

## Buying together

If two or more people buy a house or land together they can do so in one or two ways. The alternatives are technically known as 'joint tenancy' and 'tenancy in common'. In order to decide which alternative would be appropriate to any particular case a number of points need to be borne in mind.

### Joint tenancy

Where the property is owned as 'joint tenants' in the event of the death of either co-owner the property automatically belongs to the survivor. The deceased person's interest in the property cannot be disposed of by his or her Will. In the case of a 'joint tenancy' the co-owners are regarded as having an equal right to the property and to its equity (or value), and the proceeds of sale would be divided equally between them.

### Tenancy in common

In this case each of the co-owners has a defined share in the property but their respective interests can be in equal or unequal proportions, eg 50% each or 75% for the one co-owner and 25% for the other. The main difference from the 'joint tenancy' is that either co-owner can, during his or her lifetime or by Will, give away or sell his or her share in the property to the other co-owner, or to anyone else.

It is fairly usual in the case of a married couple to proceed on the basis of a joint tenancy, but this is not always the case. The tenancy in common arrangement may be helpful in connection with tax planning. In addition, one or both of the couple may have been married before and there might be children from a prior marriage whose interests need to be protected, this can be arranged by the property being owned as 'tenants in common' with appropriate Wills being prepared.

Whenever a property is purchased by more than one person, it is most important to consider the background circumstances to the situation and the financial implications involved. For example, it would be a good idea to consider the tenancy in common arrangement if one of the co-owners is making a greater contribution to the purchase monies than the other, particularly if the co-owners are an unmarried couple.

With a simple arrangement it is often possible for the interests of the co-owners to be recorded in the transfer deed, which transfers the property into the names of the co-owners on completion of the transaction. In many cases however it would be advisable for a separate document to be prepared; a 'deed of trust' to record the position, and we would of course be pleased to prepare this for you.

You should in every case consider whether it would be appropriate to buy the property as joint tenants or tenants in common. We shall be pleased to discuss matters in more detail if this would be of assistance.

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## Contact

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