

# AFR

Taking the Plunge

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**These days divorce and separation can potentially be expensive and lengthy so it is unsurprising that many people now take a cautious approach towards commitment.**

Getting married and buying a house rank as two of the most significant signs of commitment between two people; but can also be amongst the most stressful.

There are now several ways couples can be assured that in the event things do go wrong, issues can be resolved swiftly and smoothly.

Whilst some may perceive this approach as unromantic and pessimistic, there is no doubt that it can be seen as a commitment to one another at the outset and that there is no desire to go through a miserable and distressing separation in the unfortunate event that that happens.

When purchasing a house with a partner consideration should always be given to the contribution that each party makes at the outset. Ongoing contributions to any mortgage payments should also be accounted for. Where one party contributes a more significant lump sum than the other, one option is a cohabitation agreement whereby each party signs and agrees that, in the event of a separation, the party who made the contribution receives that back before the division of the remaining assets. (A cohabitation agreement ceases to take effect when the parties to it get married).

Alternatively, it is possible to consider purchasing a property in undivided shares. This option is best where one party will make a continuing disproportionate contribution to the other. The percentage contribution can be reflected in the share of the property owned by each party. In the event of separation, or the sale of the property, each party will receive the relevant proportion of the proceeds of sale.

When buying a property, purchasers are always advised to consider making a will. When buying together for the first time, couples can make reciprocal wills where the terms of each will are similar and mutually beneficial.

Marriage is arguably the ultimate commitment and no-one wants to think of the possibility that their 'always' is not going to be 'forever'. However, there are circumstances where a pre-nuptial agreement may be appropriate. This may sound very showbiz, but gives peace of mind to a range of people, perhaps where they already have children or a business interest to protect. There has been regular debate over the enforceability of such agreements but what is clear is that it's an illustration of the agreed position at the outset, although it is not binding on the Court.

Whilst many may read this and consider it to be a harsh approach, upon taking a step back it may be that there is some sense in these arrangements and serves as an illustration of intent by both parties not to go down fighting!

**AFR Advocates**