AstlePaterson

When trusted experience matters

Property ownership – joint tenants or tenants in common

When we are instructed to purchase a property on behalf of two or more clients, we always ask how they wish to hold the property, as the choice of ownership type is crucial. The property can be held as either joint tenants or tenants in common, and it is important to select the correct option to clarify the extent of each person's ownership and determine what will happen to their share upon passing.

The property can be held as joint tenants, meaning that if one person dies, their share of the property automatically passes to the surviving owner, regardless of their contribution to the purchase price. This arrangement cannot be altered by anything stated in their Will. Couples often choose this option because it ensures that their share of the property goes directly to their partner. With joint tenancy, ownership is entirely equal between both parties.

The alternative way to hold property is as tenants in common, where each party owns a distinct share of the property. In this arrangement, when one owner dies, their share does not automatically pass to the surviving owner. Instead, what happens to their share depends on the instructions in their Will or, if there is no Will, the rules of intestacy. This means that their share can potentially be left to a third party. Additionally, property held as tenants in common can be divided into unequal portions.

If clients choose this method, we strongly advise them to have a Will in place if they haven't already. Another advantage of holding property as tenants in common is that a Trust Deed can be created to document the agreed arrangements, protecting each person's share of the property. The Trust Deed can also detail the contributions each party made towards the purchase price, their responsibilities for mortgage payments, and how the sale proceeds will be divided when the property is sold. This method is preferred by clients who are contributing unequal amounts or receiving financial gifts from family members to help with the purchase, as it safeguards their contributions.

Since everyone's circumstances are unique, it is important to discuss with your co-owners how you wish to hold the property. We can then ensure that your preferences are implemented when the property is registered with HM Land Registry. If circumstances change, the method of ownership can be altered, and we are here to advise and assist you through that process.

For more information on conveyancing, please contact our expert, trusted Conveyancing team on 01283 531366 or email enquiries@astlepaterson.co.uk

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