



Family
Justice
Council

BRIEFING

Cohabitation

The current situation

There are currently over two million cohabiting couples in the UK. By 2021, this number is expected to rise to nearly 3 million couples.

The Law Commission published a report to Parliament in July 2007, setting out a series of recommendations to government, to help ensure fairer outcomes for separating cohabitants and their families.

Under the Law Commission's recommended scheme, compensation could be awarded where one partner had sacrificed their career, or had otherwise incurred financial loss, to the benefit of the other partner. Typically, this is likely to occur where one partner has stayed at home to look after children. Unlike in cases of divorce, however, cohabitants would not be expected to meet each other's future needs by means of maintenance payments and there would be no principle that the parties should share their assets equally.

The scheme would only apply to cohabitants who have had a child together or who have lived together for a minimum period. The Commission recommends that the minimum period for couples without children should be set within a range of two to five years. Couples who wished to do so could opt out of the scheme by a written agreement to that effect. They would then be free to make their own arrangements for what would happen to their assets in the event of separation.

In March 2008, the Ministry of Justice responded to the Law Commission's report by announcing that it would be taking no further action on the recommendations, choosing to wait until research findings from the implementation of the Family Law (Scotland) Act 2006, which came into effect in 2007, are available.



The Family Justice Council's view...

The Family Justice Council believes that the decision to delay action is out of step with public opinion. The current British Social Attitudes Survey, published in January 2008, shows that nine out of ten people think a cohabiting partner should have a right to financial provision on separation if the relationship has been long-standing, includes children and has involved the prioritisation of one partner's career over the other.

The Council believes the Ministry's decision does not fit with the government's commitment to equality and protection for the disadvantaged. Often the most vulnerable can be left homeless following relationship breakdown, with no claim to the property they have shared with their partner for many years. In these cases, the taxpayer is forced to fund welfare benefits and public housing to support those who should never have been left in that position.

However, the Council stands ready to assist the government in any evaluation of the operation of the Scottish legislation in order to inform future decision-making on this important issue.

Family Justice Council spokespeople

Jane Craig is a family solicitor specialising in cohabitation, divorce, pre-nuptials, child contact and financial cases.



Stephen Cobb QC is a barrister specialising in family law and was appointed Queen's Counsel in 2003. The majority of his practice involves children in public (care cases) and private law (contact cases) proceedings.



The Family Justice Council

The Family Justice Council is an interdisciplinary body made up of leading professionals working in the family justice system. The Council includes expertise from the judicial (judges, barristers, solicitors), medical (a paediatrician and a child psychiatrist) and social care (CAFCASS representation and a Director of Children's Services) worlds.



The Council aims to promote better and quicker outcomes for families and children who use the family justice system.

The Family Justice Council sits between government and the courts of the family justice system. It speaks with both the experience of its members, all eminent in their fields, and with an understanding of the realities of the system on the ground as perceived by its network of 39 Local Family Justice Councils.

For media enquiries please call
Amazon PR on **020 7700 6952**

For other enquiries please call the
Family Justice Council on **020 7947 7041**