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SOLICITORS

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Joint Ownership

When two or more people are buying a property together, a decision needs to be made about how to own the property. There are two methods of joint ownership:

- **Joint Tenants:** Each of you has an equal interest in the property and if one of you dies, the survivor will automatically inherit the whole of it.
- **Tenants in Common:** Each of you has your own interest in the property, distinct from the other, which may be an equal or an unequal part. Your own share in the property would pass by your Will to whomsoever you choose. The amount of your share is usually based on your contribution towards the cost of the property or any work on it.

The method of ownership is important to consider in all cases, but particularly in certain circumstances:

1. Where an unmarried couple is buying a property. The declaration made at the outset is the strongest evidence of intention in the event of a later dispute.
2. Where you are making unequal contributions towards the purchase price and costs. The person contributing the larger amount of equity may wish to ensure that interest is protected in the event of sale of the property.
3. Where a third party (such as a parent) is contributing to the price or costs. The third party will be advised to obtain independent legal advice on the transaction and it is strongly recommended that an appropriate deed be drawn up setting out the



respective interests or contributions of each party.

4. Where you are buying the property as a buy to let investment. The method of ownership is likely to have tax implications which should be considered before the purchase.

If any of these circumstances affect you, you must tell us before you purchase the property so we can ensure you receive the right advice and, if appropriate, enter into a declaration of trust. If there is no agreement between you at the outset, there may be problems in the event of separation, divorce or death and a division of the equity which does not truly reflect your intentions could result.

Joint owners who wish to hold their property as tenants in common should consider entering into a declaration of trust to set out clearly the individual financial responsibilities for the property. Matters to consider are:

- Who is responsible for the mortgage payments and in what proportions?

- Who is responsible for the other outgoings (utilities, council tax etc.)?
- Who is responsible for maintenance and repairs?
- What happens if there is a change in those contributions?
- What happens if one of the co-owners stops living at the property before it is sold?
- What happens if one party wants to sell their share? Would the other party have a right to buy him or her out?
- What happens if one of the co-owners dies?

We would also recommend that a restriction be placed on the property title to protect the interests of co-owners or third parties.

The law relating to joint ownership can be complicated and you may need to seek financial or tax advice before deciding what to do. Please speak with your conveyancer who will be able to refer you to a member of our private client team for further advice, if appropriate.