

**OWNERSHIP OF PROPERTY INVOLVING MORE THAN ONE PERSON (e.g. contributing funds)**

**HAVING READ THIS GUIDANCE, WE NEED YOU TO COMPLETE, SIGN AND RETURN THE FORM ON THE REVERSE, PLEASE**

English & Welsh law can maintain distinctions between:

- a) the legal owner(s) of property – who is/are the person(s) who actually hold(s) the legal title to the property; and
- b) the beneficial owner(s) of the property – who is/are the person(s) on whose behalf the legal owner(s) hold(s) that property.

When – as is often the case - the legal owner(s) hold(s) the property for their own benefit, then no such distinction clearly arises. However, surprisingly commonly, the law actually does distinguish between the legal owner(s) of property, and the person(s) for whose benefit the legal owner(s) hold(s) the property. Instances of such distinction are called “trusts” – the legal owner(s) of property is/are ‘trusted’ to respect beneficial rights in the property – and the law can enforce that trust if necessary.

1. “Joint” ownership means the survivor of the joint owners will hold the whole after the deaths of all the other joint owners – “survivorship”, i.e. *‘last one living takes all’*.
2. In English & Welsh law, property which is owned by more than one person is always held, legally, jointly.
  - a. While more than one legal owner is alive, they all hold together on the terms of a ‘trust for land’ that is implied and outlined in English & Welsh law.
3. If no other trust is put in place for property legally owned by more than one person, then English & Welsh law will assume that the beneficial ownership is the same as the legal ownership – meaning that the survivor of the legal owners would also become ‘absolutely’ entitled to the benefit of the property after the death of all the other original owners, i.e. by survivorship, as described above.
  - a. Married couples often decide to hold property jointly (so the survivor of the couple will retain the entire interest) as part of their estate planning.

Advice about what ownership choice is appropriate to your property purchase in your circumstances is not included in our quote for our conveyancing service. We can give you advice about what ownership choice is appropriate to your property purchase in your circumstances, as part of our Estate Planning services – but that advice would be at additional cost. If you want such Estate Planning advice from us, then please ask for it, and we will send you a quotation.

If you do not buy Estate Planning advice from us, then we will not advise separately (i.e. within our conveyancing service) about what ownership options as outlined might be appropriate to you, but we will assume that you feel confident (having considered our explanation and offer in this document) to make the choice that has to be made, by yourselves, e.g. without our advice.

Within our conveyancing service to buy property involving more than one person, our client(s) must tell us what their ownership choice is, that we will then implement for them. Three options are available, that are outlined on the form on the reverse.

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**WE INSTRUCT YOU TO CONVEY OUR NEW PROPERTY AS (PLEASE ✓ ONE OPTION):**

<u>Option</u>		✓
<b>Joint Tenants</b>	<p>The property will be held jointly legally and beneficially. The survivor will take the whole property after the death of the others. No trust for ownership will be in place (apart from the Statutory Trust for Land while more than one of you is alive). When any one of you dies, their interest in the property will be entirely extinguished, automatically increasing the survivors' interest(s). Any Will made by the deceased joint owner would be irrelevant, since they would never have had any separate interest to pass with their estate.</p> <p>A joint tenancy can subsequently be 'severed' by any one of the joint owners, at any time, to convert a joint tenancy into a "Tenancy in Common in Equal Shares" (see below). However, as outlined below, that could be considered relatively to disadvantage any one of you who were to have contributed more than any others to the property, that might be a reason for any such unequal contributors to wish to hold not as joint tenants, but as Tenants in common on trust (see below)</p>	
<b>Tenants in Common (equal shares)</b>	<p>Tenants in common have their own separate beneficial interest in the property. When a tenancy in common is in equal shares, the legal owners hold on trust for all of them each having an undivided equal share of their own in the property. That beneficial share will not pass by survivorship, but remains within their own individual estate, both before and after death.</p> <p>The fact that the legal owners hold for themselves as beneficial owners will be noted on the title to the property, but because the law can imply sufficient protection for the terms of this type of trust, there is no need for you to enter into a separate trust deed, too.</p> <p>This form of ownership could relatively disadvantage anyone who contributes more than any others to the property, that might be a reason for any such unequal contributors to prefer to hold as Tenants in common on trust (see below)</p>	
<b>Tenants in common on trust</b>	<p>Tenants in Common on trust are similar to Tenants in Common (equal shares), but the beneficial shares are not deemed equal. This requires a separate trust deed to be entered into (that would normally also be expressly referred to on the title) – at extra cost (see our price list). If you choose this option you will also need to explain in detail how the different shares in the property will be divided up; we will take separate instructions.</p>	

Signed : .....	Signed : .....
Signed : .....	Signed : .....

Since their share stays in their estate after their death tenants in common (either type) should each consider making a will, since if they do not do so "The Rules of Intestacy" will decide who should get their share – maybe not who they might wish. See <https://www.mounteney.com/service/will-services-manchester/69.html> and <https://mounteney.com/uploads/images/services/PDF%20Files/Wills%20Jan%202020.pdf>