

# Our Services

## Residential Property

### Joint Ownership

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Where a property is to be purchased by more than one individual, there are essentially two ways in which they can own it, either as 'joint tenants' or 'tenants in common'. There are distinct differences between the two, and this information sheet should help you to decide which option suits you best.

#### Joint Tenants

- No distinct part of the property belongs to either individual owner.
- If one owner dies, his/her interest automatically passes to the survivor regardless of what the deceased person's Will may say.
- A joint tenant cannot leave his/her interest in the property to someone else by Will.
- On selling the property, the proceeds, after paying off any mortgages and costs of the sale, would be divided equally. (This may differ in the case of divorced couples if the Court orders otherwise).
- If it becomes appropriate e.g. on a marriage or relationship breakdown, the joint tenancy can be 'severed' and the property would then be owned as tenants in common (see below).

#### Tenants in Common

- Each individual owner owns a specific share of the property e.g. half each or one third for one and two thirds for the other. You should set out your agreement as to these shares in a separate document called a 'Declaration of Trust'.
- If one owner dies, his/her share will pass according to the terms of that person's Will (or under the rules which apply if there is no Will).
- On selling the property, the proceeds, after paying off any mortgage and costs of the sale, would be divided according to the agreed shares. (This may differ in the case of divorced couples if the Court orders otherwise).
- In order to avoid disputes in the future the shares of each owner should be expressly agreed and recorded in the 'Declaration of Trust'. When deciding on the shares you should consider questions such as who is paying the deposit, will the mortgage payments be a joint expense, is one person contributing more of the purchase price e.g. from the sale of another property?

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### **Other options**

If neither of these arrangements appears suitable the property could be held on more complicated trusts.

This is an important decision and it is vital that you make the right choice for you. In particular you need to consider what responsibilities you have for others and not just each other.

### **Inheritance Tax considerations**

Inheritance Tax is payable on death if your estate exceeds the Inheritance Tax threshold. In any event, now is a good time to make or revise your Wills. The way you hold your property is an essential element in this planning.

If you are still unsure about the best course of action please contact us for more information.

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