

## **Prenuptial Agreements**

Traditionally courts in England and Wales have given little weight to prenuptial agreements, on the basis that enforcement would be against public policy. Recently, however, English Courts have moved towards accepting that a prenuptial agreement can be a material consideration when deciding what adjustments to make to the financial circumstances of a couple on divorce.

The recent case of *Radmacher v Granatino* indicates that where appropriate steps have been taken before marriage, courts can give due weight to such agreements provided that, both parties, at the time the agreement was entered into:-

- have disclosed their respective financial positions to the other;
- had the opportunity to take independent legal advice before signing; and
- entered into the agreement sufficiently far in advance of the wedding (a minimum of twenty eight days);

Uncertainty still exists about how long a prenuptial agreement should be allowed to be enforceable before it is overtaken by subsequent events. An agreement which might bind a couple during the first years of marriage may become increasingly irrelevant with the passage of time and, in particular, with the birth of children.

The Conservative Party have announced that if they form the next government they will legislate on making prenuptial agreements binding. For the time being, a prenuptial agreement allows a couple to set out in writing what they consider would be an equitable distribution of their assets and financial resources at a time when their

relationship is sound and harmonious and potentially enables a couple to have a greater degree of control over the financial implications of any later divorce.

For further details relating to pre-nuptial agreements please contact Clare Ellison ([clareellison@hhlegal.co.uk](mailto:clareellison@hhlegal.co.uk)) or Julia Jones ([juliajones@hhlegal.co.uk](mailto:juliajones@hhlegal.co.uk)) in our Family Department on 01704 531991.