

# PROPERTY OWNERSHIP FACT SHEET

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When property is purchased to two or more people, the Transfer needs to contain provisions for the purchasers to hold the property as either joint tenants or tenants in common. A choice needs to be made as there are differences between the two. Please read the following carefully.

## JOINT TENANTS

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Where the purchasers hold as joint tenants, the following provisions will automatically apply and do not have to be spelt out in the Transfer:-

- a) The property will be held in equal shares, irrespective of any difference in the contributions made towards the purchase price, substantial improvements or mortgage payments. This applies both when the property is purchased and in the future.
- b) On the death of one of the purchasers, the property will automatically pass to the remaining purchaser or purchasers and be held by the surviving purchasers outright, but subject to any mortgage existing at the date of death.
- c) The shares of the purchasers will not form part of their estate on their respective deaths and cannot be given away in a Will. If the purchasers do not make a Will and in consequence on death the statutory rules of intestacy apply, the shares of the purchasers will not be affected by these rules of intestacy.
- d) One or all of the purchasers can, after the Transfer has been completed, break or sever the joint tenancy and in that case the property will be held as tenants in common. The statutory procedure must be followed to sever the joint tenancy. If on severance the property is to be held as tenants in common in shares that are unequal these shares must be specified in writing/a deed.

The advantages of holding as Joint Tenants are that where equal contributions have been made and will be made whilst the Property is owned on the death of the first owner the survivor will automatically inherit the deceased's share of the property.

## TENANTS IN COMMON

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Where the purchasers hold as tenants in common, the following provisions will apply:-

- a) The purchasers will hold the property in specified shares, e.g. half each or three-quarters to one and one quarter to another. These shares are fixed and will apply even if, following the Transfer, one of the purchasers makes a contribution of the purchase price, substantial improvements or mortgage payments over and above the shares specified in the Transfer.
- b) The shares in which the property is held may be altered by a later deed.
- c) On the death of one of the purchasers, the share of the purchaser who has died will fall into his Estate. If that person has made a Will, the share will pass under the terms of the Will. It can be specifically gifted in the Will. If there is no Will, the share will pass under the statutory rules of intestacy.
- d) If one of the purchasers makes a greater contribution to the purchase price, substantial improvements or mortgage payments and wishes to be given credit for this, then this must be set down in a deed.
- e) You need to tell us if you require a fixed or floating share in the property.
- f) Unlike a joint tenancy, it is not possible for property to be held as tenants in common and then change to a joint tenancy without further agreement between the parties.

The advantage of owning as tenants in common is that you may wish to leave your share in the property to someone other than your partner and will reflect the shares that you own in the Property if you do not own it equally.

If you are unable to agree as to how you want to own the Property, please let us know and our advice will be that you each seek advice from an independent solicitor.