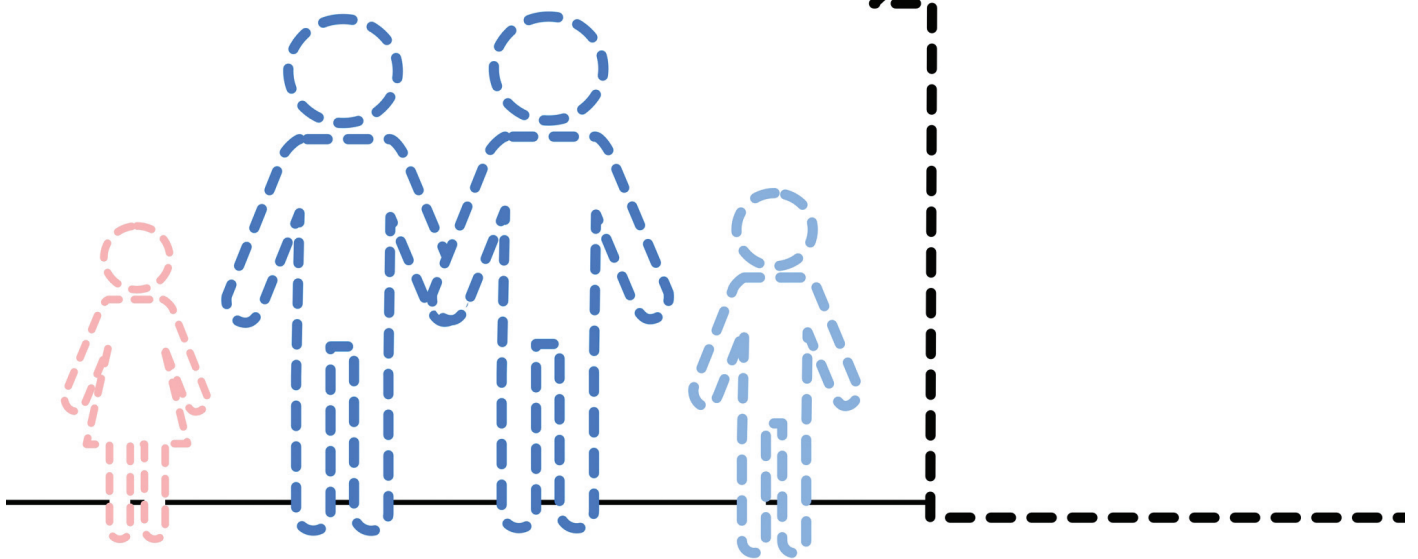


# THE FAMILY HOME

RIGHTS AND RESPONSIBILITIES FOR COHABITING COUPLES ARE VERY DIFFERENT TO THOSE WHICH APPLY TO CIVIL PARTNERS – EVEN IF YOU HAVE CHILDREN TOGETHER. **RHIANNON LEWIS OF DAWSON CORNWELL SOLICITORS** EXPLAINS THE VARIATIONS.



Rhiannon Lewis

**For cohabiting couples, the ownership of and the beneficial interests in the house in which they live are determined by complex property and trust law.**

If the house is in joint names, cohabiting couples usually have

equal rights. If it is owned by one of them, the other may be able to claim a share if they have made financial or other contributions to the property or if there was an agreement when it was bought that they would have an interest in it. If they can't, then they will have no rights over the property even though it may have been their home for years.

Civil partners have the right to remain living in their home, regardless of who owns it, until a financial settlement has been reached. On dissolution, the house can be transferred from one partner to the other or sold, regardless of who originally bought it.

## SEX AND SENSIBILITY

**Cohabiting gay couples have no claim against the other's property, assets or investments, unless they can prove a beneficial interest under property or trust law.** Civil partners can claim a share of the assets regardless of which partner owns them. How the assets are divided up is circumstantial.

## MAINTENANCE

**Civil partners have a legal duty to support each other.** On dissolution, one partner can be ordered to pay maintenance to the other. It can last until death or subsequent civil partnership/marriage by the partner in whose favour the order has been made, though the judge must consider whether it should be for a limited term. The amount can vary.

**Cohabiting couples have no such legal duty of support.** This means that they have no right to claim maintenance from each other. This can work unfairly. Someone who has cohabited for decades and may even have given up their own career to support the other could find they end up with no source of income. Of course, this does also protect those who don't want to end up paying for their former cohabitee years after their relationship has ended.

## CHILDREN

**Child support is governed by the Child Support Agency.** The basic payment is 15% of the non-resident parent's income for one child, 20% for two and 25% for three or more, but the figure is adjusted by various factors. Both civil partners and cohabiting couples can, in certain circumstances, claim a top-up maintenance for their children, to cover additional costs and school fees.

**Because cohabiting couples cannot claim**

**maintenance for themselves, any top-up maintenance can only be for the child.**

Cohabiting couples can also be ordered to provide a home for their children (and the prime carer parent), but once the children are grown up, the home must be returned to the parent who provided it and the prime carer parent must move out.

However, a word of warning to cohabiting lesbian parents: a recent case involving a lesbian couple who had a child by anonymous sperm donor has highlighted a loophole in the law. There was no power to make the non-birth mother provide financial support for the child, either through the Child Support Agency or the courts, because she was not a 'legal parent', even though she had shared residence and parental responsibility. This loophole would not now apply if the conception was arranged through a licensed UK clinic and agreed female parenthood conditions met.

## INHERITANCE

**A surviving civil partner also has much greater economic protection and entitlement on the death of their civil partner than would the surviving partner of a gay cohabiting couple.**

However a gay family relationship may be structured, there are important legal and financial consequences. Always obtain good legal advice.

**For more information, visit the website at [www.dawsoncornwell.com](http://www.dawsoncornwell.com)**