

## ABOUT TOWN

# Meet the Mid-nup

*The pre-nup's sassy sibling. By Emilie McMeekan*

Imagine for a moment that your husband wants to make a private investment. A major one. In a tech company or a copper mine. And he is the modern sort, so he asks you. And you are no fool. So you say, 'Of course, darling, I support you 100 per cent. Let's just draw up a little document that says that this mega-investment comes out of your half of the pie.' Welcome to the mid-nup.

Or, through a series of unpredictable events, you find yourself inheriting a stately from a distant cousin. You've been married a while, so this was never part of the family future. You decide you want to ringfence it. Mid-nup, please. (It doesn't mean your true love can't enjoy it. It just means they can't HAVE it.)

The mid-nup is the pre-nup's naughty little sister. And, like the pre-nup, while the mid-nup isn't legally binding in this country, it does carry weight. It is also still very rare – but as the gratifyingly named Catherine Costley, a pin-sharp associate at Paynes Hicks Beach, says, 'so were pre-nuptial agreements at one time. It takes a while for awareness to spread.'

It has emerged at a complicated time for family law. Courts are overwhelmed, and therefore encouraging people to work things out for themselves by means of alternative dispute resolution (such as mediation) where possible and Costley says: 'Mid-nuptial

agreements may well be a response to that.' Signing contracts about assets and their ownership is quite common in other European countries. Here, the courts retain discretion, making the UK a very desirable placé to get divorced for some. There are all sorts of scenarios for which a mid-nup might be



useful. Let's say you are both earning, both wealth providers, and you decide as a family that you, the mother, are going to give up your career in order to take care of the children. Time for a mid-nup. Just to clarify your position and work out relative compensation. Because, as Costley says, in the event of a divorce, your own earning capacity will have been significantly diminished as a result of the decision made for the good of the family. 'As a professional woman, you won't make that time back. You can't just walk back into your high-flying career four, five, 10 years down the line.' And, Costley adds: 'You wouldn't take a new position without compensation in your business life, so why do it in your personal life?'

Yes, it sounds a little cold. And of course you are going to be married forever. But, says Costley, good to have it all down on paper and better now, when you are communicating, because 'no one listens to each other once the marriage is over'. The mid-nup is, at heart, the renegotiation of a contract if there is suddenly significant imbalance. But Sandra Davis, partner at Mishcon de Reya, warns that 'it's not bombproof' and 'it's a little dangerous'. After all, if your marriage is even the slightest bit sticky, 'when you put something on the table, it tends to grow legs and walk away.'



Catherine Costley  
Associate, Family