

Pinkerton Leeke & Co Title Transfer Service

NOTES ON JOINT OWNERSHIP

- Terminology: *"Joint Tenants"* Where two or more persons own a property and they have decided to merge their interest in the property so that it becomes inseparable.
- "Tenants in Common"* Where two or more persons own property and they have decided to keep their interests in the property separate.

NB. The term "tenancy" in joint ownership has nothing to do with house tenancies.

Where two or more persons decide to purchase the property together it must be decided at the outset the mode in which they will own the property. The options are as follows:-

Option 1 **Joint Tenancy** - Where two (and sometimes in family situations more) persons decide they wish to own the property in such a way that their interests in it are merged and inseparable a joint tenancy arises. The main effect is that, if one of the owners dies, the property automatically vests in and becomes solely owned by the survivor/s. This takes place whatever the deceased owner has put in his/her Will and if the deceased owner has made a gift in his/her Will to somebody else of the interest in the property then that gift will not take effect as the surviving owner/s interest is paramount. The vast majority of married couples own property in this way. However, if you are neither married nor in a civil partnership, then we advise you to consider carefully Option 2 or Option 3 below, particularly if there is to be an unequal contribution to the purchase price. It is important to note that whilst property rights can be adjusted following the breakdown of a marital relationship this is not usually the case following the breakdown of a non-marital relationship.

Option 2 **Tenancy in Common in Equal Shares** - In most business situations or where unmarried couples are jointly and equally purchasing houses without a definite long term relationship in prospect, they will wish to own the property as tenants in common. The main effect of this is that their respective interests in the property remain separate and should either of them die the share of the deceased owner will pass via his/her estate either in accordance with the provisions of his/her Will, or, if no Will has been made, under the laws of intestacy.

Option 3 **Tenancy in Common in Unequal Shares** - Occasionally either privately to include "cohabitee relationships" or in business two or more persons will wish to own property where they have made unequal contributions to its acquisition. In these circumstances the appropriate mode of ownership is a tenancy in common in unequal shares and it is crucial in these circumstances that some evidence of those shares is set down on purchase. This is generally done by executing a separate document called a "Declaration of Trust" in which the respective interests of the parties are clearly set down and provisions made for contributions to the outgoings of the property purchased and any income arising from it.

Please read carefully:

When we act for you it will be assumed, unless you inform us differently, that if you are a married couple, you will wish to adopt Option 1. Thus, if you wish to adopt Option 2 or 3, please make this known to the Conveyancer at an early stage. Option 2 is a very simple procedure but Option 3 will involve further costs as a specific Declaration of Trust will have to be drafted. If you require any further advice regarding any of the 3 Options above, please do not hesitate to contact the fee earner handling your matter.

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