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PRE-NUPTIAL AND POST-NUPTIAL AGREEMENTS

A pre-nuptial or post nuptial agreement is a written agreement drawn up by a couple prior to or shortly after marriage.

The purpose of the agreement is to enable you and your future spouse to express how you would want your assets to be divided in the event of a divorce. Whilst the agreements are not automatically enforceable by a court, they are given increasing weight, subject to the agreement having been properly prepared.

Both parties will need to have separate independent legal advice. The agreement will need to be drawn up in plenty of time prior to the marriage.



There can be no pressure from either party on the other to enter into the agreement.

It is imperative that you and your future spouse exchange financial disclosure before finalising the terms of the agreement. This allows you both to fully consider your respective income, property, other assets, pension and liabilities before agreeing how to separate your assets in any subsequent divorce.

It is preferable for the agreement to be signed at least one month before your marriage. The process of exchanging disclosure can take a number of weeks and so you should instruct your solicitor at least 4 months prior to the marriage. This will allow sufficient time for relevant discussions to take place and advice to be given. It will also strengthen the weight of the agreement should either of you seek to challenge it after separation.

It is useful for you and your future spouse to have discussed your intentions prior to instructing solicitors. However, the court has a discretion to depart from an agreement considered to be unfair in all the circumstances. Your solicitor will advise you as to whether your intended agreement is likely to be upheld by the court. If not, advice will be given as to a more appropriate agreement. It is important that you and your future spouse are happy with the final agreement as it must be signed willingly by both parties.

Important considerations for the agreement are as follows:

- Request your financial disclosure in early course, including CEV of pensions
- Consider the extent of any assets brought into the marriage by one or both parties
- How will the assets be divided upon any subsequent separation?
- How will the needs of any children be met for housing and financial support?
- Does the agreement meet the needs of both parties if they divorce?
- Should there be a spousal maintenance payment?
- What will happen to assets acquired during the marriage jointly or separately?
- How will pensions be shared?
- What will happen to any gifts or inheritance received before and/or during the marriage?
- How will any debts be discharged?
- How often will the agreement be reviewed?
- Who will pay the costs of the agreement being prepared?
- What provision will be made in your Will?
- Instruct the solicitor at least 4 months before the marriage

A post-nuptial agreement can be used to ratify or vary a pre-nuptial agreement. It may be that you and your spouse did not enter into a pre-nuptial agreement but would still wish to agree how your assets will be divided upon any future separation. As with a pre-nuptial agreement, it is not legally binding on the family court. However, it will carry weight providing the agreement has been signed willingly and both parties have taken legal advice.



Taylor Bracewell Solicitors is a dynamic and forward thinking legal firm with offices in Doncaster and Sheffield. We are passionate about providing individual service and connecting with our clients on a one to one basis. This enables us to fully understand our clients' legal needs and deliver exceptional value in all our services.

If you would like more information about family or would like to arrange an appointment to discuss matters further, please contact us on 01302 341414 or 0114 272 1884.

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