

GUIDE TO MARITAL AGREEMENTS

WHAT ARE THEY?

Marital agreements define who owns what while the parties are married and usually attempts to determine what will happen if they get divorced. There are two types of marital agreement:

- Pre-nuptial agreements, signed before the wedding ceremony;
- Post-nuptial agreements, signed after the wedding ceremony, but at a time when the parties still envisage staying together.

The civil partnership equivalents to the above are referred to as 'pre-civil partnership agreements and 'post-civil partnership agreements'. The formalities and effects are no different.

SHOULD I BE CONSIDERING ONE?

We would advise agreements to be considered where one or both parties has significant inherited or self-made wealth or has previously been divorced and wishes to protect assets for the children of their first marriage.

WILL THEY BE UPHOLD?

Marital agreements are not binding on the court but will be given considerable weight if they:

- attempt to be fair;
- acknowledge the existence of children;
- are signed without pressure, fraud or misrepresentation;
- are signed with parties having had independent legal advice and exchanged full-financial disclosure;
- are discussed and signed at least 21 days before the wedding (in the case of a pre-nuptial agreement).

If you're cohabiting and want to draft a similar agreement, please see our guide to cohabitation agreements.