Key Considerations When Preparing a Prenuptial or Postnuptial Agreement

What Do You Want the Agreement to Achieve?
Consider the main reason for putting an agreement in place. You may want to protect assets accumulated before the marriage, safeguard a family business, preserve an inheritance or provide greater certainty for both parties about their financial future.

Your Current Assets and Liabilities
Prepare an overview of property, savings, investments, pensions, business interests and significant debts held by each party. Appropriate financial disclosure is an important part of ensuring that both people understand the circumstances in which they are entering into the agreement.

Property Owned Before the Marriage
Identify any homes, investment properties or other significant assets acquired before the relationship or marriage. Consider whether you want these to remain separate and what should happen if marital funds are later used towards them.

Business and Company Interests
If either party owns a business or company shares, consider their current value, ownership structure and whether other family members or business partners have an interest. An agreement can help clarify how business assets are intended to be treated if the marriage ends.

Inheritances and Family Wealth
Tell your solicitor about inheritances already received, anticipated inheritances or substantial gifts from family members. You may also need to consider trusts or assets which are intended to remain within a particular family.

Children and Previous Relationships

If either of you has children from an earlier relationship, consider whether particular assets should ultimately be preserved for them. Any agreement should also recognise that the financial needs of children can change and remain an important consideration if a relationship later breaks down.

Your Future Financial Needs

Think about how your circumstances could change during the marriage. Career breaks, childcare responsibilities, health, housing requirements and differences in earning capacity can all affect what may be considered a fair arrangement in the future.

Timing

If you are considering a prenuptial agreement, begin discussions well before the wedding wherever possible. Leaving matters until shortly before the ceremony can make negotiations more difficult and may raise questions about whether both parties had sufficient opportunity to obtain advice and consider the terms freely.

Independent Legal Advice

Each party should obtain their own independent legal advice. One solicitor cannot advise both people where their interests may differ, and separate advice helps ensure that each person understands the effect of the proposed agreement.

Future Reviews

Consider when the agreement should be reviewed. Significant changes such as having children, receiving a substantial inheritance, selling or growing a business, moving abroad or a major change in either party's financial circumstances may mean the original arrangements should be reconsidered.

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