

THE PRIVATE CLIENT

JOINT OWNERSHIP OF PROPERTY

Whenever a property is bought in the name of two or more persons they will have to decide the terms upon which they will own it. Under English Law there are two kinds of joint ownership known as a "Joint Tenancy" and a "Tenancy in Common".

JOINT TENANCY

Where two or more people buy property as "Joint Tenants" and one of them dies, the others will automatically inherit that part which previously belonged to the deceased owner regardless of the fact that he or she might have left a Will leaving their share of the property to someone else.

A joint tenancy is the most common sort of joint ownership used by married couples, but it should only be used where both parties wish their interest in the property to pass automatically to the survivor on death.

Where property is purchased joint tenants it is assumed, unless the opposite can be clearly shown, that the owners hold the property (and therefore the proceeds of sale) in equal shares.

TENANCY IN COMMON

In this case each purchaser owns a defined share of the property eg. one-half each, one-third or indeed two-thirds or otherwise. On the death of one co-owner the survivor will not automatically inherit the deceased interest in the property but instead it will pass under the terms of any Will he or she may have made, and if there is no Will then according to the Rules laid down by Law in those circumstances. This might mean that the surviving co-owner receives nothing at all.

Such a situation could cause difficulty especially for a surviving spouse with children. If in doubt clients should come to see us to consider whether or not they should make any changes the way they own their property and if they should make a Will.

GENERALLY

Although we have said that the joint tenancy will very often be the appropriate way for married couples to own property, the question does arise as to how purchasers who are not married or intend to marry sometime in the future should hold property.

The options set out above still remain the same but there is one alternative. The property could be brought as Tenants in Common with the provision that in the event of

marriage it would be automatically converted to a Joint Tenancy.

This may be particularly useful where, perhaps, a member of one family intends making a substantial contribution to the purchase and might not feel happy about the whole of the property (including his contribution) passing to the other party should his relative die before the marriage takes place.

This can only be a brief outline of the forms of joint ownership. We are happy to advise further if you would like us to.

For further information please contact our Private Client Department at

our Southampton Office on
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our Eastleigh Office on
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