

*“We would often recommend you enter into a Trust Deed.”*



**Rosalind Watchorn**  
Solicitors

10 Kenwood Park Road,  
Sheffield S7 1NF

Tel: 0114 229 0160

Fax: 0114 229 0170

Email: [mail@rwatchorn.co.uk](mailto:mail@rwatchorn.co.uk)

[www.rwatchorn.co.uk](http://www.rwatchorn.co.uk)

When property is purchased by two (or more) persons in joint names there are two ways in which the property can be held:

### **(a) Joint Tenants**

By this method the Purchasers own the Property jointly as a whole so that if one party predeceases the other, then his or her share will automatically pass to the survivor (or survivors).

The property does not form part of the deceased's estate and would not pass under the Will of the deceased or by virtue of the rules of his or her intestacy.

This method of ownership is the “usual” form of joint ownership by husband and wife or civil partner.

OR

### **(b) Tenants In Common**

The Law assumes, in the absence of an express trust, that you hold the Property as trustees for each other as tenants in common. The expression “tenants in common” means that should one of you die then your share in the Property will pass in accordance with the terms of your will or according to the intestacy rules.

As trustees you will also be deemed to hold the Property in trust for yourselves on an immediate trust for sale. This means that whilst you both agree that the Property should not be sold then, it may be retained, but in the event of one of you wishing to sell the Property then it must be sold. These presumptions apply in the absence of an express trust document. If you are contributing to the purchase equally, will be meeting expenditure equally and agree that the proceeds be divided equally, then the declaration that you hold the property in equal shares can be made in the transfer deed itself.

However, if the financial arrangement between you is more complex we would recommend that you consider entering into a separate trust deed which sets out your intentions.

### **For example:**

- there is an agreement between you that your interests in the Property shall differ from your contributions to the purchase price
- Your contributions are unequal towards the purchase price

- Someone else is contributing to the purchase price but their name will not appear on the deeds
- you are purchasing the Property with the common intention of not selling the Property until a certain event occurs (for example you may be purchasing the Property in your joint names but agreeing that it shall not be sold until a third party who will be residing in the Property dies or confirms that they no longer wish to live in the Property)
- You are unmarried or without civil partnership



To vary the legal presumptions it will be necessary for us to prepare a Trust Deed to record your true intentions.

If this applies then please telephone us so that we may take further instructions.

If you buy the Property as tenants in common then in the event of death the deceased person's interest in the Property will pass under his or her will, and if none, under the intestacy rules applicable.

We recommend you give careful consideration to preparing a will, giving due consideration to your co-owner's position after your death.