

Written evidence from Mr Christopher Whitmey [HAB0184]

I'm well passed retirement age and got married in my late 30's. Without a legal definition cohabitation has no format of commitment that needs legal protection. Having carefully considered the six questions you pose I give my responses.

1. Should there be a legal definition of cohabitation and, if so, what should it be?

A prior question to this one is, what are the defining characteristics of cohabitation? Is it a case of cohabiting for X or Y years? Should they have entered into a Cohabitation Agreement?

2. What legislative changes, if any, are needed to better protect the rights of cohabiting partners in the event of death or separation?

If a couple have decided they do not wish to legally commit themselves to living together the question is what legal rights do they have. If they have entered into a Cohabitation Agreement or any legal rights concerning property (e.g. as joint-tenants) then these should already be protected according to law.

3. What equalities issues are raised by the lack of legal protection for those in cohabiting relationships?

Without an agreed definition of cohabitation it is difficult to envisage who the comparator would be.

4. Should legal changes be made to better provide for the children of cohabiting partners?

The plain wording of the Human Rights Act 1998 Article 12: Right to marry, clearly envisages that the setting 'to found a family' is within marriage: i.e. a legal commitment to a permanent relationship. Yet again without clearly defining the characteristics of 'better provide for' it is not possible to answer the question.

5. Should cohabiting partners have the same rights as those who are married or in a civil partnership?

If two people (presuming that cohabitation is limited to two people) are not prepared to legally enter into a commitment for their relationship why should they have the same rights?

6. Are there examples of good practice in relation to the rights of cohabiting partners in the UK or internationally that the Government should seek emulate in England and Wales?

I have not looked into the question. Which in the light of my above comments will not be surprising.

June 2021