

Owning property jointly

If you are buying, acquiring or holding property jointly with someone else it is important that everyone understands the basis of joint ownership from the beginning.

There are two sorts: Joint Tenants and Tenants-in-Common. ("Tenant" does not have its usual meaning of someone paying in rent in either case).

Joint Tenants

Joint Tenancy is the form of joint ownership where two or more people own the property together on the basis that:

- On any sale of the property, the proceeds of sale are automatically divided equally between the parties, regardless of the contributions they may have made to the original purchase price, subsequent improvements etc.
- If any joint owner dies, his/her share *automatically* passes to the surviving owner(s). This transfer happens without payment and is not affected by any Will the deceased owner may have made.

Tenants-in-Common

Tenants-in-Common is the form of joint ownership where two or more people together own property and their shares in the property are specified, e.g. Y and Z may own property jointly as tenants-in-common in equal shares or unequal shares, for example, a three quarter share for Y and a quarter share for Z.

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This form of ownership can therefore record differing shares to reflect contributions such as where one party has provided more of the purchase money than the other. The effect of owning property as Tenants-in-Common is as follows:

- On any sale, the proceeds of sale are distributed between the owners in accordance with their stated shares.
- If any owner dies his/her share *does not* automatically pass to the other owner(s), but will form part of the deceased owner's estate and will therefore pass to either the beneficiaries under the deceased owner's Will, or, if no Will has been made, to his/her next of kin.

Choice?

If two or more people own property as Joint Tenants it is possible to "sever the joint tenancy" and change it to a Tenancy-in-Common where the shares would automatically be equal shares unless agreed otherwise by both owners.

It is not necessary to have the agreement of the other owner(s) for this change in joint ownership to happen. A person may wish to do this if, say, he or she was in dispute with or separating from his/her joint owner(s) or for some other reason such as inheritance tax planning.

For inheritance tax planning reasons we would recommend that joint owners of property switch from owning their property as Joint Tenants to Tenants-in-Common.

Contact us

For advice or to make an appointment, please contact a member of our Residential Property Team on York **01904 716 000** or Wetherby **01937 583 210**.

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