

# Property Ownership:

## Joint Tenants or Tenants in Common



### What are the options?

The ownership of property is often not quite as straightforward as it may seem. In law, there are two types of joint ownership, and it is here where confusion arises either as Joint Tenants or Tenants in Common. In any case of joint ownership, one has to choose as to the type of ownership whether you buy, inherit or become a trustee of a property for someone else. The type of ownership does affect what you can do with the property particularly important if your relationship with a joint owner breaks down or an owner dies.



### Joint Tenancy

The vast majority of joint owners of property are “Joint Tenants”. This is usually automatically arranged when the property is purchased, particularly if there is a mortgage. With a Joint Tenancy, all parties to the agreement own the property jointly and on death, **the property automatically transfers to the surviving parties** irrespective of the length of ownership or any other stipulation in a Will. In practice, a family home purchased jointly would transfer to the surviving partner upon the death of one partner. The property passes by the rules of survivorship and therefore will pass automatically to the other joint owner(s) regardless of your wishes in your Will (or the rules of Intestacy in the absence of a Will), as it does not form part of your Estate.

“ To change ownership from “Joint Tenants” to “Tenants in Common”, a Notice of Severance of Joint Tenancy must be sent to the other party. ”

### Tenants in Common

With Tenants in Common, each person owns their own share in the property. This would normally be equal shares, but any percentage split is possible. Each party is then free to leave their share of the property to whomever they wish in a Will as part of their Estate. Also, if the property in question is the family home and one partner dies without a Will, the second partner may not get the other share of the home and ultimately may not be forced to sell the home.

To avoid this, the survivor can be granted a Life Interest in the property, or any substituted property, in a Will. This would mean that the survivor could remain in their home, with the ultimate beneficiaries receiving their share on the death of the second partner. Once a property is held as Tenants in Common (to support Trusts created by a Will), it is vital that any subsequent purchase is also made as Tenants in Common - otherwise the Trusts will not work. To change ownership from “Joint Tenants” to “Tenants in Common”, a **Notice of Severance of Joint Tenancy can either be by one party (unilateral) or the recommended option is agreed and signed by all parties.** This agreement must then be registered with the appropriate Land Registry Office, and any mortgage lender must be notified. This is a legal transaction, the cost of which will be minimal in relation to the long-term benefits that could be achieved.

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### How can Hannah Solicitors help?

At Hannah Solicitors, we can arrange change of ownership of your property, if appropriate to your circumstances, as part of our service to you. If you would like more information about property ownership, please contact our friendly team and experienced Private Client Team by phone on for Luton **01582 329 069** or for Rushden **01933 588 022** or by email at [privateclient@hannahsolicitors.co.uk](mailto:privateclient@hannahsolicitors.co.uk). Take advantage of our free 30-minute telephone/video consultations for all new clients.

**// If you would like more information about Property Ownership, please contact our friendly and experienced Private Client Team. //**



**Rushden Office**  
11 Church Street  
Rushden  
NN10 9YU

T: 01933 588 022

**Luton Office**  
Hart House Business Centre  
Kimpton Road, Luton  
LU2 0LA

T: 01582 329 069

Please feel free to discuss your own position and concerns. Contact your nearest office on:

E: [info@hannahsolicitors.co.uk](mailto:info@hannahsolicitors.co.uk)  
W: [www.hannahsolicitors.co.uk](http://www.hannahsolicitors.co.uk)

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