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The Living Together Campaign - An investigation of its impact on legally aware cohabitants

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Research Report to the Ministry of Justice

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Executive summary

This is a summary of the findings of a short study carried out between January and September 2006 into the behaviour and attitudes of a group of 'legally aware' cohabitants/former cohabitants and intending cohabitants who had accessed The Living Together Campaign (LTC)'s website on the legal position of cohabiting couples - <http://www.advicenow.org.uk/livingtogether>. 'Legally aware' cohabitants are defined here as those cohabitants who do not believe in the 'common law marriage myth' and thus are aware by having accessed the LTC website or by prior knowledge that they do not have the same rights as married couples.

1. Aims and methods of the study

The principal aim of the research project was to explore the impact of the Living Together Campaign on those cohabitants who accessed the website and had therefore become aware of the different legal implications of heterosexual cohabitation as compared with marriage. The initiative to provide a user-friendly web-based legal information resource for cohabitants was prompted, at least in part, by concerns arising from earlier research. The British Social Attitudes survey (BSA survey) and follow up study undertaken between 2000 and 2002 (Barlow et al, 2001, 2005) revealed a widespread 'common law marriage myth' whereby the majority of people in general and of cohabitants in particular falsely believe that people who live together for a period of time acquire the same legal rights as married couples. Another significant finding of that study was that nationally very few cohabitants (under 10 per cent) sought legal advice or took legal action as a result of cohabitation unless and until the relationship broke down. What is more, this legal inactivity did not significantly reduce amongst 'legally aware' cohabitants who were not victims of the common law marriage myth, despite in the majority of cases, good intentions to do so rather than satisfaction with the default legal position. Reasons for this related both to an optimism bias whereby people assumed that they (unlike others) would not need such legal steps (e.g. they felt they were unlikely to die or split up in the foreseeable future) and also to the cost and complexity of the steps needed to take legal advice, make wills, cohabitation contracts or shared ownership agreements (see further Barlow et al, 2005).

Building on this, the current project sets out to assess the impact of the Living Together Campaign on cohabitants accessing the website who were 'legally aware' of how the law treated them; consider any effect this legal information and documentation resource had on such cohabitants taking appropriate legal action; and explore financial practices, attitudes to current cohabitation law and possible reform among this group.

The research was undertaken in two complementary phases. First an internet survey accessed from the LTC website was conducted and attracted 102 respondents. The survey was divided into three sections looking at -

- features of respondents' LTC website experience
- attitudes to current cohabitation law and possible reform, and
- respondents' demographic status and financial practices as a couple.

This was followed by semi-structured interviews where issues could be explored in more depth with a purposive sample of 30 (18 men and 12 women) selected from the internet survey respondents and some of their partners.

2. Who took part in the internet survey?

Overall the survey attracted a differential spread of people likely to access the website in terms of gender, socio-economic group, housing tenure and legal need, with high numbers of women and longer term cohabitants. We noted that-

- 78% of respondents were women
- Most respondents were aged between 26 and 55
- Over half had cohabited for over 6 years and 37% for more than 10
- The majority were never married but cohabiting, with a significant minority being divorced or separated.

3. Accessibility and use of the website

Survey respondents were asked how they found the website and to indicate which areas they found most helpful.

How did they find the website?

- 66% found the site by surfing the web
- 16% through the media campaign
- 11% from friends and
- 3% from leaflets.

The most helpful areas were –

- Money and property (for 56%)
- Inheritance and wills (37% and 32%)
- Next of Kin (32%).

Very few (7%) stated they did not find the site helpful.

4. The impact of the Living Together Campaign

Overall the impact of the LTC website on those who visited it can be seen as very positive.

What effect did it have?

Respondents generally felt that they had become more informed about their rights and obligations as cohabitants by visiting the LTC website and many considered they had become 'very well informed'.

- 90% felt the site improved their knowledge of their legal position
- Before accessing the site, 19% had felt very well informed about their legal position. After accessing the site, a further 41% felt very well informed.

Did it identify a need for legal action?

In over a third of cases, the information on the LTC website led people to identify a need for some form of legal action –

- 35% of respondents indicated that they did intend to take action following their visit to the site.

When asked which actions they felt they needed to take, these survey participants reported a variety. Most common included –

- Discuss the Living Together Campaign with your partner (36%).
- Make a will (29%)
- Seek further legal advice (28%)
- Nominate a Next of Kin (21%),
- Make a Living Together Agreement (19%)

Significantly, a few (3%) indicated that they now intended to marry.

In the interview phase of the study, several respondents had recently moved in together, or were planning to. For these couples the site had been particularly useful in helping them sort out their financial affairs and make explicit agreements about their roles.

Reasons for not taking legal action

While a significant number intended to take action, few if any had actually done so by the end of the project. Respondents to the internet survey gave the following reasons for not having taken legal action -

- 35% intended to take action but hadn't yet got around to it
- 10% said their partner would not agree
- 10% felt they needed legal advice but could not afford it
- 9% felt that action might cause problems in their relationship
- 18% felt that no action was needed.

When these responses were explored in more detail in, one of the main reasons for not taking action was the perceived lack of suitable actions for cohabitants to take, especially for the longer term cohabitants. For them, the website highlighted the lack of legally enforceable options for their requirements on inheritance, pension rights, and next of kin rights. Some were hoping for the law to change on these issues before they had to decide on an action. This was particularly the case for the Living Together Agreement (or Cohabitation Contract) which had been popular in theory with respondents. People generally felt that the agreement, suggested on the LTC website, was not very useful as it might not be legally binding. Others mentioned the cost, either financially or emotionally, of legal:

“You've got to weigh up the cost of these sort of legal transactions and think, well, you know, is it really worth going into it for... something that's probably not going to happen” (Laura, cohabitant)

Another reason for not taking action was the difficulty of thinking of things turning sour, while the relationship was going well. Whilst many wanted to follow the advice on the website, there were practical problems. For instance, there was a recurring view that filling out a living together or cohabitation agreement is “too negative”. Some respondents, often women, were very keen to take action but found it difficult or felt it inappropriate to persuade their partner.

5. Findings on law reform for cohabiting couples

Looking in general at law reform, this group of legally aware respondents (who had either experienced or were planning a cohabitation relationship) felt quite strongly that the law should be changed to give cohabiting couples rights and obligations more akin to marriage. The study found that -

- Almost all respondents (90%) felt that cohabitants should have the same rights as married couples where they had a child together.
- Almost as many respondents (85%) felt that cohabitants whether or not they have children, should have the same rights as married couples **but not as soon as they start living together**.
- There was no consensus on how long a couple should live together before being treated similarly to a married couple. Most (76%) felt that these rights should be immediate if the couple had a child together.
- 83% agreed “As soon as they live together cohabiting couples should be able to opt-in to a system that gives them rights and obligations similar to married couples.”
- 71% disagreed with the statement: “In general married couples should continue to be treated as a special family unit with a different legal position from cohabiting couples.”

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- 40% agreed but 52% disagreed with the statement: “I like the fact that cohabiting couples are not automatically treated as if they were married but instead can make their own agreements on advice about their legal position in various contexts”.
- 77% thought that cohabitants should have the same rights to pension entitlement as married couples and 84% felt this appropriate for cohabitants with children.
- 74% thought that, for inheritance purposes, cohabiting couples should be treated like married couples (rising to 81% in respect of cohabiting couples with children). Another 11% felt that cohabitants should have similar but less generous rights, leaving only 15% who felt that cohabitants should not have any inheritance rights. Even fewer (10%) felt cohabiting couples with children should not have any inheritance rights.
- 61% thought that cohabitants should have the same maintenance rights as married couples rising to 73% in respect of cohabiting couples with children.
- Most people agreed with cohabitants having the same (71%) or similar (13%) property adjustment rights to married couples on relationship breakdown. Only 2% thought there should be no property adjustment on relationship breakdown where there was a child of the relationship.
- While the majority (64%) feel that cohabitants should automatically have the same next of kin rights as married couples as soon as they start living together, a substantial minority (33%) feel this should be on the partner’s nomination.

Rights for cohabiting couples with children

Most respondents felt that legal rights should be immediately available to cohabiting couples as soon as they have a child together or alternatively (if later) as soon as such a couple begin to cohabit. In the interview phase, respondents related this to be the right of children to be protected from hardship, regardless of their parents’ arrangements.

Generational differences in cohabitation and financial arrangements

In this study, we observed a very different approach to cohabitation, and to financial pooling, from the younger and older cohabitants. The younger couples interviewed were far more likely to have mutually discussed their financial and legal situation, and found it easier to decide together how to regulate their affairs. Older couples were more likely to have considerable assets already, were more likely to have separate accounts, as well as houses owned in one partner’s name.

For the older couples, where a more traditional gender pattern had been established, and especially for those with children from previous relationships, there was more perceived need for financial support in the case of relationship breakdown.

Opt-in Civil Partnerships and PACS-style agreements

Nearly all the cohabitants felt that a flexible French PACS-style agreement which the couple negotiated but was also formally registered would be a good idea. Some of the respondents would have liked to be able to register a Civil Partnership, with the rights and responsibilities of marriage but without, as they saw it, the emotional, religious and historical connotations.

6. Commitment and financial arrangements among cohabiting couples

In the analysis of the interviews, the links between finances, commitment and different “types” of cohabitation were considered alongside demographic differences in order to explore the legal needs of diverse groups of cohabitants. From this, four main categories of cohabitants emerged (with some overlap). A majority of the interview sample (15 of the 20 couples) fell towards the mutually committed end (Smart and Stevens, 2000). This is unusual for studies of cohabiting couples, and links to the “legally aware” nature of the sample. Some, whom we called “**Ideologues**” are in long term, committed relationships, but one or both partners has an ideological objection to marriage. The “**Romantics**” do expect to get married eventually, and see cohabiting as a step towards marriage. Interviewees in this group typically saw marriage as a very serious commitment, not to be undertaken in haste.

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They also scorned the idea of getting married for legal or financial protection. A third group, termed "**Pragmatists**", took a functional view and so were making decisions about whether to marry or cohabit on legal or financial grounds. In all three of these groups, both partners were mutually committed to the relationship. The fourth group we found comprised people in "**Uneven Couples**" where one wants to marry, and one doesn't, or where one is more committed to the relationship than the other, leaving one in a vulnerable position.

From their responses, it is clear that the participants in these categories have very different needs and issues about cohabitation. It was also evident that people can change their commitment or approach to the cohabiting relationship, or their views on marriage and commitment, over the course of a relationship, and particularly at times of life stage change. The study highlighted the diversity both of cohabiting couples and of their legal needs.

There was a correlation between the "type" of cohabiting relationship people were in, and their money-management system within the relationship, but this is not a straightforward relationship. Most 'Romantics' and the 'Pragmatists' had a system of joint accounts, usually with some single-owned accounts too ("partial pooling"), while all of the 5 'Uneven Couples' had separate accounts, even though 3 of these couples had been together for many years. The 'Ideologues' were broadly divided into two groups. Half had joint accounts, but half retained separate finances even after many years together, and even after children, which they saw as reflecting their ideological position. Many respondents made explicit distinctions between a romantic or emotional commitment to their partner, and financial commitment to a relationship in terms of joint accounts, shared savings plans, and so on. This is partly a generational effect; younger married couples are also more likely to have separate finances.

7. Conclusions and recommendations

- Overall, from our study the LTC website can be seen to be having a generally positive impact and serving a useful purpose for those cohabiting or considering cohabitation or marriage.
- The LTC website is meeting previously unmet legal need but consideration should be given to raising its media profile further and its internet 'visibility' through internet search engines.
- Whilst the LTC is increasing awareness of the issues surrounding cohabitation, it does not seem to prompt people into immediate action, despite the helpful downloadable documents available. From this we conclude that 'getting round to legal action' is often inhibited by practical barriers (including an obstructive partner or an optimism bias) and is often a long piecemeal process rather than a single event leaving cohabitants legally vulnerable for often long periods of time.
- Initiatives to encourage cohabitants to make appropriate financial and legal provision are likely to be more successful if they are targeted at the key turning points of relationships (for example, buying or renting a home together, having a child) when partners are already having to negotiate and take legal steps.
- There is a wide spectrum of cohabiting couples, of views on law reform and of financial practices among legally aware cohabitants who the study demonstrates have diverse views and needs. There is however a view that cohabitation is a valid lifestyle choice and that there is strong dissatisfaction with the current law.
- There is general support for the introduction of marriage-like rights and obligations although this is stronger in some areas (such as inheritance rights) than others (such as maintenance) as well as for enforceable Living Together Agreements.
- There is no obvious consensus on the best way to reform the law, with support for both opt-in and presumptive rights with opt-out approaches.
- We conclude that any legal reform should provide a range of legal options for cohabitants. These should primarily include a presumptive scheme giving cohabitants (and particularly those with children of the relationship) automatic rights and obligations akin to marriage from which couples can opt out, alongside an opt-in scheme giving flexibility as to the terms. In this way, 'Uneven Couples' would gain protection it is otherwise impossible to achieve. In addition 'Romantic' couples planning to marry and 'Ideologue' couples whose principles will not allow them to marry can negotiate their own arrangements yet gain a recognized legal status other than marriage which publicly acknowledges their commitment to each other. 'Pragmatists' would also gain a wider spectrum of choice.

Chapter One. Introduction

This is a report on the findings of a short empirical study into the behaviour and attitudes of a group of 'legally aware' cohabitants who had accessed The Living Together Campaign (LTC)'s website (an initiative funded by the Ministry of Justice (MoJ)) on the legal position of cohabitants - <http://www.advicenow.org.uk/livingtogether>. 'Legally aware' cohabitants are defined here as those cohabitants who do not believe in the 'common law marriage myth' and thus are aware by having accessed the LTC website or by prior knowledge that they do not have the same rights as married couples.

The number of cohabiting couples has risen rapidly in the last decade. 13% of the population aged between 16 and 59 is estimated to be cohabiting (Office for National Statistics, 2005). Cohabitation is now the most common form of first partnership, and also the most common form of re-partnering after divorce (Ermisch and Francesconi, 2000). Cohabitation including children is also becoming increasingly common, and more widely accepted in social attitude surveys (Barlow et al, 2001).

The increase in the prevalence of cohabitation, together with the widening acceptance of cohabitation relationships, is not however mirrored by widespread awareness of the legal implications of cohabiting. The British Social Attitudes survey (BSA survey) and follow up study undertaken between 2000 and 2002 (Barlow et al, 2001, 2005) found that there was a widespread 'common law marriage myth' whereby majority of people in general and of cohabitants in particular falsely believe that people who live together for a period of time acquire the same legal rights as married couples. Another significant finding of that study was that nationally very few cohabitants (under 10 per cent) sought legal advice or took appropriate legal action which could achieve the same effect as marriage such as making wills, signing parental responsibility agreements, making cohabitation contracts or agreements as to the beneficial interests in the family home. What is more, this inactivity did not significantly reduce amongst 'legally aware' cohabitants, with 85 per cent not having sought advice or taken any legal action despite in the majority of cases good intentions to do so. The follow-up study to the BSA survey (see Barlow et al, 2005) found that the reasons for this related both to an optimism bias whereby people assumed that they (unlike others) would not need such legal steps (e.g. they felt they were highly unlikely to die or split up in the foreseeable future) and also to the perceived cost and complexity of the steps needed to be taken to take legal advice, make wills, cohabitation contracts or shared ownership agreements.

The Living Together Campaign (LTC) was an initiative set up in summer 2004 by the Advicenow organization with funding provided by the Ministry of Justice (MoJ). It aims both to make people aware of the legal vulnerability of cohabitants as compared with their married counterparts and to give cohabitants practical advice and options to redress their legal position if they wish to do so. Our study investigated the access and use of this website with a view to exploring the impact it had on cohabitants taking appropriate legal action. It also gathered views on current cohabitation law and attitudes to possible reform from this legally aware group, alongside information about their demographic status and financial management practices as a couple.

The aim of this research project was to explore the impact of the Living Together Campaign's website, in the context of the rise in cohabitation, and in the context that the majority of cohabitants are either unaware of the legal implications of cohabiting, or, if aware, are not taking actions to redress the situation despite in many cases good intentions to do so. The study focused on those cohabitants who accessed the website and had therefore become aware of the different legal implications of heterosexual cohabitation as compared with marriage. Several recent studies have focused on cohabitation breakdown and the legal (and other) implications (e.g. Smart and Stevens, 2000; Tennant, Taylor and Lewis, 2006) but little is known about how those currently cohabiting view their relationship and their legal position.

The research was undertaken over a nine month period between January and September 2006 and there were two complementary phases. First an internet survey accessed from the LTC website was conducted. This was followed by semi-structured interviews with a purposive sample selected from the internet survey respondents where issues could be explored in more depth.

1.1 Aims of the study

The main aim of this current project was to assess the impact of the Living Together Campaign on legally aware cohabitants. This is information that cannot be ascertained from the LTC website itself. Whilst it is clear that large numbers of people are accessing the site and downloading the documentation (for example, by August 2006 the Living Together Agreement had been downloaded 140,000 times and the Will 51,000 times), this can tell us nothing about what follows as a consequence of the knowledge and/or documents acquired. The questions we specifically sought to explore in this study are:

- What types of cohabitant are accessing the LTC website and why?
- How if at all does their acquired knowledge affect their decision-making within a cohabitation relationship?
- If it does, has it influenced them to, for example:
 - Separate or not cohabit after all;
 - Get married;
 - Take appropriate legal action suggested;
 - Do nothing.
- What are their motivations for their choice of action (or inaction)?
- If no action has been taken, why is this the case? Is it because, for example
 - Their partner refuses to take action;
 - They cannot agree what action is appropriate;
 - The options are too complicated or inappropriate to their situation;
 - They do not consider themselves at risk?

In addition, in order to feed into the Law Commission's consultation on cohabitation law reform (<http://www.lawcom.gov.uk/cohabitation.htm> and Law Commission 2006), the study aimed to explore attitudes to the current law regulating cohabitants and on possibilities for reform.

Another aim of the study was to consider what impact, if any, different styles of commitment and/or of financial management 'as a couple' had upon the primary research questions.

1.2 Report structure

In this report, we first describe the methodology used in both the quantitative (i.e. the internet survey) and qualitative (i.e. the follow-up interviews) parts of the study. The study's findings are then described and analysed in Chapters 3-5. In Chapter 3 the quantitative findings of the questionnaire survey are outlined. In Chapter 4 the interview data are analysed, particularly in consideration of the main research questions and the aims of the Living Together Campaign. In Chapter 5 we consider the links between finances, commitment and different "types" of cohabitation, and draw out some of the implications for an understanding of the legal needs of diverse groups of cohabitants. In Chapter 6 we draw conclusions from the full study, and make some possible recommendations for policy, practice and future study.

1.3 Background Research

This research project was undertaken against the background of a number of other studies of cohabitants conducted in the light of clear social trends indicating family restructuring away from marriage (Haskey, 2001, Kiernan, 2004). Most significantly, Smart and Stevens' study of cohabitation breakdown (Smart and Stevens, 2000) stressed the diversity of heterosexual cohabitation relationships and identified a spectrum of commitment within cohabitation

ranging from the contingently committed couples at one end to the mutually committed at the other. Their study primarily focused on the most fragile contingently committed who are easily distinguished from stable and committed married couples and can be contrasted with Jane Lewis's inter-generational study (Lewis 2001) which focused on mainly mutually committed couples whose behaviour mirrored that most commonly identified with marriage. Barlow, Duncan, James and Park (Barlow et al 2001 and 2005) undertook a national study of attitudes towards marriage and cohabitation relationships and their different legal treatment and identified the 'common law marriage myth' whereby people generally and cohabitants in particular falsely believe they have the same rights as married couples. They also found general inaction even amongst legally aware cohabitants to pursue legal remedies available to them to address their legal disadvantage, often despite good intentions to do so. Arthur, Lewis and Maclean's study *Settling Up* stressed the gulf between settlements made between divorcing couples as compared with those made on cohabitation separation and the indirect effects this has on the standard of living of children of those relationships (Arthur et al, 2001). During the study on 31st May 2006, the Law Commission published its comprehensive consultation paper on cohabitation law reform (Law Commission 2006). As general views on current cohabitation law and possible options for reform were included in our study, the consultation paper has been used indirectly in the analysis of our data.

The legal framework seems to operate against the background of the different psychological dynamics at work in married and cohabiting relationships and the different display of gender dynamics situated here. These may be of significance to issues surrounding legal reform in this area. In the economic psychology literature, some recent work based on bargaining experiments which might have some relevance for the way that couples decide to arrange their financial and legal affairs was noted. This work shows that both sexes expect women to be more generous in their allocations (of a sum of money that is divided between the giver and the receiver) and they also expect women to be more satisfied than men if they receive less (Solnick, 2001).

Chapter Two. Methodology

The study aimed to build on earlier findings about legally aware cohabitants (e.g. Barlow et al 2001, 2005) to gain insight into the campaign's impact on a range of those cohabitants who have accessed it and to explore their views on cohabitation law reform. From a methodological point of view, given the anonymity implicit in website access, it is never possible to gain a provably representative sample of website users. Thus in common with all internet surveys and discussed further below, our sample comprised eligible volunteers willing to take part in the study.

The project was divided into two complementary phases – an internet survey questionnaire, and face-to-face semi-structured interviews with some of the questionnaire respondents.

2.1 The internet survey: sample and methods

The internet survey questionnaire was used to -

- (i) explore a number of issues with website users;
- (ii) select from them a further sample to take part in follow-up interviews to explore the issues in greater depth.

Between the end of January and the end of April 2006, an advert was placed on several different pages of the LTC website advising on different aspects of cohabitation law. It invited website users 'who are cohabiting, have cohabited or are seriously intending to cohabit in the near future' to take part in the research project, by completing the questionnaire on the project website at Exeter University to which a weblink was provided. The aim was to attract a wide range of cohabitants who were seeking advice on a variety of issues associated with cohabitation law. Unfortunately, the delay of the LTC's media launch on Inheritance Tax meant that the advert for research participants did not gain as much exposure to website traffic as had been hoped.

The internet survey questionnaire was designed to explore the study's stated research questions and attitudes to current law and reform (see 1.1 above). It was initially drafted following consultation with the LTC, the DCA and the Law Commission in January 2006. It was piloted using volunteer cohabitants in Exeter (who were first directed to the LTC website) and then further modified before going live in the last week of January 2006. The questionnaire (see Appendix I) was divided into three sections which explored the experience of the LTC website, attitudes to current cohabitation law and possible reform of different aspects of it and a number of general questions about demographic status and financial practices as a couple. These last were included to enable the further sample of 30 cohabitants/former cohabitants/intending cohabitants to be selected. Respondents were asked to indicate if they (either alone or together with their partner) were willing to be interviewed in the follow-up study. If so, they were asked to leave an e-mail address and where appropriate get their partner to e-mail the research team.

The sample for the internet survey questionnaire was therefore self-selected, from people accessing the website. Only cohabitants, recent cohabitants, or those planning to cohabit, were invited to complete the questionnaire. As noted above, it could not aim to be representative in any provable way of all those accessing the LTC website. Nor could it aim to be representative of the cohabiting population in general. It could however attract a differential spread of those accessing the website in terms of gender, socio-economic group, housing tenure, legal need, in order to measure the perceived usefulness of the LTC website and this was its aim.

Web-based surveys are becoming an increasingly popular research method in social science research, and while there are potential problems with sample selection, and knowing response rates (Sills and Song, 2002; Van Selm and Jankowski, 2006), they also offer considerable advantages over more conventional research methods. In particular, it is

possible to reach people across a wide geographical area, it is possible to target those already interested in an issue (in this case, cohabitants who were accessing a website about their legal position), and it can be easier for respondents to answer than completing and returning a pen-and-paper survey.

Given the primary aim of the study was to investigate the success of the Living Together Campaign which was based on the LTC website, as discussed further in Chapter 3, we take the view that our sample (whilst smaller than predicted) did certainly succeed in its key aim of recruiting a differential spread of website users. The methodology does mean that certain groups, notably those without internet access, are underrepresented in this study. However this is an inevitable consequence of a web-based information campaign not, we suggest, a methodological flaw. Details of the sample can be found in section 3.1.

2.2 The follow-up interview study: Sample and method

Selection of the interview sample

From the 102 internet survey respondents, 20 cohabitants and 10 of their partners were selected for in-depth interview. A small remuneration of £25 was offered to those respondents selected for further interview in the in-depth study.

The sample of interviewees was chosen to include a range of agreed selection criteria including gender, age, socio-economic group, housing tenure, duration of relationship, relationship history, with/without children of relationship, geographical location. The interviewees were also chosen by geographical location to enable clustering of interviews, for practical reasons. Areas targeted by the research team included Greater London, the North West, the South West, and South Wales. As more women responded to the original survey, men were targeted for the interview stage, but the interview sample still includes more women than men (18:12), reflecting the gender mix of the original respondents.

The sample included former cohabitants and intending or very new cohabitants. It included those who had been in marriages or previous cohabitation relationships, and those for whom this was their first long term relationship. Smart and Stevens (2000) in their study of cohabitants, found that almost 2/3 of cohabitants were never-married and almost 1/4 were divorced. Our sample showed similar proportions of never-married and divorced or separated, but many of the never-married had been in previous cohabitation relationships.

Our sample included a range of ages, including quite a few long term cohabiting couples (10 years or more), though most cohabitations are for a far shorter duration.

The sample was also selected to include a range of reasons for accessing the website as well as a range of opinions about cohabitation and law reform, in line with participants' responses on the website survey.

2.3 Designing the interview schedule

We designed a semi-structured interview schedule (Appendix II), which permits an open-ended interview in which participants' concerns and experiences can be included as well as a deeper exploration of the original research topics covered.

The in-depth interviews aimed to gain further insight into the perceived effect of the LTC on their legal knowledge about cohabitation. Specifically, the schedule aimed to cover:

- what motivates people to access the LTC website and how they became aware of the site.
- how different types of people (e.g, men and women, younger and older people, longer term and shorter term cohabitants, divorced and first time cohabitants, more and less committed cohabitants) receive and interpret legal information
- the effects if any of the knowledge gained from the LTC on their relationship
- the different motivations for acting on or ignoring significant legal information

We designed the schedule based on the project aims, and also drawing on previous interview schedules designed by members of the research team on cohabitation and legal change (Barlow et al, 2001 and 2005, Cooke et al, 2006) and also on finances and negotiations within relationships (Burgoyne and Morison, 1997; Burgoyne et al. (2006). The schedule was piloted on cohabitants, and minor changes made, before being used more widely for the project.

2.4 The interviews

The interviews were conducted in May and June 2006. They lasted about an hour to an hour and a half, and the majority of interviews took place in participants' homes. All the interviews were conducted by one of the three researchers on the project. Some requested a meeting elsewhere, such as in a workplace or a public space such as a café, this was particularly the case for those in difficult relationships, and for those who did not want their partners to know about the study. Before taking part interviewees were reminded about the aims of the project, and given written details about the project, and about the use of the findings. Interviewees also signed a consent form at this point. For those cases where both partners were being interviewed, we gave them the choice of being interviewed together or separately. Most (8) of the 10 couples interviewed chose to be interviewed together, two couples were interviewed separately. Both of these were for scheduling reasons, these couples consisted of dual earners with young children, and partners were not both free to be interviewed at the same time.

The interviews were fully recorded (on MP3 recorders). After the interviews, participants were given £25 each. In a few cases, participants emailed the project team after the interview with additional thoughts or information which had occurred to them since the interview itself. The data were recorded and transcribed verbatim following a standard social science notation guideline, using a simplified version of Jefferson's (1984) system. Using this approach, pauses, repetitions and "fillers" (such as "um", "you know") are viewed as significant aspects of the talk, and retained in the transcript and quotations. Company and participant names were changed in order to retain anonymity.

Chapter Three. Findings from the website survey

In this chapter we describe first (section 3.1) how people found the website, and then (section 3.2) look at the demographic details of the participants: at the spread of age, region, gender, income, and parenthood status. Then (section 3.3) we detail the immediate impact of the campaign, according to these respondents - why people looked at the website, and what they found helpful on it or downloaded from it. Then (section 3.4) we consider views on law reform in general, and about law reform for cohabiting couples with children. In section 3.5 we look at responses for specific areas of law reform, including pensions, inheritance, maintenance and next of kin rights.

3.1 How did people find the website?

There were 102 respondents in total on the website survey. Most people (66%) found the website by surfing the web. 16% heard about it through the media campaign, and 3% from leaflets. 11% heard about it from friends. This suggests the campaign to raise awareness of the issues isn't the main motivation, most people in our study found the site independently of the recent campaign, although we understand that LTC monitoring of site hits clearly indicates traffic significantly increases with media launches.

Why did people access the website?

37% went on from "chance" or curiosity", but the majority reported that they were motivated by specific concerns about their legal position – in particular property, benefits, wills and inheritance, which are the areas of cohabitation law specifically under review by the Law Commission (Law Commission, 2006).

3.2 What types of cohabitant are accessing the LTC website?

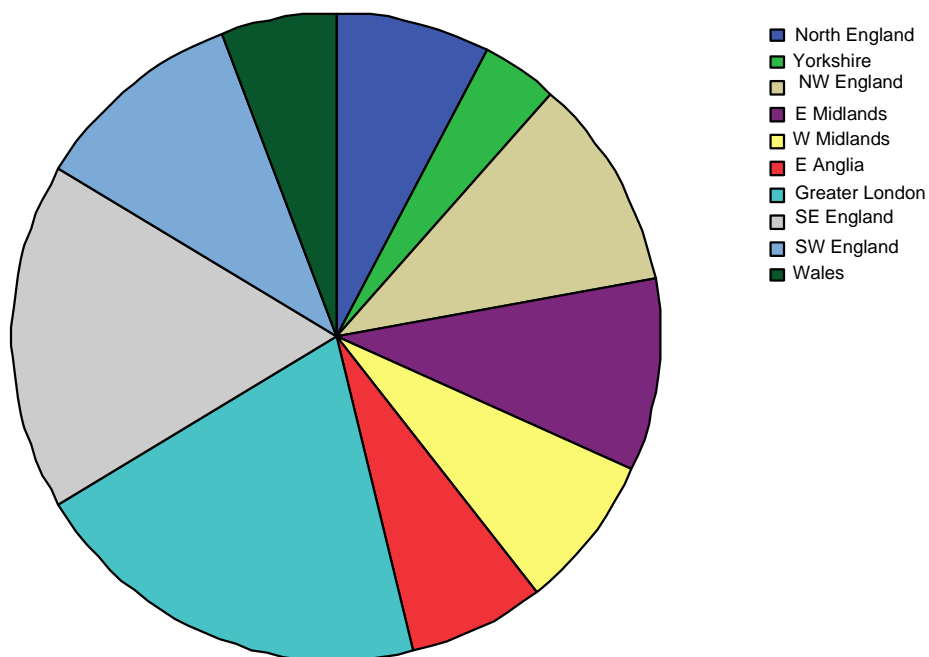
Who completed the survey after accessing the website

- 78% of respondents were women
- Most respondents between 26 and 55
- Over half had cohabited for 6 years + and a 37% for 10 years+
- The majority were never married but cohabiting, with a significant majority being divorced or separated

Whilst the gender balance of respondents was heavily weighted towards women, the age spread broadly reflects that in the cohabitant population as a whole, although it is skewed slightly towards the older age ranges than those in earlier national studies (Haskey, 2001, Barlow et al 2001). However, given that cohabitation is often short term (Ermisch and Francesconi 2000) even if the average duration is increasing over time (Haskey 2001), the length of cohabitation relationships of respondents to this study can be seen to be at the higher end of the spectrum, where the mean duration of the nationally representative BSA survey 2000 was 6.5 years and the median was 4 years (Barlow et al 2001). However, longer term cohabitants are perhaps likely to be most concerned with how their legal position compares with married couples.

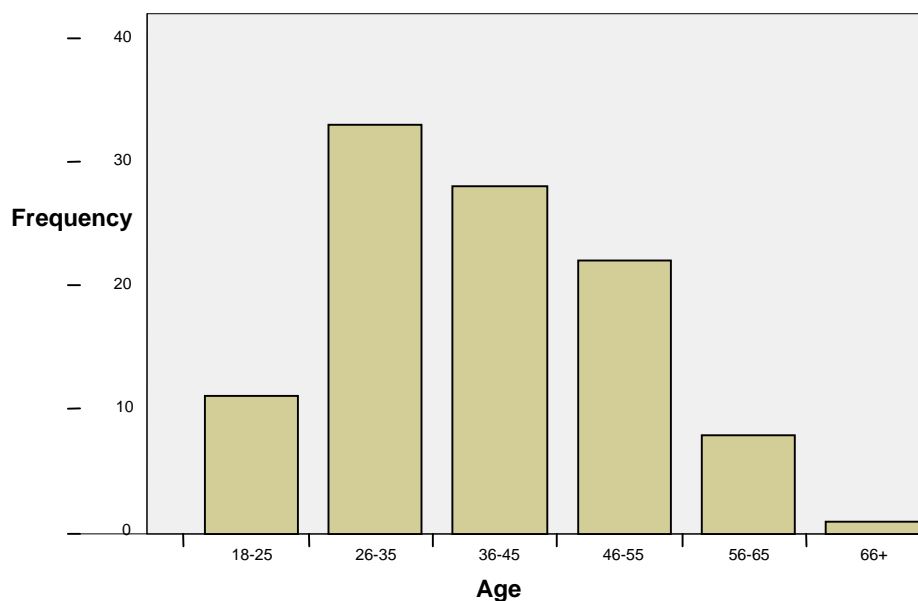
As displayed in Figure 1, below, there was a wide geographical spread of respondents. 38% of respondents were from London and the South East. 23% were from the North (11% from the North West, 4% from Yorkshire and Humberside, and 3% from the North). 11% were from the South West, and 6% from Wales.

Figure 1. Region of UK



78% of the survey respondents were women. Ages varied (see Figure 2 below), with the majority of respondents being aged between 26 and 55.

Figure 2. Age of respondents



Over half of the respondents had been cohabiting for at least 6 years, with 37% cohabiting for over 10 years.

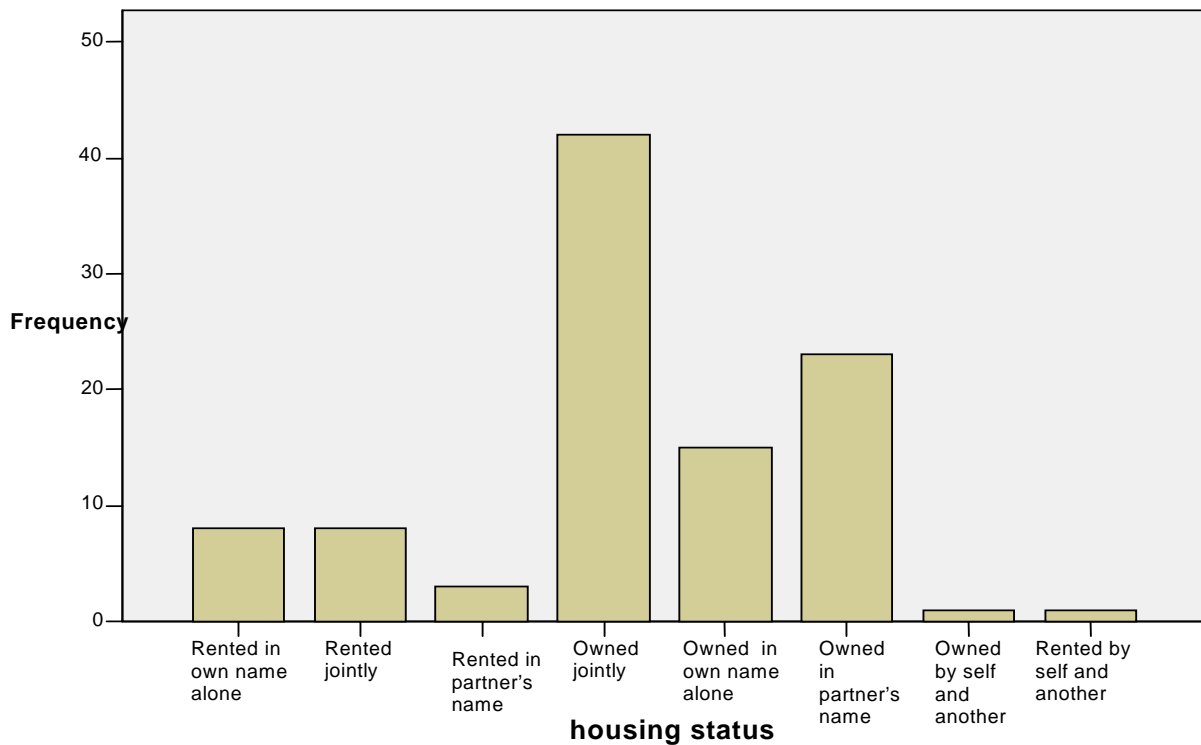
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The majority reported themselves as “never married but cohabiting”, though a significant minority were divorced or separated. From the follow-up interviews, it is clear that many had experienced previous cohabiting relationships as well as their current one.

Respondents' incomes were varied, as were those of their partners, though partners on average were reported to have slightly higher incomes than respondents themselves. This could be at least partially explained by the gender of respondents – women's incomes are lower on average, and more women responded to the survey. The majority lived in owner-occupied homes, but fewer than half lived in homes owned jointly with their partner (Figure 3). Many lived in a house owned in either theirs or their partner's name alone. This has implications for policy, as cohabitants renting or owning homes in one partner's name may be particularly vulnerable to legal dispute.

Employment status: 58% were in full time employment, 20% were part time employed, 10% were self employed, 10% were not in paid employment (for example, caring for children), and 2% were students.

Figure 3. Housing status



Marital status of respondents

Most respondents, (67%), were currently cohabiting and had never been married. 15% were divorced, 2% separated, and 1% widowed. However, as described in chapter 4, many of those subsequently interviewed had been in previous long term relationships or cohabitations.

Which respondents and/or partners have children, and where do the children live?

36% of the participants reported that they had children (under 18) from their current relationship living with them. 31% of participants report that they have children over 18. Quite a few reported that they or their partner had children living elsewhere, and/or their partner's children living with them now. The details of family and household formation were investigated further in the interview study. It was quite complex to ascertain from the interview study the exact household and family formation of this sample, which may reflect the variety of family formations, in terms of children from previous and current relationships, adult children who may still live with a parent, and mixed care arrangements. What is clear is that many children are living in cohabitation households, both in this survey sample and in the wider population, and are significantly affected by the legal and financial consequences of parental cohabitation.

It can be seen from the demographic description of the survey respondents that there is a wide spread of respondents to the website survey in terms of age, income, housing status, length of time cohabiting, and family status. While the survey by design recruited the more legally aware cohabitants, namely those who were actively looking on a website about their rights, it has achieved a demographic spread within this targeted group.

3.3 The impact of the Living Together Campaign – what did respondents find helpful, download, and act on?

Respondents felt that they had become more informed on their rights by visiting the site. Before visiting the site, 19% had felt “very well informed”, 59% had felt “informed in some areas and not others”, and 24% had felt “not well informed”. After visiting the site, 61% of respondents felt “very well informed” about the legal position of cohabiting couples, 37% felt “informed in some areas and not others”, and 4% felt “not well informed”.

When asked which sections of the website they found most helpful, “money and property” was by far the most frequent answer – 56% of respondents found this section helpful. Then “inheritance” (37%) “wills” (32%) and Next of kin (32%). In line with this, the most frequently downloaded articles were those about Living Together Agreements (29%), Housing and living together (23%) and Wills (23%).

Note. Participants could tick more than one box for these questions.

Actions planned after accessing website.

When asked which actions they felt they needed to take after accessing the website, participants reported a variety. Most common included “Discuss the Living Together Campaign with your partner” (36%). Next most common responses were “Make a will” (29%) and “Seek further legal advice” (28%). 21% said they planned to nominate a Next of kin, and 19% planned to make a Living Together Agreement.

Reasons not to take actions

When asked, “If you haven’t taken all of the action that you felt was needed, please indicate why”, there was a fairly low response rate No-one said that the information was too complex. 35% said they intended to get around to taking relevant actions. 10% said that their partner would not agree, 10% felt that they could not afford legal advice, and 9% said that they were afraid it would cause problems in their relationship. 18% felt that no action was needed.

Overall, the majority of the survey respondents appeared to be confident of their legal awareness, in that they did not feel the law was too complex for their understanding. The majority seemed to be generally aware of their legal position, and certainly confident that they know how to manage their legal and financial arrangements. This does not always lead to them actually taking action, but they feel they could take action, and that they know what they should/could/one day will be doing.

A significant minority of the respondents to this survey (approaching one third) are in a different position, wanting to take action but constrained by unwilling partners, or by a perception of the cost involved, or by baggage (either legal, e.g. divorce or separation proceedings, or emotional) from previous relationships. But still, these cohabitants also appear to think they have some idea what should be done or what needs to be done in their situation.

The reasons for accessing the website, and for taking or not taking actions, were explored in depth in the follow up study, which is described in Chapter Four.

3.4 What survey respondents think about possible Law Reform for cohabiting couples

Looking in general about law reform, respondents felt quite strongly that the law should be changed to give cohabiting couples more rights. As can be seen from Section B of the internet questionnaire (see Appendix I), the questions tested different options for law reform. The aim was to test views on whether an opt-in reform or a presumptive approach to improving cohabitants' legal position was thought most appropriate. Other questions probed the effect a child of a cohabitation relationship might have on people's views on appropriate law reform. In all cases, there was a range of opinions on how long cohabitants should live together before having legal rights, on whether such rights should be the same as the rights of married couples, and on whether couples should have to opt-in or opt-out of such rights. However, broadly, as demonstrated below, the majority of cohabitants in this sample leaned towards a presumptive basis for reform where cohabitants should be treated in law as functionally similar to married couples and where there was a child of the relationship the support for this increased further. As developed in the next chapter, this must be seen alongside the almost as strong support for an opt-in solution for cohabitants similar to that introduced by the Civil Partnership Act 2004 for same-sex couples, perhaps indicating that a range of options for different styles of cohabitants might be the most appropriate way forward in the eyes of these legally aware cohabitants.

Based on responses to statements reflecting the principles and possibilities governing cohabitation law reform (which are detailed more fully below) overall, the study found that:

- Almost all respondents (90%) felt that cohabitants should have the same rights as married couples where they had a child together.
- Almost as many respondents (85%) felt that cohabitants whether or not they have children, should have the same rights as married couples **but not as soon as they start living together**. Most felt that this should happen after living together for a while.
- There was no consensus on how long a couple should live together before being treated similarly to a married couple. Many (76%) felt that these rights should be immediate if the couple had a child together.
- 83% agreed with the statement "As soon as they live together cohabiting couples should be able to opt-in to a system that gives them rights and obligations similar to married couples. Of the people who agreed with that statement, the majority (80%) felt that cohabiting couples should have **the same** rights and obligations as married couples.
- 71% of respondents disagreed with the statement: "In general married couples should continue to be treated as a special family unit with a different legal position from cohabiting couples."

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- 40% agreed but 52% disagreed with the statement: “I like that fact that cohabiting couples are not automatically treated as if they were married but instead can make their own agreements on advice about their legal position in various contexts”.
- 77% thought that cohabitants should have the same rights to pension entitlement as married couples and 84% felt this appropriate for cohabitants with children.
- 74% thought that, for inheritance purposes, cohabiting couples should be treated like married couples (rising to 81% in respect of cohabiting couples with children). Another 11% felt that cohabitants should have similar but less generous rights, leaving only 15% who felt that cohabitants should not have any inheritance rights. Even fewer (10%) felt this was appropriate for cohabiting couples with children.
- 61% thought that cohabitants should have the same maintenance rights as married couples, rising to 73% thinking that cohabitants with children should have the same maintenance rights.
- Most people agreed with cohabitants having the same (71%) or similar (13%) property adjustment rights to married couples on relationship breakdown. Only 2% thought cohabitants with children of the relationship should have no such rights.
- While the majority (64%) feel that cohabitants should automatically have the same next of kin rights as married couples, as soon as they start living together, a substantial minority (33%) feel this should be on the partner’s nomination.

In this section we set out some of the key issues which the Living Together Campaign website focuses on, some of which reflect the current concerns of the Law Commission’s consultation paper on cohabitation (Law Commission, 2006).

Interestingly but perhaps not surprisingly given the high number of longer term cohabitants in the sample, 71% of cohabitants in this study disagreed with the notion that married couples are special. This does confirm that marriage and cohabitation are seen by the majority of this group as equally valid lifestyle choices.

This group of respondents felt strongly that cohabitants should be allowed to “opt in” to similar or identical rights and responsibilities as married couples. 83% agreed with the statement “As soon as they live together cohabiting couples should be able to opt-in to a system that gives them rights and obligations similar to married couples. Of the people who agreed with that statement, the majority (80%) felt that cohabiting couples should have **the same** rights and obligations as married couples.

Law reform: cohabitants compared to married couples

Having gauged support for the opt-in approach adopted in some jurisdictions (such as France and The Netherlands), we then wanted to gauge views on the presumptive approach (Australia and New Zealand are examples), whereby the law would automatically impose legal rights and obligation on cohabitants. We asked respondents to indicate how they thought couples who have cohabited for a period of time should be treated compared with married couples (and Civil Partners).

While most felt that, unless they had opted out by making an agreement indicating they did not wish to be treated as married, cohabitants should automatically gain the same or similar rights as married couples, they lacked consensus on how long couples should have cohabited for before being eligible for such rights.

21% felt that cohabitants should be eligible for a presumptive system of rights as soon as they started living together, 15% felt that cohabiting couples should never be eligible for a presumptive system, and the other 64% felt that this should be permitted after a certain length of time, though they varied on how long they felt this time should be.

Views on cohabiting couples with children

We also asked respondents whether their views on the presumptive approach would change where a cohabiting couple had a child and there was stronger support for marriage-like treatment here.

When asked whether cohabiting couples **who have a child together** should be entitled to the same legal rights as if they were married, **70%** of respondents felt that cohabiting couples who have a child together should be so entitled either as soon as they start living together, or as soon as the child is born. Another **23%** felt that cohabiting couples with a child should have similar rights after a certain length of time (mostly 3-5 years) and/or as soon as they had a child together. Only **7%** felt that cohabiting couples with a child should never be eligible to opt in to a system of legal rights similar to married couples. (compared to 15% who felt that cohabiting couples in general should never be eligible for such rights). Overall, therefore, there is high support among the survey respondents for cohabiting couples being eligible for similar rights to married couples, and particularly when a couple has a child together.

3.5 Views about specific areas of law reform

In this next section of the report, we look at participants' views on possible law reform in certain key areas, and consider how they feel cohabitants should be treated in these areas compared to married couples (or Civil Partners), and after what length of time cohabiting they feel cohabitants should be eligible for these specific rights. We then look at how respondents' answers change for cohabiting couples who have a child together.

We then looked closely at the cases where respondents answer differently to questions depending on whether a cohabiting couple has a child together. While the majority of respondents felt that cohabitants' eligibility for legal status comparable to married couples should not depend on whether they had a child, there was a significant minority (39%) of survey respondents who stated that their responses about eligibility for at least some rights, and timescales for this, would change if a cohabiting couple had a child together.

Views on Inheritance rights

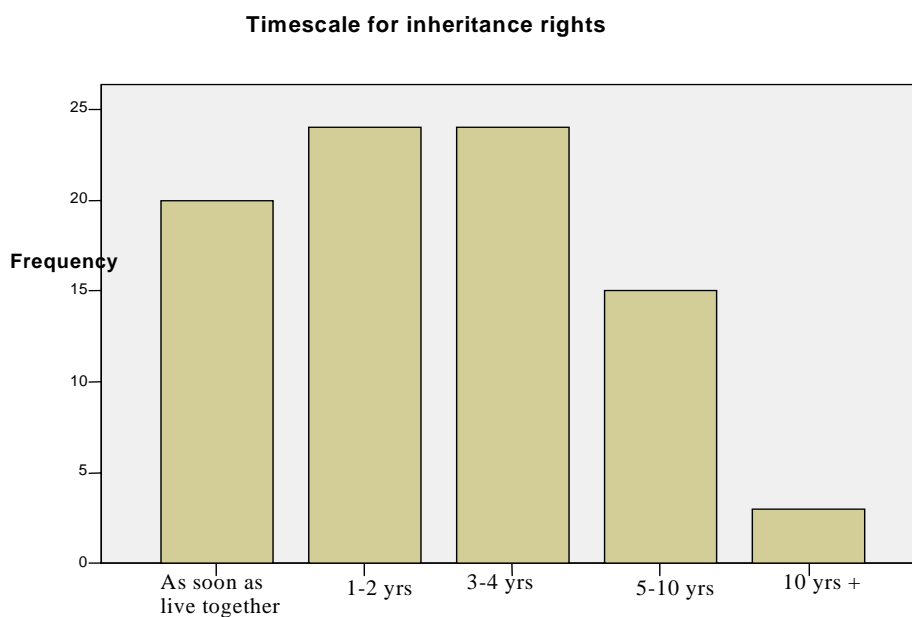
Spouses who die without leaving a will automatically inherit from each other whereas succession law treats cohabitants as strangers. They receive nothing on the death of their partner unless a will has been made in their favour. A cohabitant of two year's standing does have the right to apply to the court for reasonable provision from their partner's estate (Inheritance (Provision for Family and Dependents) Act 1975), but this is limited to a sum for their 'maintenance' and is significantly less generous than a spouse would receive either on divorce or death of the other spouse. Figure 4 (below) shows how participants felt that cohabitants should be treated for inheritance rights. 74% of respondents felt that cohabitants should be treated identically to married couples for inheritance purposes, and a further 11% felt that they should be treated "similar but less generously than married". 16% felt that cohabiting couples should be treated as two separate individuals. Opinions varied on how long a couple should have to live together to be eligible for similar rights to married couples, with 23% of those who felt cohabitants should have the same or similar rights to married couples saying these rights should be available as soon as a couple lives together, and nearly all the other respondents suggesting a time between 1-10 years.

When including those whose views on inheritance rights changed where **a couple had a child**, the number who felt that cohabitants should be treated identically to married couples for inheritance purposes rose to 81%, those who felt they should be treated "similar but less generously than married" went down to 9%, and the number feeling they should be treated as two separate individuals for inheritance purposes dropped to 10%.

When we asked about how long **cohabitants with children** should live together before being eligible for these inheritance rights, 24% of those whose answers change for if the couple had a child or not (i.e. had felt cohabitants in general should not have rights the same as married couples after a certain amount of time), felt that cohabitants with children should have these inheritance rights either as soon as they have a child together (20%) or after a shorter time than if they didn't have a child together (4%). Note that these responses refer to those who did not think they should have rights generally where there are no children so it is only a majority of that minority of respondents.

Figure 4. Timescale for Inheritance rights

For people who answered “same as married” or “similar but less generous than married”, please indicate after what period of time these rights should be given to cohabitants:



As detailed in the following sections, there were similar findings for Next of Kin rights, pension rights, property rights, and slightly fewer felt that cohabitants should have similar maintenance rights to married couples.

Views on Pension rights

On retirement, both state and occupational pensions normally provide an allowance for both spouses during their retirement and for the survivor of them until death. Cohabitants have no such right to a pension or supplemental allowance based on their partner's pension contributions and are again treated as strangers who must each make their own pension arrangements regardless of any financial interdependency prior to retirement. When asked about **Pension rights**, 77% of respondents felt that cohabitants should be treated identically to married couples for pension purposes, and a further 7% felt that they should be treated “similar but less generously than married”. 16% felt that cohabiting couples should be treated as two separate individuals. As with the answers on Inheritance rights, opinions varied on how long a couple should have to live together to be eligible for similar Pension rights to married couples, with 24% of those who felt cohabitants should have the same or similar rights to married couples saying these rights should be available as soon as a couple lives together, and nearly all the other respondents suggesting a time between 1-10 years. As with the responses on inheritance rights when including those whose views on pension rights changed where **a couple had a child**, the number who felt that cohabitants should be treated identically to married couples for pension purposes rose, and the timescales for eligibility for such rights dropped.

When including those whose views on pension rights changed where **a couple had a child**, the number who felt that cohabitants should be treated identically to married couples for pension purposes rose to 84%, those who felt they should be treated “similar but less generously than married” went down to 3%, and the number feeling they should be treated as two separate individuals for pension purposes dropped to 11%.

When we asked about how long **cohabitants with children** should live together before being eligible for these pension rights, 24% of those who had felt cohabitants in general should have rights similar or the same as married couples after a certain amount of time, felt that cohabitants with children should have these inheritance rights either as soon as they have a child together (19%) or after a shorter time than if they did not have a child together (5%).

Views on Property Adjustment rights

On divorce, the court has discretion to redistribute property and other assets between the partners in accordance with statutory criteria (s25 Matrimonial Causes Act 1973) with, following recent case law, an overriding aim to achieve ‘fairness’ (*White v White* [2001] AC 596, *Miller v Miller; McFarlane v McFarlane* [2006] UKHL 24). Financial and non-financial contributions to the partnership should carry equal weight and a dependent spouse who is or has been the primary carer of any children (whose welfare is the court’s first consideration) is likely to be awarded at least half of the assets.

In contrast, on separation of cohabitants, any redistribution of assets is done in accordance with property law rather than family law principles and can take no account of non-financial contributions to the relationship. Even where there are children, although expenses may be recovered and an order may be made to permit the primary carer to remain with the children in the home until they finish their education, no property transfer will be made if the home is owned by just one of the partners (Schedule 1, Children Act 1989, *T v S (Financial provision for children)* [1994] 2 FLR 883). There will certainly be no equal sharing of property unless it was purchased jointly.

71% of respondents felt that cohabiting couples should have the same property adjustment rights on relationship breakdown as married couples, and a further 13% felt that they should have similar but less generous rights. As with Inheritance rights and pension rights, 16% felt that cohabitants should be treated as two separate individuals for property adjustment on breakdown purposes. Concerning timescales, 30% of those supporting the same or similar rights as married couples felt that these should be effective as soon as a couple starts living together. Only 2% felt cohabitants with children of the relationship should have no such rights.

As with inheritance rights and pension rights, these numbers rose significantly when considering cohabiting couples with a child, and timescales for eligibility fell. Only 2% of respondents thought that cohabitants who have a child together should not have the same or similar property adjustment rights to married couples on relationship breakdown.

Views on Maintenance rights

Whereas spouses have a duty to maintain each other and the right to claim maintenance on divorce, there is no such duty or right as between cohabitants, regardless of whether or not there has been financial dependency during the relationship or whether there are children. When asked about **Maintenance rights** for cohabiting couples, slightly fewer respondents, though still a majority (61%) felt that cohabitants should have the same maintenance rights as married couples. 14% felt they should have similar but less generous maintenance rights than married couples, and 25% felt that they should be treated as two separate individuals, in that there should be no maintenance rights. When asked about timescales, 28% of those supporting the same or similar but less generous maintenance rights for cohabiting couples as for married couples felt that cohabitants should be eligible for these rights as soon as they live together, and the other respondents varying their answers between 1-10 years.

When including those whose views on maintenance rights changed where **a couple had a child**, the number who felt that cohabitants should be treated identically to married couples for maintenance purposes rose to 73%, those who felt they should be treated “similar but less generously than married” went down to 11%, and the number feeling there should be no maintenance rights for cohabitants dropped to 16%.

As with Inheritance rights and pension rights, timescales were less when considering cohabitants with a child together, with a clear majority (exact figures available on request) favouring these rights either immediately a couple lives together, or as soon as they have a child together.

Views on Next of kin rights

Whereas a spouse is regarded as a next of kin, cohabitants have no such status and thus are not permitted to register a partner’s death (Registration of Births and Deaths Act 1953) and may not be consulted about medical decisions concerning their partner, with hospitals consulting the nearest blood relative. 64% of respondents felt that cohabitants should automatically have the same next of kin rights as married couples, and 33% felt that they should have these rights on a partner’s nomination. Only 3% felt that cohabiting partners should never have these rights. 58% felt that these rights (either automatic, or on nomination) should be available as soon as a couple live together,

Overall, the responses suggest that respondents felt that cohabiting couples with a child should be treated more like a married couple than cohabiting couples without a child, even if they felt that cohabiting couples in general should be treated as two separate individuals for inheritance tax, property, maintenance and next of kin purposes.

Gender and views on inheritance/property/maintenance

In our analysis of the internet survey data, we investigated the findings to see if there was a difference in male and female cohabitants’ views in this study. Overall, 73% of participants felt that cohabitants should be treated the same as married couples for inheritance purposes, 11% felt that they should be treated “similar but less than married”, and only 16% felt that cohabitants should be treated as two separate individuals for inheritance purposes.

Taking men’s and women’s replies separately, out of the 22 men in the study, slightly lower proportions of men than women felt that cohabitants should be treated the same for inheritance purposes. 68% of male participants felt that cohabitants should be treated the same as married couples for inheritance purposes. 9% similar but less than married, and 5 from 22 (23%) felt they should be treated as two separate individuals.

Similar gender effects were found for the questions on pension rights and property. While overall 78% of participants felt that cohabitants should have the same pension rights as married couples, this dropped to only 64% of male respondents answering in this way. Similarly, overall 72% of respondents felt that cohabitants should have the same property rights as married couples, but this fell to only 55% of male respondents answering in this way.

However, there was no gender difference in views on whether cohabiting couples should have the same rights as married couples regarding maintenance, 60% of men and 60% of women felt that cohabitants should have the same rights as married couples in this respect.

While the numbers of men responding to the internet survey are not high enough to draw wide ranging conclusions about gender differences in attitudes to cohabitation and the law, these findings do suggest, in line with previous studies, that there are differences in men’s and women’s attitudes and expectations of cohabitation.

Chapter 4. Findings from the Follow up study: the impact of the LTC on cohabitants' awareness and actions

4.1 Characteristics of the interview sample

The purposive sample and recruitment process for the follow up study was described in Chapter Two. We interviewed 20 of the internet survey respondents, and 10 of their partners, i.e. we interviewed both partners of 10 cohabiting couples, and 10 cohabitants without their partners (in two of these cases, the partner had recently died or the relationship had ended).

Key details of the 20 interviewees and the 10 partners interviewed can be seen in Table 15, Appendix III. While, as described in Chapter Two, we had aimed for roughly equal numbers of men and women, there were many more women respondents to the web survey and this is reflected in the higher number of women in the interview sample; 18 women and 12 men. As was noted, differential spread of other characteristics (e.g. age) was also achieved.

Table 1. Age of interviewees

	18-25	26-35	36-45	46-55	56+
Women	2	6	7	1	2
Men	1	5	4	2	
Total	3	11	11	3	2

Length of cohabitation and parenthood status

Three of the couples had been cohabiting for less than a year, 6 couples for 1-5 years, 3 couples for 6-10 years and 8 couples for over 10 years. 6 of the couples had had a child, or children, with their current partner. In 4 couples, one or both partners had a child or children from a previous relationship, and 10 of the couples had no children.

As described in chapter two, the in-depth interviews were semi-structured and were approximately 1 to 1½ hours in length. The interview schedule covered the topics outlined on the LTC website, including participants' use of and views on the website and the information it contained, actions they have taken, not taken or intend to take, and their views on possible changes in the law.

The interview participants

As well as demographic differences, we were able to group the respondents into four main categories (with some overlap). Taking Carol Smart's spectrum of contingently committed to mutually committed cohabitants, a majority of this sample (15 out of the 20 cases) fell towards the mutually committed end. This is unusual for studies of cohabiting couples, and reflects the "legally aware" nature of the sample.

Some, termed here "**Ideologues**" are in long term, committed relationships, but one or both partners has an ideological objection to marriage. Some, termed here "**Romantics**" do expect to get married eventually, and see cohabiting as a step towards marriage. Interviewees in this group typically saw marriage as a very serious commitment, and not to be undertaken in haste. They also scorned the idea of getting married for legal or financial protection.

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A third group, termed “**Pragmatists**”, took a functional view of both cohabitation and marriage, so were making decisions about whether to marry or cohabit on legal or financial grounds. In all three of these groups, both partners were mutually committed to the relationship.

The fourth group we found in the interview sample was people who are in “**Uneven Couples**” where one wants to marry, and one doesn't, or where one is more committed to the relationship than the other, leaving one in a vulnerable position. These would come under Smart's category of Contingently committed cohabiting couples.

Generally, from their responses, it is clear that the participants in these categories have very different needs and issues about cohabitation. It is also evident from the interview data that people can change their commitment or approach to the cohabiting relationship, or their views on marriage and commitment, over the course of a relationship, and particularly at times of life stage change.

Table 2. Length of cohabitation, broken down by relationship “type”

Couple “type”	Less than 1 year	1-5 years	6-10 years	Over 10 years
Ideologues		1		7
Romantics	2	3		
Pragmatists	1		1	
Uneven Couples		2	2	1
Total	3	6	3	8

Table 3. Parenthood status, broken down by relationship “type”

Couple “Type”	Has child/ren with current partner	One or both partners has child/ren from previous relationship	No children
Ideologues	4		4
Romantics		1	4
Pragmatists			2
Uneven Couples	2	3	
Total	6	4	10

Generational differences in cohabitation behaviour

In this study, we observed a very different approach to cohabitation, and to financial pooling, from the younger and older cohabitants. The younger couples in this study were far more likely to have mutually discussed their financial and legal situation, and found it easier to decide together how to regulate their affairs. There was more unease about talking about legal issues or financial concerns among the older cohabitants. The younger couples were far more likely to have bought a house in joint names, and were also more likely to view themselves as mutually independent in the case of relationship breakdown. Older couples were more likely to have considerable assets already, were more likely to have separate accounts, as well as houses owned in one person's name. The older women in particular were more likely to be in a situation of living in a partner's house which was owned in their partner's name, and of most of the household assets being in the man's name. The Uneven Couples in this study were more likely to be in the older age group, with a more complicated relationship history, and bore resemblances to studies of remarried people (Burgoyne and Morison, 1997).

4.2 Reasons for accessing the website

Most of these “legally aware” cohabitants felt that they knew generally about their legal position, but accessed the website for specific help, or for general confirmation of their legal position. For the new cohabitants who see cohabitation as a step towards the greater commitment of marriage, there was a different set of reasons for accessing the website. Interviewees wanted to clarify their legal position at the time of moving in together, or after having been living together a while and considering getting married.

*“We were talking about moving in together at that particular point and decided we wanted to do it so, um, thought we’d better look into the legal implications.”
(Patrick, new cohabitant)*

Those in what are termed here Uneven Couples were likely to access the website to find out more about their legal position and what they could do to regulate it, especially if a partner is not keen to get married.

4.3 Views on the LTC website

People generally found the website to be helpful and informative, and most had downloaded leaflets and taken note of the information they read. Some felt that the website presented the “facts” about cohabitation rather starkly:

“I thought it hammers home the fact that you’ve got no protection – legal protection – if you are cohabiting” (Linda, long term cohabitant, 4 children)

Others used it to confirm the knowledge they already had, or thought they had:

“It sort of increased my awareness of the legal differences.... It seemed to me that we’d sort of sorted out all of the practical side of things already, so...I suppose as far as I can see, as I said, we have a house, the children and me, pensions and the wills. Those seem to be the main areas in which cohabitants could be disadvantaged if they separated.” (Daniel, long term cohabitant, 2 children)

4.4 Connotations of marriage beyond the legal contract

Nearly all the respondents found it very difficult to think of marriage as primarily a legal contract. Their reasons for wanting to marry eventually, or not, were based on ideological, emotional or romantic positions. Moreover, many of them felt that it was inappropriate to make a decision about marriage or cohabitation on legal or financial grounds.

*“It [marriage] symbolises the ultimate thing to do in a relationship, doesn’t it?”
(Mike, new cohabitant, no children).*

*“Marriage for me is a personal commitment, an emotional one, not a legal one”
(Laura, law student, cohabitant)*

“I want him to think that if we ever got married, it’s because I’m in love with him, not because of my rights” (Tricia, divorced, cohabiting with another divorcee)

“However alternative the marriage was, it would still be signing up to the institution of marriage”. (Daniel, long term cohabitant, 2 children)

“I’m not religious and in fact quite anti-religious, really, so... Marriage, whether it does or doesn’t, does seem to have quite a religious side to it.” (John, long term cohabitant, 4 children)”

4.5 Main concerns following visit to LTC website

Concerns about pension rights and inheritance tax

For the group of cohabitants who are ideologically opposed to marriage, the main issues were the legal issues which cannot be regulated even if both partners agree, and are prepared to take action. This group was particularly concerned about Pension rights, Inheritance rights, and about Next of Kin rights. People in this group tended to take the view that cohabitation was a perfectly valid life-style choice which for them enhanced their relationship quality and stability. By not being given a viable option, besides getting married, to regulate their affairs, they were being unjustifiably discriminated against for a belief.

"I think really it's the pension and the inheritance tax that I'm uncomfortable with, because that feels unfair. That feels like I'm being punished in some way, for not being married." (Harriet, long term cohabitant)

"I feel I'm doing everything the government wants people to do. You know, we're making a home, we're bringing up children, we're involved in the community... We are doing what the government wants people to do – you know, the more sort of family units in a way is what they want, and that's why they want people to get married. If they want solid family units, they need to give people options of doing it that work within their lives. I think, for lots of different reasons, marriage clearly is not something that works that well in people's lives any more." (Linda, long term cohabitant, 4 children)

"If one of us dies, we would be forced to sell the family home. With four kids, we'd be left with one income... And in order to pay death duties, whoever's left is going to have to move – with four kids under eight – and sell the family home and move somewhere smaller. And I think that seems very unfair." (Linda, long term cohabitant, London. 4 children)

"I can't see that anyone – you know, the government or anybody – would want to put our children in a perilous state just because... You know, that can't be the aim. I mean, their stated aim is they want to have a secure environment for children to grow up in, and that's not what they're doing. For people like me, who don't want to get married, they're not providing that and they ought to provide that." (John, partner of Linda, long term cohabitant, 4 children)

Concerns about getting some rights in case of relationship breakdown or death

These concerns were particularly salient for the couples in "uneven" relationships, where one partner wanted to get married, or otherwise regulate their affairs, and the other was reluctant to do so. Many of these couples were older couples where one or both had been married or cohabited before. Some had children from previous relationships, whose interests in their house or assets they wished to protect, others had property or income which they preferred to keep separate. Some had experienced messy divorce settlements and were reluctant to marry again.

Particular issues for this group included the need for protecting assets when entering a (new) relationship. This was especially a concern when one or both partners had previous children or assets.

- Insecurity of home and assets when partner does not want marriage.
- Greater awareness of issues, more publicity.
- Concern about consequences of splitting up.
- Easier access to information and support on these issues.

Concerns about getting some security during “interim” cohabitation

Participants felt that it was important to have some legal security during this “interim” step in their relationships, even if they hoped to marry eventually.

“If I had some security I wouldn't feel the need to get married and we both could get on with our lives without any pressure, but this is actually putting pressure on our relationship” (Tricia, divorced and now cohabiting)

Parental Responsibility

Respondents were often unclear about how to get parental responsibility (both for children born before and after December 2003 since when this is achieved by both parents registering a child's birth (Adoption and Children Act 2002)), including some of those who had children. Some had already organised parental responsibility agreements, but several had got the forms (either from the LTC website or other websites previously) and not acted on them. Some had filled out the forms but were unclear if they were legally binding.

I “And, have you got parental responsibility for your children?”

Tom “I've no idea. (laughter.)But I think I have”

I “You think you have.”

Tom “Yes. I did see a piece of paper, maybe three years ago”.

I “Right.”

*Tom “Something what Jenny had signed. I think that was parental responsibility”
(Tom, cohabitant with 2 children)*

Parents tended to be more concerned about what the situation would be for their children if one of them died, so inheritance tax and parental responsibility after possible death concerned them more than parental rights/responsibilities if both parents were living. This links to our finding of optimism bias about both parents negotiating reasonably in case of relationship breakdown discussed below.

Concerns about Next of Kin rights

The Next of Kin rights was a primary concern for several of the cohabitants being interviewed for this study. These cohabitants had downloaded the Next of Kin information but remained unsure whether any action they took would be legally binding.

“What was interesting on it [the LTC website] is the next of kin, because that's one that's always worried me. I didn't think there was any way of assigning your next of kin or stating who you wanted to make decisions for you in the event of your incapacitation, but it seems there is and that was very interesting and useful. Um. And I found that very helpful, because I wasn't aware of that. In fact I thought you couldn't do it, and you can, which is good because that was the main thing that worried me.” (Ian, long term cohabitant, 3 children)

Even those who did fill this out felt these would be of little use in an emergency if the hospital (or other organisation) did not feel like accepting them.

4.6 Actions taken after accessing website

Planning to get married

Some of those accessing the website were considering marriage as a way of securing their legal and financial position. Some (the pragmatists) were happy to do this, and were encouraged, after accessing the website, to make plans to get married. One interviewee had got engaged shortly after visiting the website.

N *"I was looking at alternatives to getting married. I was looking at the living together arrangements, which was mentioned on the BBC website. So I was having a look at that to see whether that compared favourably with marriage or not."*

I *"And what did you learn from the website?"*

N *"It looked interesting but it wasn't quite enough protection for both of us. For what we needed at that time. I've been in a relationship where I've cohabited before and at the end of that I was left with nothing and I wanted to have something which gave us equal rights and... You know, for example, if I took a career break to have children then, um, I'd quite like to have that represented in the amount I got back" (Natasha, about to cohabit, and engaged since accessing the website)*

For the "pragmatists", marriage and cohabitation were seen as not very different emotionally, and the decision to cohabit or to get married was being made on practical grounds, such as ease of financial arrangements, or on legal security. Couples in this group tended to be discussing whether to get married or not.

Others, who had ideological objections to marriage, were considering marriage for financial and other legal reasons, but very reluctantly.

"We might eventually get married, but we're both quite anti-marriage, really. But we might do eventually, which would be for financial reasons, really... There are problems if you've got children and certainly if you've got property together. And so a kind of death bed marriage might come up" (John, partner of Linda, long term cohabitant, 4 children).

Others as discussed below were not willing to countenance marriage and lacked what may be described as 'legal rationality' in this context.

Making a Living Together contract or will

Some of the respondents had made wills or living together arrangements before accessing the website (both usually informally). Many participants intended after accessing the website to take action such as making wills or living together contracts, or visiting a solicitor.

"I found it was like a guide to living together and it had a template of, um, a living together agreement that you could make out, so we've got that and I think we're going to do that." (Emma, new cohabitant)

The sections on the website about making wills and living together agreements were particularly seen as useful by the new cohabitants, or by those planning to cohabit.

Arranging to see a solicitor

None of the cohabitants interviewed had arranged to see a solicitor after visiting the site, though some thought they might get around to it sometime. In general, the visitors to the website were downloading forms and taking in information but not making any immediate changes. Reasons for not taking actions are explored in the next section.

4.7 Reasons for not taking action

Lack of appropriate actions

One of the main reasons for not taking action after visiting the website was the perceived lack of suitable actions for cohabitants to take.

For the long term, committed cohabitants (the Ideologues), the main reason for not taking actions after accessing the website was the lack of options, short of getting married, for regulating their position in terms of pension and inheritance rights. People also perceived some of the options suggested on the website as not worth following up if they were not necessarily legally binding. For example, people were not sure that in an emergency a hospital would respect the Next of Kin card, even if it was filled out and carried.

Some of the respondents who were ideologically opposed to marriage were considering challenging the legal situation, or waiting for the law to change on these issues.

“Do you think the law will change? Cos we kind of keep hoping it will and then just leaving it.” (Hannah, long term cohabitant)

Cost of actions

Others mentioned the cost of legal action against the likelihood of needing the action at a later stage:

“You’ve got to weigh up the cost of these sort of legal transactions and think, well, you know, is it really worth going into it for, you know, something that’s probably not going to happen” (Laura, cohabitant)

Actions seen as legally unenforceable

People generally felt that the cohabitation contract, or living together agreement, suggested on the LTC website, was not very useful as it was not legally binding, and as such not worth filling out.

“As I understand it, that stuff [cohabitation contract] is legally unenforceable anyway. So, um... You know, it’s like pre-nuptial agreements. Courts don’t take them into account” (Simon, cohabitant with 2 children)

“I wouldn’t feel it [a cohabitation contract] gives me any more security... It... Because these things haven’t really been tested enough in court I wouldn’t be comfortable with them.” (Claire, cohabiting 7 years, no children)

One recent cohabitant described how, though she and her partner had taken legal advice before buying a house and taking out a mortgage together, the legal advice they had been given at this point was contradicted by the lawyer dealing with the relationship breakdown, which had made her less trusting of taking legal advice:

"The solicitor that I consulted when we were splitting up about the house, she said to me that probably if I went to court over it I could get more than 50% of the equity because I'd paid it out of my current account – really purely by chance. And she seemed to think that having a joint tenancy or a tenancy in common or whatever it is was not actually as much of a guarantee as the solicitor who did our original conveyancing had told us it was."

"Getting round to it"

People talked about the difficulty of getting around to action

"You do think about all these things when you start filling in your forms and going to the solicitor and things, and then when you actually move in it just gets completely forgotten. There's so many other things to do" (Barbara, new cohabitant).

Actions seen as too complex or confusing

"I brought home this thing about filling in a will and it's just kind of sat underneath the table for...two months or so...Well, I was going to do it on my own. That's why I got this pack sent home. But I looked at it and there are so many questions..." (Barbara, new cohabitant)

Perceived difficult of getting free advice

"This guy tries to get advice from the citizen's advice bureau. Two and three week's wait. he's also working away. so it's very difficult..." (Tom, twice divorced, now a cohabitant with two children, talking about a friend who's separating from his partner)

Optimism bias and risk assessment

An optimism bias, or not believing the worst will happen, may account for some of the lack of actions taken by cohabitants. This fits with previous studies: a study by Weinstein (1980) found that American college students expected a much rosier future for themselves than the average American, such as living longer, having longer-lasting marriages, more gifted children, fewer heart attacks, accidents and diseases than the average. Similarly, Chang et al (2001) found that despite some variations in levels of optimism, Americans were not alone in being unrealistically biased towards optimism about the future.

In general, this group of respondents was very aware that many relationships break down, and did feel that this might be a possibility for their relationship, however most couples felt that if they did split up, both partners would remain reasonable.

"If we split up then we split up and we're... You know, I know Linda well and I know that we'd sort it out, really. You hear horror stories, but I don't think that would happen to us. And we'd organize, you know, care of the children and whatever. So I don't think we need to do that [cohabitation contract]" (John, long term cohabitant, 4 children)

Many of the participants anticipated both partners behaving reasonably if the relationship did break down, and in this sense they may be succumbing to an optimism bias. This inability to imagine a future self and future emotional states has been found in previous research (Gilbert, 2006); moreover people have been shown to be surprisingly bad about predicting their future behaviour (Schkade and Kahneman, 1998; Kahneman and Thaler, 2006).

The younger participants in this study were particularly likely to view the choice to marry or cohabit as a personal risk decision, and some of the younger cohabitants in this legally aware group seemed to be actively weighing up the risks and benefits of keeping their

relationship outside societal regulations. (Beck and Beck-Gernsheim, 1995; 2002). For example, one of the “Pragmatic” participants viewed the decision to get married or not as “risk assessment” - trying to weigh up the chances of things going wrong, in the context of a reluctance to get married:

“You know, on one hand I’m being forced into a corner because I’ve got to protect some money – looking for protection that probably we’ll never need. Maybe it just comes down to a risk assessment at the end of the day, to say, what’s the likelihood of this occurring? Then why bother?” (Philip, cohabiting for 7 years, no children)

Difficulty of talking and planning for negative future events

Cohabitants talked about the difficulties of thinking ahead, especially about death and splitting up, at a time of moving in together. There was a recurring view that filling out a living together or cohabitation agreement is “too negative”.

“It’s having to think about awkward things like who has the children when you split up. There’s no kind of benefits. It’s just all the negatives. It’s not like saying, “Wa-hey!” It’s more like going: “Yeah, so if you split up you have 50% of the money, and...” (Barbara, new cohabitant)

“I downloaded the information which was on it and I printed it off to show to Keith, basically saying: “This is an alternative to getting married which would give us some form of protection in case the worst comes to the worst.” was the living together agreement. But we didn’t technically know what to do with it. That was the thing that really struck me. There was nothing on, um, ‘here’s your sources of finding solicitors who’ll help you go through the document and make sure it’s legally binding and you’ve done it correctly’”. (Tricia, divorced and cohabiting with another divorcee)

“I know when we looked at the cohabitation contract we’d probably been together about 10 years. We just looked at it and just thought, “This isn’t right for us, actually.” It’s going to cause more grief to actually specify it all out. Whereas actually if we split up tomorrow, we will find a way of splitting our assets. We know we will.” (Hannah, long term cohabitant)

Difficulties of persuading partner of need for action

Many of these cohabitants in uneven relationships perceived the main difficulty to be in persuading their partner to agree to an action, either marriage, or making a will, or making a living together agreement. This was particularly the case with older couples with greater assets.

“If anything happened now or Tom decided that he didn’t want to carry on the relationship, where does that leave me? Again, with absolutely nothing. And I have to write a list of everything that I contribute to the house, which is furniture and décor and things. Currently I’m trying to get him to sign it, but he’s looking at that as a threat, as if to say, “Well, why should I sign it?” (Tricia, divorced, now cohabiting with another divorcee)

“I mentioned once something about [making a will] and he said, ‘Oh, well. Do you want me to...?’ And I thought, Well, it’s a bit rude to say to someone, ‘Excuse me, can you just make another will and leave me everything?!’ I mean, it does sound like gold-digging then. But it’s from a practical point of view, you know.” (Sheila, divorced with adult children, new cohabitant)

Difficulty of taking action in breaking down or abusive relationships

One cohabitant, who had been cohabiting for many years, was concerned about the difficulty of leaving an abusive partner when the house and all assets were in his name. She felt she could not leave the family home without losing any right to a share in it.

“I really would like to see a change in the procedure that says I have to stay in residence to claim any legal rights that I may have. I don't know if this applies to married couples as well, but the strain of having to remain in residence, every day seeing and talking with a partner against whom I will be conducting a court case through the conclusion of the court case and until the sale of the house, is in my opinion a situation which no culture that calls itself civilised should see fit to impose on its members.” (Diane, long term cohabitant)

Deliberately not acting as a way of retaining control over finances, or over partner

Some did not want to get married because they felt they were in a better tax or financial position by remaining unmarried, and others wanted to get married to secure their financial situation. There was some frustration about the perceived arbitrariness of the financial benefits and costs of marrying or cohabiting.

One man talked about how his partner wanted to get married and he didn't, as he wanted to retain control over his finances:

“Essentially it's kind of a way of retaining a bit of balance in the relationship. You know, if she walks away she's going to be poverty stricken. I'll always look after the kids – obviously. Um. But I wouldn't feel particularly inclined to do anything for her” (Simon, cohabitant with 2 children)

Unanticipated Actions by cohabitants

The legal/government view appears to be that if cohabitants understand the situation fully, they will get married. However, some of the interviewed cohabitants, when they realise the law is not in cohabitants' favour, prefer to try and change the law rather than change their own behaviour by getting married.

For example several of the participants in this study had already been active in trying to change both the legal position and awareness of cohabitants. One woman talked about how she chose to take part in this study as a way of raising awareness of the issues. Another woman, who felt “trapped” in an abusive relationship by the difficulties of breaking up from a partner when all the assets are in the partner's name, was keen to raise awareness of the difficulties she had faced. One father described how he'd tried to help other fathers gain parental responsibility agreements:

I actually wrote to the registry office and suggested various changes they could make to the system that would make it [getting parental responsibility] a lot easier and they were quite receptive to that, although I think... Well, things have changed now anyway that you don't need the agreement. (Ian, long term cohabitant, 3 children)

4.8 Unmet legal need and views on possible changes in the Law

The long term committed cohabitants' perspective felt that there was a lack of legislation to permit cohabiting couples to have rights similar to married couples in terms of pensions, next of kin, and inheritance tax rights. Most of this group would like the option of a legally recognized cohabitation agreement, or a Civil Partnership, although others preferred the idea of being able to regulate their affairs in a piecemeal way:

"I don't feel in a way that I need it (a Civil Partnership). I think if you can sort of go and get your will... If you know what the issues are and you get your will, your parental thingy and you're sure you're covered, I don't feel the need personally to do anything else and I wouldn't go out and campaign for it. (Pamela, long term cohabitant, 2 children)

Lewis (2001: 183) argued from her study of cohabitants that they would like "some recognition of their status" but not particularly "a new legal status" which they had to sign up to, rather they wanted to be able to say for administrative purposes that they were cohabiting, some means of acknowledging that they had responsibilities. In this study, for those who saw cohabitation as a step towards marriage in a relationship (the "Romantics"), the main need was to protect themselves and their partners during the phase of cohabitation, but longer term concerns such as pensions and inheritance tax were less pressing, as these cohabitants envisaged getting married at some point, and especially if they were going to have children.

For the interviewees in "Uneven couples", there was a perceived need for regulation to protect the "weaker" partner in a relationship, and provide some security in the event of death or relationship breakdown. In particular there was a perceived need for recognition when people had put money and time into what they saw as a family home, and/or time spent raising children. Those in uneven couples were the most likely to talk about the difficulties of finding information, and felt there was a need for far wider awareness of consequences of actions.

Need to be able to regulate marriage or cohabitation contract before committing to it.

Several of the participants felt that there were problems with marriage law which made it hard for them to consider getting married. This was especially the case for those who had previous assets, or children from a previous relationship. Some of the cohabitants said that they would get married if they had more say over the details of the marriage contract, or at least knew more clearly what the legal implications of marriage were.

*"You're signing a legal document and you don't know what you're signing!"
(Claire, cohabitant for 7 years, no children)*

Others felt there should be more variation in what sort of contract a couple could choose, and sometimes this was related to the transience of modern relationships, and modern life in general – what one participant described as a "Portfolio relationships" approach:

Some argued that it was important for people to have to think explicitly about what they were entering into and promising, and they felt the marriage contract did not encourage this.

Need for consistency in treatment of cohabiting couples and for more publicity

Some respondents felt that it is unfair that cohabiting couples are treated as a couple in some ways and not others:

“When you start living together people start taking money from you, if you’re on benefit. And income tax start treating us all as a family living in one unit, so it... With one hand they treat you as a family unit, and with the other they don’t. So probably they should level the playing field in that sense. So yes, if they think we’re a couple together taking money from us, they should think we’re a couple together for giving us rights as well.” (Tina, cohabitant with child from previous relationship)

In any event several participants thought that the lack of rights for cohabitants should be publicised more widely.

More rights for children irrespective of parents' marital status

Several participants felt that the law should be protecting children of cohabiting parents better.

“I can’t see that anyone – you know, the government or anybody – would want to put our children in a perilous state just because... You know, that can’t be the aim. I mean, their stated aim is they want to have a secure environment for children to grow up in, and that’s not what they’re doing. For people like me, who don’t want to get married, they’re not providing that and they ought to provide that.” (John, long term cohabitant, 4 children, with concerns about the effects of inheritance tax)

I don't think it [legal protection] should be automatically tied into marriage or cohabiting or just living separately. It should be to do with the rights everybody has to have a minimum safety net. It should be to do with the rights that children have to have their parents have an income with which to bring up the children, regardless of, you know, whether the parents are still in a relationship or not.” (Daniel, cohabitant of 9 years, 2 children)

Opt-in Civil Partnerships and PACS-style agreements

Nearly all the cohabitants felt that a PACS-style agreement as available in France would be a good idea. Some of the respondents would have liked to be able to register a Civil Partnership, with the rights and responsibilities of marriage but without, as they saw it, the emotional, religious and historical connotations. Others felt a Civil Partnership was too like marriage. The PACS agreement was widely approved of for being more flexible and so individually tailored than a marriage or Civil Partnership. Participants liked the idea of registering your own agreement and some thought it would give a recognized status to cohabitation.

“By removing the automatic rights that married people get... You know, each step of the contract could be entered into consciously.” (Daniel, cohabitant for 9 years, 2 children)

Those considering marriage in the long term liked the idea of a PACS as an interim step, while the long term cohabitants saw it as an acceptable alternative to marriage for them.

“There’s a subtle distinction here. The “marriage” word is what’s value-laden with all the concepts that we dislike. That’s what I object to. If they called it something like “civil contract and joint responsibilities”, then fine.” (Peter, long term cohabitant, no children)

“Just even the language you’re using there feels much more appropriate. It feels appropriate to register [...] it’s just a question of going through a process there without so much, um, societal kind of rigour around it.” (Hannah, long term cohabitant)

“I think just the language of civil partnership is quite interesting. The “civil” clearly is making a statement about it being, you know, not religious; being secular. And “partnership” is clearly about... For me it communicates something about equality, um in terms of two equal people making that... Progressing to that point where they want to register their partnership. Whereas marriage comes with so many other things in terms of society’s expectations or beliefs about it that, you know, it’s very difficult to separate out the legal stuff and the religious stuff from the kind of, um... The way our society operates around traditional male-female relationships.” (Hannah, long term cohabitant)

Length of time cohabiting before being legally recognized as a couple

As detailed in Chapter Three, there was variation in both the website survey and the interview study in how long respondents felt a couple should live together before having access to legal rights (and opinions varied on whether cohabiting couples should have the same rights as married couples, or just access to some rights).

Most cohabitants in this study felt that there were levels of commitment, and that new cohabitants should not be automatically entitled to any rights.

“We shouldn’t have any rights, cos we’re... But if you’ve been living together... You kind of clock up time.” (Barbara, just started cohabiting, bought house in joint names, no children)

Some participants, especially those who were cohabiting with the intention of eventually marrying, took the view that many people cohabit as a step towards marriage and as such it would be inappropriate to treat their relationship like a marriage at this point:

“People in most cases cohabit because they perceive it as being, you know, sort of a step on from being single, one step short of being married. So if you basically remove that interim step, what’s going to happen?” (Simon, cohabitant with 2 children)

Many thought that cohabitants should be automatically treated as if married after living together for several years, or immediately on registering their relationship (see next section). Most thought that this should happen immediately once a couple had a child together.

“The more I think about it, the more I think if there are children, I think maybe there should be automatic protection. But if there are no children, then there shouldn’t.” (Claire, cohabiting 7 years, no children)

Participants did realise that length of time cohabiting might be difficult to specify.

One respondent suggested that the age of the cohabitants might be more relevant than the length of time they had been cohabiting:

Views on whether cohabitants' rights should be “the same as marriage”

Some of the participants felt that it was fair that cohabitants were treated differently to married couples if they separated, as a different commitment had been made. (The Romantics and Uneven Couples tended to see cohabitation as a lower level of commitment,

the Ideologues saw it as an equal but different commitment than marriage). Most, however, felt that there should be a way for cohabitants, especially longer term cohabitants or those with children, to “opt in” to similar rights, if they chose:

Int: “So you think if people marry it’s fair enough if the assets, say, were divided 50:50 if they split?”

Claire: “Yeah”

Philip: “Absolutely. Yeah.”

Int: “But you also think it’s fair for cohabitants to go back to their original position?”

Claire: “Yeah. I think that’s fair enough. But again, I think there should be another mechanism... Where you can register your relationship, where you do get...”

Summary of chapter

As will be elaborated in Chapter Six, the diversity of types of cohabitant, and their various requirements and needs, demonstrate that, while the Living Together Campaign website was viewed very positively, and most participants had found and downloaded relevant advice and information, there were many reasons to limit actions. Some cohabitants, particularly those in uneven couples, were limited by a partner being reluctant to discuss or change their arrangements. Others, particularly those Ideologues who are resistant to getting married, felt that there was a lack of appropriate, or legally-binding, action which they could take to remedy their situation. Participants did feel strongly about possible law reform, with most preferring an “opt in” system of rights, though many of the participants also felt there was a need to protect vulnerable cohabitants whose partners might resist opting-in. A PACS-style agreement whereby couples could negotiate and register their own agreement was a particularly popular idea among interview participants.

This group of legally aware cohabitants appears to be less subject to optimism bias that might be true of those who have not checked their financial and legal position, or who believe that they do not need to take action. For the participants of this study, apparent inaction is not always due to a feeling that splitting up etc will never happen to them, but to the relevant costs and benefits as perceived by them. However, it is important to note that these costs and benefits are not always viewed in the ways in which lawyers might expect. People think along rational, but not necessarily legally rational, lines.

Chapter Five. Findings from the Interview Study: Commitment, Finances and legal issues

Besides the emphasis on legal awareness and the impact of the Living Together Campaign, another particular aspect of this study was the relationship between couples' attitude to and behaviour concerning finances, and their understanding of commitment and the nature of their relationship. This has been shown in previous studies to be relevant (Pahl, 1989; Burgoyne and Morison 1997; Vogler, 1998; Burgoyne et al 2006). How a couple shares or keeps separate their finances and assets, and how they view dependence, independence and interdependence during a relationship, has ramifications for how cohabitants should be treated in case of relationship breakdown or the death of one partner.

5.1 Financial arrangements among cohabiting couples

We asked cohabitants about how they arranged their finances. Some of the couples, including some of those with children, kept most of their finances separate, with separate accounts and each partner contributing to expenses. Many used a combination of joint and separate accounts ("partial pooling"). Very few of the respondents here had just a joint account, though several couples felt that despite using separate and joint accounts, their finances were all equally shared.

Financial independence was a major concern for many of the cohabitants we interviewed. For some, it was a reason for not wanting to get married; this was particularly the case for those who had acquired considerable assets before entering a relationship, and for those who had experienced divorce or cohabitation breakdown in the past.

There was a high degree of correlation between the "type" of cohabiting relationship people were in, and their money-management system within the relationship (see table 4 below). Most of what we termed the Romantics and the Pragmatists had a system of joint accounts, usually with some single-owned accounts too ("partial pooling"), while all of the Uneven Couples had separate accounts. The Ideologues were broadly divided into two groups, half had joint accounts, but half retained separate finances even after many years together, and even after children, which they saw as reflecting their ideological position.

Table 4. Money management systems of interviewees

	Joint finances	Partial pooling	Separate finances	Total
Ideologues	2	2	4	8
Romantics	1	3	1	5
Pragmatists	1	1		2
Uneven Couples			5	5
Total	4	6	10	20

Most striking from this table is that all 5 of the **Uneven** couples had totally separate finances, even though 3/5 of these couples had been together at least 6 years.

Half the **Ideologues** had separate finances. However, there was a split depending on whether couples had children, of the 4 sets of ideologues who had children together, 3 had joint accounts or partial pooling, and only one had totally separate accounts. 3 of the "ideological" couples who had no children had separate accounts, and one long term childless couple had partial pooling. In their terms, the ideologues related this to the notion of being independent agents, rather than a unified couple. They did not seem to want to

become the single economic entity often assumed as the norm for married couples (though this is also increasingly the case for younger married couples.

The “**romantic**” and “**pragmatic**” couples tended to have partial pooling (3/5 of our sample) but most of these couples were relatively new couples, none had children together.

This study partially supports Vogler’s (1998) finding that cohabitants behave differently to married couples in terms of commitment and finances – this was the case for the uneven couples where one partner might be less committed to the relationship than the other, and to some of the ideological couples where independence was seen as an important aspect of the couple’s relationship.

In the past the system of money management employed by a couple often reflected the operation of economic power within the relationship and the extent to which they saw themselves as a single financial unit. Thus, those who pooled all or most of their money in a joint account in both names were more likely to take an egalitarian approach to money management than those who had a housekeeping allowance system (Pahl, 1989; Burgoyne and Morison, 1997). Even then, however, it was far from easy to know whether partners had equal access to ‘pooled’ money for their own personal use. More recent research however, shows that patterns are changing, both for married couples and for cohabitants (Ashby and Burgoyne, 2006). There has been a growing trend towards more separation in money management, as well as the use of a combination of separate and joint accounts. The ‘ideology’ that lies behind what is apparently the same system (e.g., having a joint account for main household expenses and keeping the rest separately) varies from one partner to another and this leads to different financial outcomes, regardless of whose name is on the account. Some of those with an ‘equal partnership’ model of their relationship tend to treat all money as a collective resource, even where none of the money is held in joint names, whilst those who emphasise independence and autonomy are more likely to see money as rather more separately owned and to regard it as essential that each partner pays their own way.

From this study’s findings, combined with findings from recent related research, it is clear that there is increasingly no straightforward link between arrangement of finances, and a couple’s commitment, and it is important to exercise caution in ‘reading off’ a couple’s treatment of money from the types of accounts they have and whose name is on the account.

5.2 Understandings of Commitment

Commitment is often assumed (in the relevant literature) to be a function of the costs and benefits of the relationship, e.g., the interplay of factors that attract partners to each other and to the relationship and those that pull them apart (such as attractive alternatives). Stanley & Markman’s (1992) theory identifies two components that are somewhat similar: personal dedication and constraint. The latter include financial considerations, responsibilities for children, social and family pressure, and lack of other possible options. Such constraints accumulate as relationships grow over time and make it harder to break up. Lewis (2001) cites Johnson’s (1991) three dimensions of commitment: (i) personal commitment, which comes from an attraction to the person or the relationship itself; (ii) moral commitment, a belief that the relationship ought to continue because of promises made or understood; and (iii) structural commitment, perceived barriers to leaving a relationship because of investments made, such as in property or children. As one might expect, commitment to the institution of marriage differs between married and cohabiting couples (Nock, 1995), but institutional commitment also seems to be linked to dedication to the partner. A U.S. study looking at commitment within both married and cohabiting couples, the latter, on average, were found to be less dedicated to their partners than their married counterparts, even when controlling for length of relationship in years (Stanley, Whitton, & Markman, 2002). Non-married cohabitation lacks the ‘public declaration’ that typically forms a central part of marriage ceremonies, and this may be an important factor in the way that

different types of couples view their relationships.

Lewis (2001) found that women in cohabiting partnerships seemed more reluctant to make a public commitment and wished to preserve a greater sense of individual identity. Lewis also noted a generational shift from an accepted sense of obligation in the older married generation to a more privately-negotiated sense of commitment in the younger couples, both married and cohabiting.

One way of studying couples' approach to commitment is to look at their responses to the interview question "Do you consider yourselves as good as married?"

"Better than marriage"

Most of the ideologues, when asked "Do you consider yourselves as good as married?" were emphatic that their relationship was "better than marriage"

"Because we voluntarily stick together. You know. I say it in the jargon because I've been trained to say it but, you know, we do re-contract quite a lot (in his job). You know, we do look at short term and long term aims quite a lot. You know. And I don't think a lot of married people talk about finance. They don't talk about who's doing what in the relationship. They don't talk about, you know..." (Peter, long term cohabitant, no children)

In contrast, the Romantic couples generally thought that their relationship was a step before marriage, in terms of commitment and seriousness.

Patrick: "No. I don't see us as good as married. Do you?"

Emma: "No. God, no! We're two people who've been together a year and are trying out living together. See if we kill each other."

Patrick: "Try before you buy!" (Patrick and Emma, recently started cohabiting, no children)

The interviewees who were in Uneven Couples had mixed views as to whether their relationship was "as good as marriage". Some viewed their relationships as less committed, or less satisfactory, than marriage.

"No, because we haven't got the piece of paper and I'm not using his surname." (Sheila, divorced, cohabiting for 2 years, Uneven relationship)

Those in pragmatic couples viewed marriage and cohabitation as emotionally or romantically similar, with the only differences being the legal status:

"Just legal status. I don't see any other plus points to it [marriage]. It's a waste of money. It's too much stress. And it's doing my head in!" (Natasha, about to cohabit and planning to get married)

5.3 The relationship between emotional and financial commitment – case studies

Many of the respondents made explicit distinctions between a romantic or emotional commitment to their partner, and financial commitment to a relationship in terms of joint accounts, shared savings plans, and so on. The committed couples in this study, especially the Ideologues, typically follow the pattern identified by Lewis (2001) in her study of cohabiting couples, described above, with cohabitants having a strong sense of commitment to a relationship, while maintaining a strong sense of individual identity. These couples view their commitment as separate from a public declaration, and often also separate from a financial pooling of resources.

The changing understandings of commitment among cohabiting couples, and the often-complex relationship of commitment to couples' financial arrangements, can be exemplified by three case studies. Harriet, an ideologue, is adamant that she and her partner of 13 years are totally emotionally committed, probably for life, yet they keep their finances almost completely separate (see box 1). Daniel and Pamela, ideologues together for 9 years with two children, view having shared finances as part of their emotional commitment, and do not separate the two, but they stress the importance of financial equality in their relationship (box 2). Tricia, in an uneven relationship where both are divorced, is struggling with the discrepancy between what she perceives as a mutual emotional commitment, and a partner who is reluctant to make any financial commitment (box 3).

Case study 1: Harriet, early 40's, no children, cohabiting for 13 years. Ideologue, opposed to marriage, separates emotional and financial commitment

Harriet says that she and her partner keep their finances separate, though they own a house in joint names. They share bills.

"We share everything. As in, equally shared to the percentage of the house". "Food bills, 50:50. Electric bills, 50:50. That sort of thing."

They continue sharing bills, even though at the moment her partner is earning and she is not.

She describes the way they manage their finances as like a business contract:

"We've got a legal, binding contract through the lawyers that says that I own a certain percentage of house, he owns a certain percentage of the house. If we were to split up at any point... It's like a working contract – like we've gone into business with each other, basically."

*"Does it sound a bit **too** business-like?! Um. I feel very comfortable with it. ... There's a certain independence in owning my own money, that money being mine and me contributing as much as I can."*

Harriet talks about how much their relationship is based on love and commitment, but is reluctant to have to "prove" this love by marriage.

"I'm very proud of our relationship, actually. I think it's a really mutual relationship"

Despite being in a long term mutually committed (in her opinion) relationship, Harriet makes a distinction between emotional and financial commitment:

"I suppose you're always thinking, ultimately, that at the end of the day, if you split up, this is the reality of it, so let's make it as simple as possible."

Case study 2. Daniel and Pamela. Cohabiting for 9 years. 2 children. Opposed to marriage on ideological grounds

Daniel and Pamela are both high earners in the same profession. They own a house in joint names. They have pooled all their money from a few months into the relationship, a long time before buying a house together.

“All our accounts are joint. Well, I’ve got an ISA but, you know, basically all our finances are shared. And we earn about the same.” (Pamela)

The couple waited until Daniel had paid off his student debts before merging their finances, and they relate this to their ideal of equality within a relationship:

“It was a factor that you had money and I had the debts, to start with. Even though it was only a few sort of thousands of pounds each way. It was something we were consciously aware of. I wanted to start off as evenly as possible.” (Daniel)

Currently they both work part time and share childcare equally. They talk about the importance of having an “equal partnership”. They also talk about the importance of being independent but do not see having joint bank accounts as in opposition to this.

They talk about how the LTC website made them more aware that there were financial advantages to being married which they had not realised, but felt that in their situation they did not need this security:

“I think if one of us earned a lot more than the other, we might have done things differently. I don’t know how, but... You know, I think it was an easy decision to make because we had the same income and the same earning potential” (Pamela)

“It was an easy decision to make” (Daniel)

They are also confident that if the relationship broke down there would not be a problem, financially:

“We’d just divide it in half again, I suppose.” (Pamela)

For this couple, the focus is on equality of earning power, and the importance of both partners being able to be financially independent if the relationship broke down. They do not make a distinction between financial and emotional commitment.

Case study 3. Tricia, in uneven relationship. Cohabiting for 7 years

Tricia has been cohabiting with Alisdair for 7 years. Both are divorced, and feel they came out badly, financially, from their divorce settlements. Both have children who live with their previous partners.

They have separate accounts and the house is in Alisdair's name.

"We have separate accounts but every bill that comes in is shared. And again, you see, I always pay him the cash for my half, you know. Um. You know, he'll say: "You owe me such and such," you know, and I'll pay half. So I've got no receipts, really. I just say, "Here's my half of what we're paying."

Tricia is very concerned about her financial security if they split up or if he (Alisdair) – died. She would like to get married for the security if things go wrong. He does not want to get married due (she says) to a bad first marriage.

Tricia distinguishes between emotional and financial commitment, stressing that her relationship is very good, apart from Alisdair's reluctance to make any financial changes.

"It has been brilliant. Lovely relationship. Best thing that's ever happened to me. We're both very, very happy."

Besides paying half the household bills, Tricia contributes towards maintenance for the house, such as a new bathroom suite, though Alisdair does not insist on this. They find talking about money very difficult, and Alisdair views such discussions as a sign that Tricia is thinking of ending the relationship.

While Tricia is keen to get married, mainly for financial security, she does not view this as the "right" reason to get married:

"As much as I know he loves me and I love him, I want him to think that if we ever got married, it's because I'm in love with him, not because of my rights."

5.4 Triggers to indicate to lawyers how people should be treated

Should a couple's financial arrangements, while together, have an impact on how they are treated in the case of relationship breakdown or death?

In this study's findings, there is no direct correlation between emotional commitment, financial commitment, length of relationship and "ideological type" of relationship. There was a generational difference in approaches to finances within relationships, and also to ease of being able to discuss finances openly with a partner. The younger couples in the study did not find it hard to discuss sharing accounts, bills and household costs, or keeping them separate, whereas some of the older participants found this very hard, having grown up at a time when there were very different norms about household finances, and gender roles (Pahl, 1989).

However this is not purely due to a generational change in attitudes to money and relationships, partly because fewer of the younger couples had divorces or previous relationship breakdowns, or children from previous relationships, which complicated the financial situations of the older cohabitants in this study. Although, just because it is complicated, this should not in itself inhibit the ability to discuss it, unless the issues are particularly sensitive. In those cases where one or both partners had dependent children or significant personal assets, there was far less likelihood of couples pooling all their money and assets, even after living together for several years.

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For those couples without children, and for those with children who had maintained fairly equal earning status, the respondents themselves perceived little need for intervention if the relationship broke down. Many felt it was inappropriate for one to claim maintenance off the other partner in these instances, even if there were children involved.

One respondent, Rachel, had recently split up with her cohabiting partner of 15 years, and described how the split had been relatively simple, financially. They had no children, fairly equal incomes, and the house had been joint names. She feels that this might be more complicated in a future relationship.

“When I got together with my partner we didn’t have anything [Laughs] to lose or gain, you know. Neither of us had anything, particularly, except a few bits of furniture and some records or whatever. If I got a new partner now, these kinds of legal issues would be very much more pressing, simply because I have equity to lose and presumably they would too, so you’d have to sort all those legalities out, I think, before you actually moved in together” (Rachel, ex-cohabitant)

Respondents did however feel that if one partner had given up paid work to care for children or elderly relatives, there should be some recognition of this in case of relationship breakdown.

Chapter Six. Conclusions and Recommendations

Overall, from our study the LTC information campaign can be seen to be having a positive impact. Although it is web-based and can only be accessed by those who have internet access, we have found from our internet survey sample that the website is attracting cohabitants, former cohabitants and perhaps most significantly those considering cohabitation and marriage from a wide range of geographical areas. Whilst our internet survey attracted mainly women and those involved in longer term relationships, it is unlikely (although possible) that this accurately reflects the nature of the constituency of LTC website users. The broad differential spread of respondents from various styles of cohabitation relationship also achieved in lower concentrations would seem to show the website is reaching a wider audience but this might warrant some further investigation.

Conclusions about the impact of the website

Those participating in the study were almost universal in finding the website useful and whilst it is noteworthy that most respondents found the site by 'surfing' rather than through a more direct route, it seems clear that the website is to some extent meeting the unmet legal need that has been identified in this and other areas of law (Genn, 2000). Consideration may be given to improving accessibility to the site by improving its internet 'visibility'. For example, including the word 'cohabitation' in the campaign's website label to improve the probability of it being found by those using websearches might be appropriate. Thought might also be given to more regular or intense media coverage on the usefulness of the site.

Conclusions about the impact and usefulness of the Living Together Campaign for cohabitants

In terms of direct outcomes, the website seemed to offer the most to those who were considering whether or not to cohabit or marry and has clearly made the decision easier for those in the Romantic and Pragmatist groupings of cohabitants we uncovered. (Some cohabitants, though, felt it inappropriate to marry for legal rather than emotional reasons.) However, our study seems to indicate that the Campaign has been less successful to date in getting legally aware cohabitants to take appropriate legal action as cohabitants. As has been found in earlier studies, people may not be taking the 'legally rational' approach that the law expects of them. In some cases, this is because the couples have either done what they can already or what they want to do is impossible (pension planning and inheritance tax avoidance are obvious examples of this). In others, an obstructive partner may prevent the legally rational course of action being taken which is of concern. However it is nonetheless disappointing that of those recognising that some achievable legal action (such as making wills) was needed and wanted by both partners, none of our respondents contacted at the end of the study some 6 – 9 months on, had actually translated their good intentions into action. In the follow-up interview study, the reasons for this were diverse, although the optimism bias, found to be a strong deterrent to action in earlier studies (Barlow et al, 2005), was in this study operating more at the level of justifying delay rather than a complete burial of the head in the sand.

Main barriers for cohabitants to taking legal action, and possible initiatives

From this we conclude that 'getting round to legal action' is commonly inhibited by practical barriers and may be in practice a long piecemeal process rather than a single event, leaving cohabitants legally vulnerable for often long periods of time. Initiatives to encourage cohabitants to make appropriate financial and legal provision are likely to be more successful if they are targeted at the key turning points of relationships such as moving home or the birth of a child when partners are already having to negotiate and take legal steps. We suggest further consideration be given to ways in which cohabitants could be reached by other agencies at these times.

Conclusions about Living Together Arrangements, and other possible Cohabitation Contracts

The possible lack of enforceability of Living Together Agreements did make some couples think the effort and potential stress of negotiating and completing an agreement was not a worthwhile exercise. The fact that some couples did find the exercise of attempting to reach agreement a negative experience is worthy of note. However, our findings suggest the Law Commission's proposal (Law Commission, 2006) to put the enforceability of such agreements beyond doubt would be appropriate. However, respondents to the follow-up study were almost unanimous in their enthusiasm for a French Pacs-style register, which gave the freedom to agree terms but also endowed them with a formal status different to marriage upon registration of the agreement. This was, though, seen by the majority as a useful additional tool and not a substitute for a system of presumptive rights. We suggest this would be of particular assistance to Ideologue couples, Romantic couples in trial-marriage situations as well as repartnered couples who may for example wish children of previous relationships to benefit from their property instead of or alongside their current partner.

Legal needs of uneven couples

The existence of a significant number of Uneven Couples in our study where often there are children reveals that there is a clear need for presumptive legal protection. We also found these couples were least likely to pool their finances, often to the considerable power advantage of one partner. The economically weaker partner in those relationships, where one is more committed to the relationship than the other or where only one is willing to marry, make a will or enter into a cohabitation contract, is potentially vulnerable on cohabitation breakdown or death of a partner under the current law. This approach will meet further unmet legal need in times of crisis as well as providing a safety net for those who have not got around to acting in their intended legally rational way.

Perception of cohabitants about their legal and financial options

Overall, most cohabitants in this study considered cohabitation to be a valid lifestyle choice. Many expressed strong dissatisfaction with the legal situation they found themselves in and wanted legal reform. Many recognized the financial hardship that cohabitants and their children could currently be exposed to on relationship breakdown or death and considered this unfair. Some of the other regularly-mentioned issues are beyond the remit of the Law Commission project and the DCA, but were viewed by the respondents as a central concern. These include Inheritance Tax, Pension rights and Next of Kin rights in case of emergency or illness.

Support for extension of marriage-like rights for cohabitants

Extension of the rights and obligations of married couples to cohabitants was seen as appropriate by a large majority of the internet survey respondents and was almost universally supported where cohabitants had a child of the relationship. However, there was stronger support for this in some areas (such as inheritance rights) than others (such as maintenance). Some (mainly Ideologues) rejected the marriage model and wanted to be treated more as two individuals yet free to agree their own arrangements to suit their own particular needs and situations up to and including all the rights and obligations of marriage. Not to allow this was seen as unfair discrimination against socially accepted stable families.

No consensus on best way to reform the law, in style or in terms of timescales

Beyond this, there was no obvious consensus among respondents on the best manner in which to reform the law, with support for opt-in, opt-out and presumptive approaches. A view did come through that the diverse nature of the cohabitation population with such a wide spectrum of styles of relationship, levels of commitment and financial practices merited a range of legal options being made available. This should be subject to a strong automatic safety net to protect the most vulnerable Uneven Couples (and their children) as well as those who had not got around to making their own arrangements.

Project conclusions

We therefore conclude that a range of options and solutions are needed to cater for the increasingly diverse nature of cohabitation in the 21st Century. These should include both (and primarily) a presumptive scheme giving cohabitants (and particularly cohabitants with children of the relationship) automatic rights and obligations akin to marriage from which couples can opt out, alongside an opt-in scheme giving flexibility as to the terms. In this way, Uneven Couples would gain protection it is otherwise impossible to achieve. In addition Romantic couples planning to marry and Ideologue couples whose principles will not allow them to marry can negotiate their own arrangements yet gain a recognized legal status, other than marriage, which acknowledges their commitment to each other.

Recommendations to Policy

- There is a need for a **presumptive scheme** giving cohabitants (and particularly cohabitants with children) automatic rights and obligations akin to marriage. This is particularly important for those in uneven relationships or where one partner is less committed than the other. However, **opting out** by mutual agreement should be permitted, subject to safeguards ensuring that agreement was freely given and the welfare of any children of the relationship was taken into account.
- There is also a need for an **opt-in scheme**, similar to the French PACS-style agreement, giving mutually committed cohabitants flexibility about the terms of their relationship contract. This would be compatible with the opting-out.
- There is a need for a **more consistent message** from government and policymakers about the non-existence of Common Law Marriage. Currently, the contrast between the acknowledgement of cohabitation in welfare support systems and the lack of acknowledgement of it in family law is contributing to general confusion about the legal position of cohabitants.
- Initiatives to encourage cohabitants to make appropriate financial and legal provision are likely to be more successful if they **are targeted at the key turning points** of relationships (for example, buying or renting a house together, having a child) when partners are already having to negotiate and take legal steps.
- There is a need to consider the impact of policy proposals on the **position of children irrespective of their parents' marital status**, in recognition of the increasing number of children of cohabitants who are currently excluded from a number of welfare and poverty initiatives.

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Appendix I

Internet Survey Questionnaire

About the research.

The Law Commission for England and Wales is considering how some aspects of cohabitation law might be reformed (for further details click [here](#). The government is also considering what should be done and has been trying to make sure cohabitants are better informed about cohabitation law. As part of this it has supported the Living Together Campaign. To feed into the Law reform process, we are collecting people's views about how the law affects them and their relationship.

A1

Section A.

In answering questions about your relationship and your current or former cohabiting partner, please make sure that you are referring to your **most recent cohabitation relationship** throughout the questionnaire. Thank you.

First, some questions about the Living Together Campaign Website

Q111: 1. How did you get to know about the Living Together Campaign website?

Please choose **only one** of the following:

- Media reports (TV, radio, newspapers etc.)
- Through friends/colleagues/relatives
- Surfing the net
- Through advertising leaflets
- Other

Q112: 2. Why did you go onto the Living Together Campaign website [please tick all that apply]?

Please choose **all** that apply

- By chance
- Out of curiosity
- Planning to cohabit
- Concerned about your legal position
- Concerned about your partner's legal position
- Intending to buy a property together
- Concerned about benefit or other money issues
- Experiencing relationship problems
- At your partner's suggestion
- Thinking about whether or not to marry
- Planning/about to have/recently had a baby
- Planning retirement
- Thinking of making a will
- Concerned about inheritance issues

Other:

Q113: 3. Do you feel that visiting the Living Together Campaign website improved your knowledge of the legal position of cohabiting couples?

Please choose **only one** of the following:

- yes, a great deal
- yes, a little
- no, not much
- no, not at all

Q114: 4. Before visiting the site, how well-informed do you think you were about the legal position of cohabiting couples?

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Please choose **only one** of the following:

- very well-informed
- informed in some areas and not others
- not well-informed

Q115: 5. Having visited the site, how well-informed do you now feel about the legal position of cohabiting couples?

Please choose **only one** of the following:

- very well-informed
- informed in some areas and not others
- not well-informed

A2

A. The Living Together Website (cont'd)

Q116: 6. Which section(s) on the Living Together Campaign website did you find helpful to your own situation *[please tick all that apply]*?

Please choose **all** that apply

- Moving in
- Wills
- Children & Parental Responsibility
- Money and property
- Next of Kin
- Breaking up
- Same-sex couples
- LivingTogether quiz
- Benefits and living together
- Inheritance
- I did not find it helpful

Q117: 7. What did you download from the site *[please tick all that apply]*?

Please choose **all** that apply

- Breaking Up checklist
- Living Together Agreements
- Housing & Living Together
- Wills & Living Together
- Pensions
- Next of Kin
- What is "Parental Responsibility"?
- Parental Responsibility for fathers
- How to get Parental Responsibility for your partner's child
- I'm expecting a baby and I'm not married to the father
- How to appoint a guardian
- Civil partnerships and Living Together
- Benefits and living together leaflet
- Inheritance tax and living together
- Living Together Quiz
- Nothing

A3

A. The Living Together Website (cont'd)

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Q118: 8. Did your visit(s) to the Living Together Campaign site make you feel you needed to take any of the following actions?

Please choose **all** that apply

- Discuss the Living Together Campaign site with your partner
- Decide to get married
- Make a living together agreement
- Make a will
- Ask your partner to make/change their will
- Seek further legal advice
- Use the breaking-up checklist
- Make a parental responsibility agreement
- Register your child's birth jointly
- Reconsider your pension planning
- Reconsider your benefit position
- Appoint a guardian for your children
- Nominate a Next of Kin
- Followed advice on housing and living together
- Register a Civil Partnership
- Reconsider your inheritance tax planning
- I did not feel prompted to take any action
- Other - please explain

Other:

Q119: 9. If you have not taken all of the action that you felt was needed, please indicate why:

Please choose **all** that apply

- My partner/former partner would not agree to take the necessary action
- I haven't got around to it but intend to
- I feel I need further legal advice but cannot afford it
- I/we probably won't encounter these problems in the near future
- The information was too complex, and I am not clear what to do
- I am/was afraid it might cause problems in the relationship
- No action was needed
- Other - please explain

Other:

Q120: 10. If you did not feel that you needed to take any action, please explain why this is the case *[Please give details if you wish]*

Please choose all that apply and provide a comment

- I am/was satisfied with my legal situation
- I had already taken the necessary action
- There is/was nothing I could do to improve my situation
- Other - please explain

B1

Section B. About Law Reform

Q212: Having visited the site, please indicate your views on the law relating to cohabitation. Please indicate how you feel about the following statements.

Please choose the appropriate response for each item

	strongly agree	agree	disagree	strongly disagree	don't know
1. It is complex and confusing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. I like the fact that cohabiting couples are not automatically treated as if they were married but instead can make their own agreements on advice about their legal position in various contexts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q213: As before, please indicate the extent to which you agree with the following statement.

Please choose the appropriate response for each item

	strongly agree	agree	disagree	strongly disagree	don't know
3. In general, married couples should continue to be treated as a special family unit with a different legal position from cohabiting couples	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q213a: As before, please indicate the extent to which you agree with the following statement.

Please choose the appropriate response for each item

	strongly agree	agree	disagree	strongly disagree	don't know
4. As soon as they live together cohabiting couples should be able to opt-in to a system that gives them rights and obligations similar to married couples	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[Only answer this question if you answered 'agree' or 'strongly agree' to question 'Q213a ']

Q213b: Should such rights and obligations be

Please choose the appropriate response for each item

	strongly agree	agree	disagree	strongly disagree	don't know
the same as for married couples	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
similar but fewer than for married couples	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q214: 5. Unless they have made an agreement that they wish to be treated differently from married couples, cohabiting couples who have been together for a period of time should have the same legal rights and obligations as if they were married

Please choose **only one** of the following:

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- As soon as they start living together
- After 1 - 2 years
- After 3 - 5 years
- After 5 - 10 years
- They should never have the same rights as a married couple

Q215a: 6. Unless they have made an agreement that they wish to be treated differently from married couples, cohabiting couples [who have a child together](#) should be entitled to exactly the same legal rights as if they were married (*please click all that apply*)...

Please choose **all** that apply

- As soon as they start living together
- After 1 - 2 years
- After 3 - 5 years
- After 5 - 10 years
- As soon as they have a child together
- Never in any circumstances

B2

[B. About Law Reform \(cont'd\)](#)

Q216: 7. Here are some aspects of the law that currently treat cohabiting couples differently from married couples (and now from registered same-sex civil partners who have broadly acquired the same rights and obligations as married couples). For each aspect, please indicate how you think [couples who have cohabited for a period of time should be treated compared with married couples \(and civil partners\)](#): (clicking below will allow you to clarify your views on appropriate length of time)

Q217: (a) For inheritance (where a spouse automatically inherits most or all of the assets including the home where no will is made)

Please choose **only one** of the following:

- the same as married
- similar but less generously than married
- as two separate individuals with no automatic rights to inherit from partner

[Only answer this question if you answered 'the same as married' or 'similar but less generously than married' to question 'Q217 ']

Q217a: Please indicate after what period of time these rights and obligations should be given to cohabitants.

Please choose **only one** of the following:

- As soon as they start living together
- 1 - 2 years
- 3 - 4 years
- 5 - 10 years
- 10 years +

Q218: (b) For pension rights (where spouses are entitled to a pension based on their partner's contributions)

Please choose **only one** of the following:

- same as married
- similar but less generously than married
- as two separate individuals with no pension rights

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Q118: 8. Did your visit(s) to the Living Together Campaign site make you feel you needed to take any of the following actions?

Please choose **all** that apply

- Discuss the Living Together Campaign site with your partner
- Decide to get married
- Make a living together agreement
- Make a will
- Ask your partner to make/change their will
- Seek further legal advice
- Use the breaking-up checklist
- Make a parental responsibility agreement
- Register your child's birth jointly
- Reconsider your pension planning
- Reconsider your benefit position
- Appoint a guardian for your children
- Nominate a Next of Kin
- Followed advice on housing and living together
- Register a Civil Partnership
- Reconsider your inheritance tax planning
- I did not feel prompted to take any action
- Other - please explain

Other:

Q119: 9. If you have not taken all of the action that you felt was needed, please indicate why:

Please choose **all** that apply

- My partner/former partner would not agree to take the necessary action
- I haven't got around to it but intend to
- I feel I need further legal advice but cannot afford it
- I/we probably won't encounter these problems in the near future
- The information was too complex, and I am not clear what to do
- I am/was afraid it might cause problems in the relationship
- No action was needed
- Other - please explain

Other:

Q120: 10. If you did not feel that you needed to take any action, please explain why this is the case *[Please give details if you wish]*

Please choose all that apply and provide a comment

- I am/was satisfied with my legal situation
- I had already taken the necessary action
- There is/was nothing I could do to improve my situation
- Other - please explain

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Please choose **only one** of the following:

- same as married
- on nomination by partner
- never (i.e., they should be treated as separate, unrelated individuals)

[Only answer this question if you answered 'same as married' or 'on nomination by partner' to question 'Q221 ']

Q221a: Please indicate after what period of time these rights and obligations should be given to cohabitants.

Please choose **only one** of the following:

- As soon as they start living together
- 1 - 2 years
- 3 - 4 years
- 5 - 10 years
- 10 years +

Q221b: Would any of your answers to the previous question (question 7) change for cohabiting couples who have a child together?

Please choose **only one** of the following:

- Yes
- No

B3

B. About Law Reform (cont'd)

[Only answer this question if you answered 'Yes' to question 'Q221b ']

Q222: 8. Again, for each aspect of the law, please indicate how you think couples who have a child together should be treated compared with married couples (and civil partners):

[Only answer this question if you answered 'Yes' to question 'Q221b ']

Q223: (a) For inheritance (where a spouse automatically inherits most or all of the assets including the home where no will is made)

Please choose **only one** of the following:

- the same as married
- similar but less generously than married
- as two separate individuals with no automatic rights to inherit from partner

[Only answer this question if you answered 'the same as married' or 'similar but less generously than married' to question 'Q223 ']

Q223a: Please indicate after what period of time these rights and obligations should be given to cohabitants.

Please choose **only one** of the following:

- As soon as they start living together
- After 1 - 2 years
- After 3 - 5 years
- 5 - 10 years
- As soon as they have a child together
- Never

[Only answer this question if you answered 'Yes' to question 'Q221b ']

Q224: (b) For pension rights (where spouses are entitled to a pension based on their partner's contributions)

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Q118: 8. Did your visit(s) to the Living Together Campaign site make you feel you needed to take any of the following actions?

Please choose **all** that apply

- Discuss the Living Together Campaign site with your partner
- Decide to get married
- Make a living together agreement
- Make a will
- Ask your partner to make/change their will
- Seek further legal advice
- Use the breaking-up checklist
- Make a parental responsibility agreement
- Register your child's birth jointly
- Reconsider your pension planning
- Reconsider your benefit position
- Appoint a guardian for your children
- Nominate a Next of Kin
- Followed advice on housing and living together
- Register a Civil Partnership
- Reconsider your inheritance tax planning
- I did not feel prompted to take any action
- Other - please explain

Other:

Q119: 9. If you have not taken all of the action that you felt was needed, please indicate why:

Please choose **all** that apply

- My partner/former partner would not agree to take the necessary action
- I haven't got around to it but intend to
- I feel I need further legal advice but cannot afford it
- I/we probably won't encounter these problems in the near future
- The information was too complex, and I am not clear what to do
- I am/was afraid it might cause problems in the relationship
- No action was needed
- Other - please explain

Other:

Q120: 10. If you did not feel that you needed to take any action, please explain why this is the case *[Please give details if you wish]*

Please choose all that apply and provide a comment

- I am/was satisfied with my legal situation
- I had already taken the necessary action
- There is/was nothing I could do to improve my situation
- Other - please explain

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Please choose **only one** of the following:

- As soon as they start living together
- After 1 - 2 years
- After 3 - 5 years
- 5 - 10 years
- As soon as they have a child together
- Never

[Only answer this question if you answered 'Yes' to question 'Q221b ']

Q227: (e) For next-of-kin rights (e.g., for hospital admissions etc., where spouses are automatically the next of kin)

Please choose **only one** of the following:

- same as married
- on nomination by partner
- never (i.e., they should be treated as separate, unrelated individuals)

[Only answer this question if you answered 'same as married' or 'on nomination by partner' to question 'Q227 ']

Q227a: Please indicate after what period of time these rights and obligations should be given to cohabitants.

Please choose **only one** of the following:

- As soon as they start living together
- After 1 - 2 years
- After 3 - 5 years
- 5 - 10 years
- As soon as they have a child together
- Never

C1

Section C. Background information about you and your partner.

Thank you for your patience. You are almost finished the survey. Before you go, however, we need a little information about you and your current/former partner for statistical purposes.

Please answer the following questions by clicking the appropriate answer.

Q31: 1. What is **your gender?**

Please choose **only one** of the following:

- Female
- Male

Q32: 2. And is **your current/former partner**

Please choose **only one** of the following:

- Female
- Male

Q33: 3. How old are **you?**

Please choose **only one** of the following:

- 18 - 25
- 26 - 35
- 36 - 45
- 46 - 55
- 56 - 65

66+

Q34: 4. How old is **your current/former partner?**

Please choose **only one** of the following:

- 18 - 25
 - 26 - 35
 - 36 - 45
 - 46 - 55
 - 56 - 65
 - Over 66
 - Now deceased
-

C2

C. About you and your partner (cont'd)

Q35: 5. What best describes **your employment status?**

Please choose **only one** of the following:

- Employed full-time
 - Employed part-time
 - Self-employed
 - Student
 - Retired
 - Not in paid employment
-

Q36: 6. What best describes **your current/former partner's employment status?**

Please choose **only one** of the following:

- Employed full-time
 - Employed part-time
 - Self-employed
 - Student
 - Retired
 - Not in paid employment
-

Q37: 7. What is **your current marital status**

Please choose **only one** of the following:

- Never married but cohabiting
 - Never married but planning to cohabit
 - Married but separated and cohabiting with a new partner
 - Married but separated and planning to cohabit with a new partner
 - Divorced and cohabiting with a new partner
 - Divorced and planning to cohabit with a new partner
 - Widowed and cohabiting with a new partner
 - Widowed and planning to cohabit with a new partner
 - Former cohabitant who has not repartnered
 - Former cohabitant who married their partner
 - Former cohabitant who married a different person
-

Q38: 8. Is/was **your current, recent, or proposed cohabiting relationship your first [experience of unmarried cohabitation]?**

Please choose **only one** of the following:

- Yes

No

Q39: 9. What income bracket would you place **yourself in (*before deductions*)?**

Please choose **only one** of the following:

- Less than £15,000
- £15,000 - £24,999
- £25,000 - £34,999
- £35,000 - £44,999
- £45,000 - £54,999
- £55,000 or over

Q310: 10. And **your current/former partner's income bracket (*before deductions*)?**

Please choose **only one** of the following:

- Less than £15,000
- £15,000 - £24,999
- £25,000 - £34,999
- £35,000 - £44,999
- £45,000 - £54,999
- £55,000 or over

Q311: 11. In which region of England/Wales do you live?

Please choose **only one** of the following:

- Northern England
- Yorkshire and Humberside
- North West England
- East Midlands
- West Midlands
- East Anglia
- Greater London
- South East England
- South West England
- Wales

C3

C. About you and your partner (cont'd)

Q312: 12. For how long have you been/were you cohabiting with your partner?

Please choose **only one** of the following:

- Under one year
- 1 - 5 years
- 6 - 10 years
- Over 10 years

Q313: 13. If your cohabiting relationship has ended, how long ago did it end?

Please choose **only one** of the following:

- Under one year ago
 - 1 - 5 years ago
 - 6 - 10 years ago
 - Over 10 years ago
 - Not applicable
-

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[Only answer this question if you answered 'Under one year ago' or '1 - 5 years ago' or '6 - 10 years ago' or 'Over 10 years ago' to question 'Q313 ']

Q313a: If your cohabiting relationship ended, why did it end?

Please choose **only one** of the following:

- We split up
- I married my partner
- My partner died
- Other (*please explain*)
- Other

Q314: 14. Is the home where you live/lived with your partner (or plan to)

Please choose **only one** of the following:

- Rented in your name alone
- Rented in joint names of you and your partner
- Rented in your partner's name alone
- Owned in joint names of you and your partner
- Owned in your name alone
- Owned in your partner's name alone
- Jointly owned by you and a person other than your partner
- Rented in joint names of you and a person other than your partner

Q315: 15. Do you and your current/former partner have any children together?

Please choose **only one** of the following:

- Yes
- No

[Only answer this question if you answered 'Yes' to question 'Q315 ']

Q315o: How many children over 18?

Please write your answer here:

[Only answer this question if you answered 'Yes' to question 'Q315 ']

Q315u: How many children under 18?

Please write your answer here:

Q316: 16. Do you/did you personally have any other children under 18 from your previous relationships living with you and your partner?

Please choose **only one** of the following:

- Yes
- No

[Only answer this question if you answered 'Yes' to question 'Q316 ']

Q316u: How many?

Please write your answer here:

Q317: 17. Thinking about your current or former partner, are/were there any other children under 18 from his or her previous relationships living with you both?

Please choose **only one** of the following:

- Yes

No

[Only answer this question if you answered 'Yes' to question 'Q317 ']

Q317u: How many?

Please write your answer here:

Q318: 18. Do you personally have any other children under 18 from previous relationships living elsewhere?

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'Yes' to question 'Q318 ']

Q318u: How many?

Please write your answer here:

Q319: 19. Does your current/former partner have any children under 18 from previous relationships living elsewhere?

Please choose **only one** of the following:

Yes

No

[Only answer this question if you answered 'Yes' to question 'Q319 ']

Q319u: How many?

Please write your answer here:

Q320: 20. Do you or your current/former partner have any other children over 18?

Please choose **all** that apply

Yes, I do

Yes, my partner does

No

D

Participate in the next phase of the Exeter University Cohabitation Law Research Project.

Q41a: 20. Are you willing to be interviewed further about these issues at home?

Please choose **only one** of the following:

Yes

No

Q41b: If so, and if you are selected to take part, we can pay you £25 for helping the project in this way. If you are happy to be interviewed, please enter your email address in the box below - otherwise leave it blank.

Enter your email address here

Please write your answer here:

Q42a: 21. Do you think your partner would be willing to be interviewed about these issues?

Please choose **only one** of the following:

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Yes

No

Q42b: Again, we can pay £25 for their contribution to the research project. If so, please enter their email address in the box below so that we can contact them and see if they are interested in taking part - otherwise leave it blank.

Enter partner's email
address here

Please write your answer here:

Q43: [Your feedback](#).

Thank you for your interest in our research. We are very interested in [your feedback](#) on the survey itself and issues it raises. In the space provided below, please provide your comments about any aspect of the survey or issues about cohabitation law you would like to bring to our attention. Thank you.

Please write your answer here:

Q44: *As well as offering your comments above, you are also welcome to contact the Research Team directly if you have any further questions or queries. Our contact details will be available when you submit your responses.*

Submit Your Survey

Thank you for completing this survey. Please fax your completed survey to: .

Appendix II. Follow up study interview schedule

Living Together Campaign research project.

INTERVIEW SCHEDULE

Introduction

My name is _____

We are particularly looking at what people who are aware of the legal issues concerning living together are doing regarding legal agreements.

Thank you for agreeing to talk to me.

Everything you tell me will be completely anonymous. You won't be identified and we never pass on information about you or your family to anyone else.

The interview will take about an hour. I will be taping the interview but no one apart from the researchers will be able to listen to the tape.

Sign consent form at this point

A Details of cohabitant and household/relationship situation

1. **Participant details.** You gave us the following information about yourself on the survey. Can we just check it's correct and hasn't changed since then?

[take prepared sheet with details already got from the survey]:

current relationship status,
family situation,
household members,
house ownership/rental status,
whether working or not.
Which leaflets downloaded

B About the cohabitants and situation

2. **Time cohabiting.** How long have you been living together as a couple?
How long was it after you met that you decided to live together? How would you pinpoint the point when you started cohabiting?
3. **Reasons for cohabiting.** Could you tell me about how you came to live together as a couple?
E.g. Financial reasons / emotional reasons / stability / children / trial marriage? / ideological – reject marriage?
4. **Previous relationships.** *Have either of you ever cohabited or been married before? If yes, how did this affect your decision to live together (positive or negatively)?*
5. **Marriage.** Have you ever considered getting married to each other?
Why / why not? What do you see as the pros and cons of getting married for your

relationship?

If yes –What sort of wedding would you have? In a religious ceremony? Why is this important / not important? What about your partner – do you think he / she wants to get married? Is it something you have talked about? Do you think s/he wants a big wedding?

Have you experienced any pressures to marry (e.g. From family, friends)

Did either of your parents' relationships have any effect on your decision to cohabit?

Does either of you have any religious affiliation? Has that affected your decisions?

If no - do you want to get married at some point in your relationship / ever? Why / why not? If yes, what sort of wedding would you have? Does your partner want to get married? – have you discussed this?

Have you considered how getting married, or not, might affect the legal/financial issues e.g. pension, inheritance?

Did visiting the LTC website changed your thinking at all?

Would you ever consider marriage with someone else?

6. **Impact of children.** How might / does having children influence the way you feel about marriage?

Why or why not?

If you had children before December 2003, did you and your partner register the birth(s) of your child(ren) jointly? (if after 2003, are both your names on the birth certificate? Have you made a Parental Responsibility agreement?

C Living Together Campaign website – reasons for access and effects of campaign

7. **Reason for accessing website.** What made you go on the Living Together Campaign website?

How did you hear about the website? Were you looking for some specific information or advice? Did you find this advice?

Which aspects of the site did you find useful?

8. **Downloading information.** Remind me, did you download any of the leaflets?

Which ones? Did you then act on them?

Did you take any action after accessing the website?

If so, which ones.

If you didn't take actions, what were the reasons why you didn't?

Do you plan to use them? (if so, how). Do you need further legal action?

9. **Understanding of legal position.** Before you went on the LTC website, what did you think about the term "common law marriage"? What did you think your legal rights as a cohabitant might be? Did the website change any of your opinions/thinking?

10. **Motivations for action.** Have you ever checked your legal position as a cohabitee (before or after going on the website)– or sought legal advice from another source than the website (e.g. from a CAB or solicitor) in relation to any of these issues? (probe: wills, next of kin statements)

If yes, when and what prompted you to do so? (e.g. when you bought the family home / when you moved in together / when child was born / when separated?)

Who did you see? (e.g. own solicitor / CAB) What advice did they give you? Did you follow it? Why / Why not?

If not, why not? Not important? Impact on relationship (suggests doubting it)?

Have you ever spoken to your partner / ex-partner about any of these issues?

If yes, when in your relationship did you discuss this? What were / are your partner's / ex-partner's views? Ever spoken to friends or family?

11. **Disincentives to action.** What has stopped you from taking action (other actions?).
For example, Money reasons, legal costs.
Not knowing what to do,
Finding the law too complex,
Planning to take action some time in future. Probe here.
Some issues too far in future. (e.g. Pensions, inheritance),
Issues too related to relationship breakdown (property agreements) or other negative events (Next of Kin agreements).
Intimidated by solicitors? Ease of access to solicitors?
Quality of advice given (e.g. wrong advice from "official" sources)

D. Couple decision making and negotiation

- **Couple negotiation.** How do you decide these things in your relationship? Do you tend to agree on what's needed? Does it make a difference if one of you has cohabited/been married before? Is one of you keener on changing/rearranging your legal position than the other?
13. **Financial arrangements.** How do you and your partner manage your money; do you put all your money into a joint account or have separate accounts, or some combination of the two (how exactly?) Is any of the money that comes in *owned* separately? (Which sums/accounts?). Do you discuss all spending and make joint decisions about money, or do you decide pretty much on your own about the money you each earn? (e.g., whether to save or spend).
14. **Communication.** Are these things we've been discussing things you talk about/have talked about much? (If not, is there anything that prevents that – in self or partner?).
Probe: too "calculating"?
Financial disparity makes discussion difficult?
Over-optimism about chances of splitting up or partner's reasonableness if they do?
15. Are you happy with the legal position you find yourself in. |Is there anything you wish you'd done differently, if you were starting your relationship again?
Do you both agree on this?
16. **Government incentives.** Is there anything that the Government could do that would persuade you to get married to each other?
E.g. Financial incentives (tax relief, wedding grant)? Pre-marital contracts, easier no-fault divorce.

Future of relationship. How do you see the future of your relationship?

What (other) factors might influence your decision to get married at some point in the future?

Financial? Other people? Stability? Rebellious? Conforming?

18. **Perceived nature of cohabitation.** Do you consider yourself "as good as married"? Or do you view your relationship as different from a marriage? In what ways?
Some people don't really feel secure in a relationship (e.g. its ability to last, faithfulness of your partner, are you confident that it will last) until they are married – is that something you can relate to? Do you think getting married would make any difference/change anything for the better/worse?
Probe: family unit, separate individuals.
19. **Seriousness of cohabitation.** Do you think that relationships between unmarried couples who live together should be considered to be as serious as that of married

couples?

Why / why not? Explore: contingent, mutual commitment of parties.

E Questions for former cohabittees

[We have two main categories. Some whose relationships broke down, some who were widowed. Can adjust the questions for each category]

20. **Helpful actions.** Were there any actions you took (for example, parental responsibility agreements, joint house ownership, wills (if widowed) which were helpful when your relationship ended?
If so, what were they? How did they help?
21. **Consequences of action or inaction.** If there were things you didn't do (see questions above):
Were there reasons in your relationship that you didn't take these actions?
What do you wish you'd done?
What are the consequences of what you did or didn't do?
What would you do next time you are in a relationship?

F Law reform

22. **Parity between married and cohabiting couples.** In the survey we asked whether married and unmarried couples *should* have the same legal rights and responsibilities? What do you think now?
Why / why not? Does your answer apply to all legal rights (e.g. to property upon the death of one partner? In relation to children? Pensions? Benefits?)
23. **Other legal issues.** Do you think that couples should have to live together for a certain amount of time before they have the same rights and responsibilities as married couples? Or do you think they should have different rights – for example be less generous to the partner with less money or assets?
If think good idea, how long should that length of time be? Why at this point?
If don't – why not?
What about if they have children? Would your answer be different then? Why / why not? Should there be a time qualification at this point or should it just arise at the time of the birth?
What about when one partner has a lot more money or assets than the other?
What about if one has been a full time carer, say for children, and the other has been earning?
24. What do you think the law should do for cohabittees? Do you think the law should change? In what ways?

G Alternatives to Marriage

25. **Changes to marriage.** How do you think **married** couples should be treated – should they be treated as two separate individuals? Should they have weaker rights than at present? Should they have financial protection if the relationship breaks down for themselves as well as their children? Should the law ensure that the parent caring for the children has a share of the family home regardless of ownership? And regardless of marital status?

26. **Abolition of marriage.** *A more radical alternative is to abolish marriage as a legal status (but would keep religious marriages for those who choose them without legal effect). This would mean that no couple had any automatic legal rights for inheritance, tax, pensions – everyone would be treated individually. We could though just say regulate cohabiting couples who have children together and have shared the earning/childcare unequally. What do you think about that idea?*
Have we reached a time where we can we abolish it?
Will it always be important do you think?
27. **Civil Partnerships.** *What about Registered Civil Partnerships. Under the statute, same-sex couples register their relationship and gain the same rights as married couples although they have to use divorce grounds if they want to end the legal relationship. - should there be a similar option for heterosexual couples? Is it too like marriage, or do you see it as something different?*
In some countries (e.g. France) you can register your own cohabitation agreement and gain similar(not the same) rights and obligations to married couples e.g. for tax, pensions, to support each other during the relationship. In this Pacs agreement, people set out how they own their property during the relationship and what would happen to it if they split up. Either party can give two months notice to end the relationship. It is seen as a less committed relationship than marriage but has a legal status. Would this be a good idea in your view?
28. **Formalising cohabitation.** *What do you think of giving cohabitation a formal legal status through legislation – so parliament could issue a law saying that all those who live together after one year are treated as married.*
Would you set it at one year? Do you think you should be allowed to opt out of such a system? What about if the couple have children? How difficult do you think it would be to prove when a couple formally started to cohabit if they were in dispute about this? What sort of things should mark out a legally recognised cohabitation relationship from something less formal? Not sure about this but want to add something along those lines.
29. **Other issues.** *Finally, is there anything I haven't asked you about living with someone as a couple, your decision to get / not to get married or the relevant legal situation that you think is important and would like to add?*

Remind them that if they think of anything else after the interview which they would like to add, can email or phone me.

Pay them interview fee. (get signed receipt).

Appendix III: Table 5. Table of interview participants

Interview Number and pseudonym	Gender	Age	Age of partner	Empl status	Income	Relationship status and history	Time cohabiting	Children
1. Ian	M	36-45	36-45	Pt empl	£25-35K	Cohabiting	10+	3 joint children
2. Daniel and Pamela	M	36-45	36-45	Pt empl	>£55K	Cohabiting	6-10	2 joint children
3. Diane	F	56-65	66+	Self-empl	£15-25K	Cohabiting	10+	4 joint children over 18
4. Harriet	F	36-45	46-55	Student	<£15K	Cohabiting	10+	N
5. Jenny	F	36-45	46-55	Ft	<£15K	Cohabiting	10+	2 joint children
6. Tom (partner of Jenny)	M	46-55	36-45	Ft		Divorced twice, now cohabiting	10+	2 joint children
7. Barbara and Mike	F	18-	26-35	Ft	£15-25K	Just started cohabiting	<1	N
8. Tricia	F	46-55	46-55	Ft empl	£15-25K	Divorced and cohabiting. Partner divorced and cohabiting.	6-10	She has adult children. Partner has child living elsewhere
9. Natasha	F	26-35	18-25	Ft	£25-35K	Former cohabitant. Planning to cohabit with new partner.	<1	N
10. Rachel	F	26-35	36-45	Ft empl	£25-35K	Former cohabitant not repartnered	10+	N
11. Emma and Patrick	F	26-35	26-35	Ft empl	£25-35K	Former cohabitant. Planning to cohabit with new partner.	<1	N
12. Katy and Graham	F	26-35	26-35	Ft empl	£15-25K	Cohabiting. Katy has cohabited twice before.	1-5	N
13. Tessa and Sean	F	26-35	26-35	Ft empl	£15-25K	Cohabiting	1-5	N
14. Linda	F	36-45	36-45	Not empl	<£15K	Cohabiting	10+	4 joint children
15. Laura and Richard	F	18-25	18-25	Student	<15K	Never married, cohabiting	1-5y	N
16. Claire and Philip	F	26-35	26-35	Ft emp	£45-55K	Never m, cohabiting	6-10	N

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Interview Number and pseudonym	Gender	Age	Age of partner	Empl status	Income	Relationship status and history	Time cohabiting	Children
17. Susan	F	46-55	dead	Ft empl	<£15K	Former cohabitant Partner died. Not repartnered	6-10	Has child over 18
18. John, partner of Linda (14).	M	36-45	36-45	Ft empl		Cohabiting	10+	4 joint children
19. Sheila	F	56-65	56-65	Not empl	<£15K	Divorced and cohabiting.	1-5	N
20. Simon	M	36-45	46-55	Ft empl	>£55K	Previous cohabitant. Now cohabiting with new partner.	1-5	2 joint children
21. Tina	F	36-45	36-45	Ft empl	£15-25K	Previous cohabitant (father of child). Now cohabiting with new partner	1-5	Her child living with them
22. Peter and Hannah	M	46-55	36-45	Self-empl	£25-35K	Cohabiting	10+	n

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