

This guide tells you about the ways you can own property with your partner. It also explains what severing a joint tenancy means and explains how to do this.

In this guide, the term **partner** includes your husband, wife, civil partner, and unmarried partner or those who are living together.

Ownership of property

A property can be owned by one person or jointly by more than one person. If you are unsure whether you jointly own or who owns a property you should always check. The way you do this depends upon whether the property is registered or unregistered.

Registered property means the Land Registry holds a register of the property which includes details such as who owns the property. You can see the register by requesting official copies. To check whether you own the property you should contact the Land Registry and ask to see the official copy for the property.

Unregistered property means details of the property are not held in a register by the Land Registry, but kept in separate documents. These documents are called title deeds. The title deeds will show who owns the property. Title deeds will normally be held by your mortgage provider. If you do not have a mortgage the title deeds should be with an owner or may be held by a solicitor. Most properties today are registered. You can check with the Land Registry to see if your family home is registered.

There is a difference between being named on the mortgage of a property and being named on the official copies or title deeds. A **mortgage** is a loan to help pay for a property. Being named on the mortgage means you are responsible for the payments, this does not confirm that you are the owner of the property.

If you are not named on the official copies or title deeds as an owner of the property and you are married or civil partners see our guides: **Marriage: your rights to your home** and **A guide to financial arrangements after marriage breakdown**.

If you are not named on the official copies or title deeds as the owner of the property and you are not married or civil partners, see **A guide to living together and the law**.

If you do jointly own a property you will own the property either as joint tenants or tenants in common.

What are joint tenants and tenants in common?

Joint tenants means that both owners own the whole of the property and have equal rights to the property. If one owner dies the property will pass to the remaining owner. You cannot give the property to anyone else in your will.

Example: Jacinta and Oliver owned their home as joint tenants. This means they both owned 100% of the home. Oliver died last week. This means the property has now passed to Jacinta, and she is now the only owner of the property.

Tenants in common means that both owners have specific shares of the property. It is up to the owners to decide what shares they both own when they are buying the property. They can decide to own 50% each, or they can decide that one person should have a larger share than the other. Tenants in common normally record their shares of the property in a deed of trust. A **deed of trust** is a legal document which records the shares of the joint owners.

For tenants in common, if one owner dies, then that owner's share of the property will not automatically pass to the other owner. You can decide who gets your share of the property in your will. A **will** is a formal document which sets out what you want to happen with your property after you die. If you die without a will then there are special rules about who gets (or inherits) your property. See the Government's website:

www.gov.uk/inherits-someone-dies-without-will for further details.

Example: Julia and Mo owned their home as tenants in common. Julia owned 60% and Mo owned 40%. Julia died last week. Julia has a will which says that when she dies all of her property will go to her daughter, Natasha. This means that Julia's 60% share of the property has now passed to her daughter Natasha.

It is important to consider the differences between joint tenants and tenants in common when buying a property with

another person. For example, if you paid more towards the property then you may want to own a larger share of the property to reflect the proportion you paid for the property.

If you are unsure if you are joint tenants or tenants in common, you can ask the lawyer that helped you buy the home. If that is not possible, you can check the official copies or the title deeds for the property.

What if I want to change from a joint tenancy to a tenancy in common?

It is possible to sever or break a joint tenancy. **Severing a joint tenancy** means that you are changing from joint tenants to tenants in common. This means that you and the other owner will go from owning all of the property together, to owning specific shares of the property.

Why is it important to sever a joint tenancy?

If your relationship has broken down it is important that you consider severing the joint tenancy. If you do not sever the tenancy then, if you die, the whole property will go to your partner. If you own the property as tenants in common then you can decide what happens to your share of the property in your will.

Equally, if you are joint tenants and your partner dies before you, you will automatically get your partner's share of the property. If you are tenants in common and your partner dies before you, your partner's share will not automatically go to you. This means that by severing the joint tenancy you will not automatically get your partner's share of the property.

You should also consider making or updating your will. Contact a solicitor or Citizens Advice for further advice on making a will.

What if we own the property as tenants in common?

If you own the property as tenants in common then you do not need to sever the tenancy as you already own separate shares in the property.

How can a joint tenancy be severed?

A joint tenancy can be severed in a number of ways. The easiest way to sever a joint tenancy is by written notice. This is when one owner confirms in writing that they would like to sever the joint tenancy.

A lawyer or conveyancer can help you prepare the written notice. If you cannot afford a lawyer then contact our **advice line** for advice on how to prepare the notice.

You do not need the other owner's consent to sever a joint tenancy. All you need to do is make sure that the notice is given to the other owner. The process of giving a document to someone is known as **service** or **to serve**. The issue of service is very important and you must ensure that the other party has been served with the notice otherwise the severance may not take effect.

You can serve a written notice in two ways:

- 1) Leaving the notice at the last known place the other owner lived or carried out their business. This must be in the United Kingdom.
- 2) Sending the notice by recorded delivery to the last known place the other owner lived or carried out their business. This must be in the United Kingdom and the letter must be addressed to the other owner. If that letter is not returned as undelivered then the notice will be considered served.

If you are serving notice with help from a lawyer then you could consider using a process server to serve the notice on the other owner. A process server is a professional who serves documents on people. Process servers will charge a fee and you should discuss this with them when you contact them.

Once a joint tenancy has been severed it is important to consider the next steps, for example applying for a restriction on the property.

Applying for a restriction to be entered on registered property

If a joint tenancy has been severed it is important to tell the Land Registry so that they can put a restriction on the property. A **restriction** will stop your partner from selling the property or mortgaging the property on his own or without your agreement. It is important that you apply for the restriction so that the Land Registry, banks and anyone who wants to

buy the property knows that you and your partner own the property as tenants in common.

If you and your partner are applying for the restriction together

If you and the other owner agree to sever the joint tenancy and you are applying for the restriction together then you will need to complete a **Form SEV** and send it to the Land registry.

At the time of writing this guide, there is no fee for this application. However, you should check the latest fees with the Land Registry. If there is no fee then you can enter £0.00 or “no fee” in the box on the form that asks you for the fee.

If you are applying for the restriction yourself

If you are making the application to sever the joint tenancy without the other owner then you will need to complete a SEV form and provide evidence that the other owner agrees to the severance, for example a written notice signed by the other owner.

If the other owner has not agreed to the severance of the joint tenancy, you will need to complete a SEV and provide evidence that the other owner has been served with the written notice of severance. The evidence could be for example, a document signed by the other confirming receipt of the notice or a statement from a process server.

If you cannot provide the evidence requested in the SEV, you can apply for a restriction using a RX1 form.

The SEV form or RX1 form will need to be sent to the Land Registry. At the time of writing this guide, there is no fee for this application. However, you should check the latest fees with the Land Registry. If there is no fee then you can enter £0.00 or “no fee” in the box on the form that asks you for the fee.

Where can I find the forms?

You can download the forms online by going to:

www.gov.uk/government/publications and entering the name of the form in the search box.

Unregistered property

Most properties today are registered and the law on unregistered land can be complex. If you own an unregistered property and wish to sever a joint tenancy you should seek specialist legal advice.

Deciding what shares each of you have in the property – tenants in common

If you have severed the joint tenancy then eventually you and the owner will need to decide how to split your shares of the property. For example, you could both own 50% or one you could own more than the other. You should contact a specialist lawyer before agreeing what shares you both own in the property and how to split any money from the sale of the home. See **Useful contacts** for who to contact to find a lawyer.

Deciding what shares each of you have in the property – property is in my partner’s sole name

If your joint home is in your partner’s sole name, then there may be a trust. A trust is where some or all of the property belongs to you, but it is being held by your partner, for your benefit. See **A guide to living together and the law** for further information.

Changing who owns the property

It is important to note that severing a joint tenancy is not a way of changing who legally owns the property. If your marriage, civil partnership or relationship has broken down and you would like to sell the property or transfer the property into one owner’s name, please see **A guide to financial arrangements after marriage breakdown, A guide to financial arrangements after civil partnership breakdown** or **A guide to living together and the law**.

The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice.

Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children:

Women living and working in London: call **020 7490 2562** the advice line is open Mon 11am–1pm, and Tues – Thurs 2–4pm.

For all women: call **020 7251 6577** the advice line is open Tues – Thurs 7–9pm and Fri 12–2pm.

For free, confidential, legal advice on immigration and asylum law or criminal and sexual violence visit **www.rightsofwomen.org.uk** for our advice line details.

Useful contacts

Finding a solicitor

The Law Society

0207 320 5650

www.lawsociety.org.uk/find-a-solicitor/

Ministry of Justice

020 3334 3555

<http://find-legal-advice.justice.gov.uk/>

Resolution

01689 820272

www.resolution.org.uk/

Making a will

Citizens Advice

03444 111 444

www.citizensadvice.org.uk

Emergency contacts

Police (emergency)

999

24 hour domestic violence helpline

0808 200 0247

www.nationaldomesticviolencehelpline.org.uk

Property enquiries

Land Registry

0300 006 0411

www.gov.uk/government/organisations/land-registry

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