



Pre-nuptial agreements

A legal guide for engaged couples



Attwaters
Solicitors

Pre-nuptial agreements are often dismissed as being “unromantic”. However, research from the Marriage Foundation shows that they neither increase nor reduce the risk of divorce.

At Attwaters Solicitors, we understand that separating seems unimaginable when you are happily engaged, but we do strongly recommend that you consider preparing a pre-nuptial agreement - just in case. Think of it as an insurance policy – it’s standard procedure to take out life insurance and home insurance, so why not protect your assets, too?

As we begin another year, now is a good time to get your affairs in order. If you’re getting married in 2025 or beyond, take this opportunity to talk to your partner about preparing a pre-nuptial agreement.



What is a pre-nuptial agreement?

Pre-nuptial agreements are special documents which outline how a couple's finances should be dealt with in the event of separation.

They can be used when entering both marriages and civil partnerships.

It is important to note that, while pre-nuptial agreements are not legally binding, the Court may place considerable weight on the document if the terms are deemed fair and reasonable.

The history

Historically, pre-nups were assumed to be necessary only for ultra wealthy individuals who have considerable assets to protect.

When celebrity couple Brad Pitt and Angelina Jolie announced their separation in 2016, rumours spiralled about the stringent terms of their pre-nuptial agreement. But attitudes are changing towards pre-nups and they are increasingly being viewed as valuable for everyone – not just famous people.

According to the Marriage Foundation, one in five UK couples who tied the knot between 2000-2021 have some form of pre-nuptial agreement in place. A landmark ruling in 2010 played a significant part in this; in a high-profile divorce case, the Supreme Court set a precedent for UK Courts attaching more substantial weight to properly prepared pre-nuptial agreements.

Why should you get a pre-nup?

People are now getting married at an older age. According to ONS data, the median age for a same sex marriage is 36.2 years for men and 32.6 years for women. Meanwhile, for an opposite sex marriage, the median age is 32.7 years and 31.2 years for men and women respectively – the highest on record. With this rising average age, couples may enter the marriage with more of their own non-matrimonial assets, so it's vital to protect them accordingly.

Wealth disparity

If you are significantly wealthier than your future spouse, a pre-nuptial agreement can help to safeguard your assets. Otherwise, you risk being negatively affected if assets are divided equally during divorce proceedings.

Safeguarding future wealth

Any financial assets that are acquired during a marriage are often treated as matrimonial assets. So, if you have a notably higher income or could inherit a significant sum of money during your marriage, it is wise to prepare a pre-nup so the assets aren't assumed to be jointly owned by both parties.

Owning a business

Businesses are included as assets during divorce proceedings. So, if you are a business owner, a pre-nuptial agreement can make sure that it would not be affected by a potential marriage breakdown.

Entering a second marriage

If you have children from a previous relationship, it is strongly advised that you protect their interests by determining which property or assets are set aside for them.

Protecting against debt

Pre-nuptial agreements don't just preserve your existing assets; they can also protect you against any debt accrued by your future spouse, both before and during the marriage.

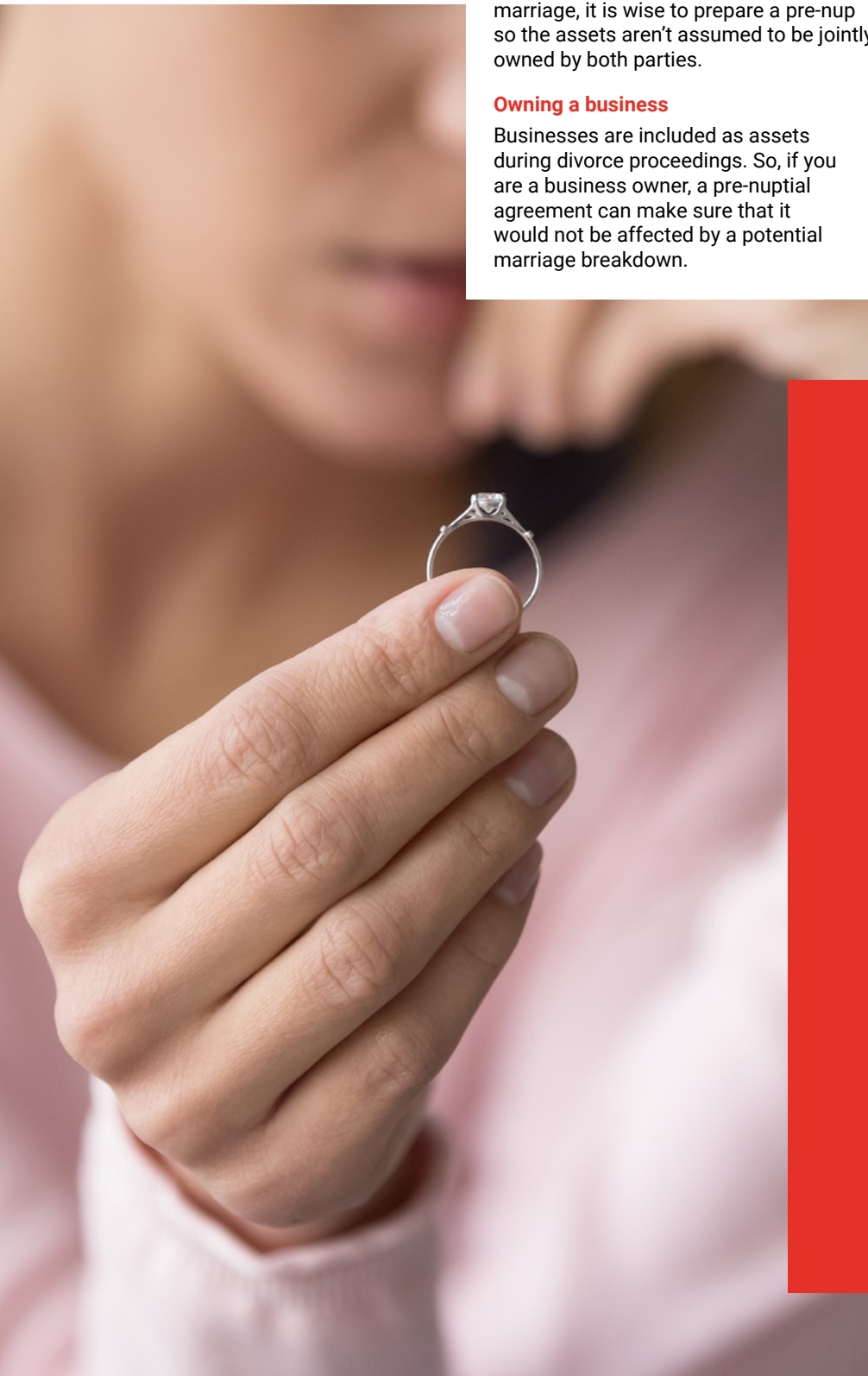
The benefits of pre-nups

Advantages of a pre-nuptial agreement include:

- Allowing for transparency and certainty on what will occur in the event of divorce
- Protecting assets from a later financial claim
- Reducing the likelihood of emotionally draining court proceedings upon the breakdown of a marriage.

The Court's decision

The Court's duty during divorce proceedings is to carefully consider each partner's circumstances and decide on the fairest solution for both parties. It should therefore be noted that the treatment of pre-nuptial agreements during financial proceedings can vary from case to case. For example, if a couple has had a child, the Court may need to prioritise their needs over the wishes expressed in the pre-nup.



Don't delay

If you're currently in the throes of wedding planning, make sure to set time aside to arrange your pre-nuptial agreement.

The documents need to be signed no later than six weeks before your legal marriage, so it shouldn't be left to the last minute. Plus, you will need to allow yourself time to properly digest legal advice and reflect on your decision before committing to an agreement.

How we can help

As pre-nuptial agreements are not legally binding documents, seeking independent advice will give the agreement more weight in Court. Each partner is expected to make a full and frank disclosure of all their wealth and assets, and the agreement must be considered as fair to the needs of both parties. We will work with you to ensure the final agreement has the best chance of being upheld

in Court in the unfortunate event of a marriage breakdown.

The Family team at Attwaters Solicitors has years of experience advising on all matters related to pre-nuptial agreements. We understand it can be daunting to broach this topic with your future spouse, but our friendly experts are here to help relieve some of the stress.



To arrange an initial free consultation with one of our approachable team members, get in touch with us on familydepartment@attwaters.co.uk or 0330 221 8855.

Where we are

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