



/guide



Your questions answered

HOW TO: GET A PRENUPTIAL AGREEMENT

[Watch the supporting 'Get a Prenuptial Agreement' video](#)

This Stowe talks: How to guide explains what a prenuptial agreement is and how you can apply for one.

It is important to note that prenuptial agreements are not legally binding in England and Wales but can be put in place to offer some protection for finances and assets, providing they adhere to certain criteria.

What is a prenuptial agreement?

A prenuptial agreement, also known as a prenup, is a written contract that details the assets owned by each person, like money, property, businesses, and investments, and explains what will happen to them if the couple separates and/or divorces.

Prenups must be drawn up and signed before a couple gets married.

The document is primarily used to protect the wealth of one or both people in a relationship, and to ring-fence any current wealth, businesses, inheritance and future income expected to be gained during the marriage.

Prenups are becoming increasingly popular, especially for people entering into second, or third marriages, to ensure that assets they have already built up and inheritance for children are protected.

In 2010, the family court in England and Wales ruled that courts should give effect to a prenup that is freely entered into by each party, with full knowledge and appreciation of its implications. This depends, however, on the circumstances of each party at the time of separation and whether the prenup reflects these and is fair.

What are the criteria for prenups?

Prenups must adhere to a set of criteria to hold any weight in a divorce negotiation.

These are:

- It must be signed in a reasonable time before the wedding - at least 28 days before
- There must be full and frank financial disclosure by each person
- It should be entered into freely and willingly by both people
- Both people must have received independent legal advice
- The contract must be drawn up by a lawyer

How do you get a prenup?

If you and your future spouse agree that you should get a prenup, then each of you must get independent legal advice.

It is advised that you start this process at least 6 months before your wedding, to allow time for legal processes and negotiations to take place.

If you have particularly complex assets, or there is an international element to your relationship (for example, if you hold assets overseas or plan to move abroad during your marriage), this may take longer.

Your solicitor will ask for full financial disclosure. This is then summarised in a Financial Schedule, which is attached to the prenup.

The Financial Schedule will detail your income, assets (such as property, businesses, trusts and pensions), and any financial resources that you might have in the foreseeable future, for example inheritance, and liabilities.

It is important that you provide all this information to your solicitor, so that the prenup can be drawn up properly, and minimise the risks of being accused of hiding assets.

The agreement will then be drafted, reviewed by both parties' solicitors and must be signed by both people.

It is recommended that you review the agreement at least every 5 years, or when significant events occur such as the birth of a child. This means the agreement is kept up to date, any changes in your circumstances are accounted for, and means it has a higher likelihood of being accepted by the court in the event of divorce.

How long does a prenup last?

A prenup is an ongoing, 'living' document, so it will last as long as your marriage lasts.

However, it is important that you keep the agreement up-to-date with any major financial changes or altered circumstances.

You should seek help from an expert family lawyer, and a financial adviser if necessary to ensure the document continues to be fair and reasonable in your current circumstances.

Are prenups legally binding?

Prenups are not legally binding in England and Wales.

If you have met the qualifying criteria and it is up-to-date, it is more likely that the family court will uphold your agreement.

However, the fairness of the agreement at the time of the breakdown of the marriage will also be considered by the family court, as well as the current and future needs of the separating couple, and any children.

The importance of legal advice

If you have decided to get a prenup ahead of your wedding, it is vital that both people seek independent legal advice.

A family lawyer can help with the financial disclosure process, ensure you have the relevant paperwork, that the agreement meets the qualifying criteria, and is likely to be upheld by the court, in the event the marriage breaks down.

Need more information?

For more Stowe talks: How to videos and further free resources, visit: [stowefamilylaw.co.uk/support](https://www.stowefamilylaw.co.uk/support)

This content was provided by Jennifer Hargreaves, a Solicitor at Stowe Family Law.

Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit www.stowefamilylaw.co.uk

