



Protecting your share of the family home

If you jointly own a property with a partner, Spouse or Civil Partner, it is probable that you own the property as "Joint Tenants", although we would need to inspect the Title Deeds to be sure.

Assuming that you do hold the property as Joint Tenants, the effect of such ownership is that if one of you should die whilst still jointly owning the property then the surviving party would automatically take the deceased person's share.

This would occur whether or not either of you had made a Will and whether or not the two of you were married, or in a Civil Partnership to each other at the time of the death.

If you wish to prevent this occurring then a procedure can be adopted whereby your interest in the property is notionally separated from the other party's interest. By making a Will at the same time you would then be able to deal with your share of the property as you wished.

However, this procedure cuts both ways. If you do separate your share in the property from the other party's share, the other party's interest in the property may pass to a third party rather than revert to you as it would have done had the joint interests not been separated.

You will see that there are advantages and disadvantages to consider and if you wish to discuss the matter further with us perhaps you would let us now. If you wish to "sever" the joint tenancy (as the procedure is called) we shall require your express instructions to do so. As indicated, if you do wish to take this step it is important that you also make a Will.

If you do decide to sever the joint tenancy, where the title to the land is unregistered, we shall obtain the Deeds from the mortgagee (if appropriate) to endorse notice of severance on the conveyance. Where title to the land is registered, we shall register a joint proprietorship restriction at the H M Land Registry. Notice of severance will then be sent to the mortgagee (if appropriate) and to the other co-owning party. It cannot therefore be done without the other party's knowledge.

Dunn & Baker – Here to help you

Disclaimer: The material contained in this fact sheet is for general guidance only. It is specific to the law of England and Wales, and represents a brief outline of the law current as at the date of the fact sheet. It is not intended to constitute, or to be a substitute for, legal advice specific to your case. Dunn and Baker will be responsible only for advice specifically given to you.