

Prenuptial Agreements



A quick glance at the UK's divorce statistics will tell you that prenuptial agreements make sense. Over one in three modern marriages now end in divorce, making it sensible to think about the consequences of your relationship ending even before you say "I do".

It's a common misconception that pre-nups are only for the wealthy. Nor do you need to be part of the financial elite to enter into one. Indeed, there are many reasons to consider a prenuptial agreement, even if you don't have substantial pre-marriage assets to protect.

Whilst we all begin marriage with notions of wedded bliss, entering into a pre-nup doesn't need to be seen as planning for divorce.

In fact, agreeing an exit plan with your spouse before you marry is a smart move and one that could save you a significant sum of money further down the line.

So why don't more couples consider a prenuptial agreement? In this factsheet we'll help you decide whether one is right for you.

What is a prenuptial agreement?

A prenuptial – or 'pre-nup' – is a legal agreement that you sign before you get married or enter a civil partnership.

This agreement will set out your individual assets at the time of your marriage. It'll also detail precisely how your assets – including money, investments and property – will be divided in the event of separation or divorce.

Is a pre-nup legally binding?

Whilst not currently enforceable under English

Law, prenuptial agreements are increasingly being given more and more weight in divorce proceedings.

A pre-nup actually serves as a useful indicator of your intentions at the time of your marriage or civil partnership.

So assuming you've made it willingly, taken legal advice, disclosed your assets in full and it's fair on the face of it, it's likely that a court will decide that the pre-nup settles matters between you.

It's worth remembering that the court always has the final say though. The Judge also has the right to disregard any agreement if it's considered to be unfair, particularly towards children.

What is the benefit of a pre-nup?

The basic premise of a pre-nup is to protect the interests of both parties in the event that you separate or divorce.

You may own family assets or property from before your current relationship. Or maybe you have children from a previous relationship and want to ensure their financial security. If you want to protect or safeguard anything that you own yourself, a prenuptial agreement is a good way of doing so.

But before you enter into a pre-nup, you'll need to be honest about your finances. This can never be a bad thing. Money can be a major source of contention between couples, so setting out your assets in a pre-nup gives both of you the opportunity to find a balance.

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And of course, let's not forget that if things don't go to plan, a prenuptial agreement can save you time and money by ensuring that you don't end up in a long and bitter court dispute with your partner.

Is a pre-nup for me?

A degree of scepticism about prenuptial agreements is natural. Many people are reluctant to consider them and indeed, one of the many criticisms levelled at pre-nups is that they're 'unromantic'.

Try not to think about pre-nups in negative terms. Instead consider your agreement as an insurance policy. By taking it out before you commit to marriage or a civil partnership, you're securing yourself against a potentially messy, if not expensive, divorce.

On the other hand, you may assume that a pre-nup isn't necessary for you as you don't have significant assets at this point in time.

Maybe that's the case, but if any of the following apply to you, we would recommend that you get independent legal advice to clarify your position.

- + You own assets, such as investments or property, that were acquired before your current relationship
- + You own your own business or a share in your family's business
- + You stand to come into an inheritance
- + You have children from a former relationship.

Final advice?

Nothing stops a conversation dead in its tracks quicker than the mention of a pre-nup. But sitting down with your partner to discuss potential problems can only make that transition from wedded bliss to separation that much easier, if it does happen.

If you're not sure, speak to a family law solicitor before you tie the knot. They can tell you honestly whether you should consider a pre-nup. They can also talk you through the pros and cons of entering into one.

Of course, it's never going to be easy to countenance the possibility of your marriage or civil partnership not working out. And it's even harder to detail what will happen to your assets if that actually happens.

However better now, whilst your relationship is solid and your intentions are clear than in court and before a Judge.

Further information

If you need to speak to a family solicitor about a prenuptial agreement, call **0117 325 2929** or visit **barcankirby.co.uk**.

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