationship.

The courts will protect and provide but this can be an expensive and slow procedure. While planning your big day, it is worth taking time to plan for your future by taking legal advice and considering matters together as a couple.

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