

## Jointly Owned Property

There are two ways in which you can own property jointly in England and Wales. They are as:

1. Joint Tenants; or
2. Tenants in Common

The words 'tenant' and 'tenancy' can be misleading here. They do not signify any rental or lease arrangement; essentially, they just mean 'owner' and 'ownership' in this context.

For any property that you own jointly, it is important to know which one of these ways will apply to you. This is because how you hold joint property affects the rights you have to that property, particularly when determining what will happen to it upon the death of any of the joint owners.

### Joint Tenants

Under a Joint Tenancy, each owner has an indivisible share in the property, meaning that each owner is equally entitled to the whole of the property. The key feature of a Joint Tenancy is the right of survivorship.

The right of survivorship means that on the death of one co-owner, that co-owner's interest in the property will pass automatically to the surviving co-owner(s). Therefore, if you own property as a Joint Tenant, you cannot leave your share of the property to someone in your Will; it will simply pass to the other Joint Tenant(s).

Through the right of survivorship, the last surviving Joint Tenant will end up owning the entire property. On their death, the property will form part of their estate. As such, they will be able to leave the property to whoever they wish in their Will. The last surviving Joint Tenant will also have all the usual rights of sole ownership, such as being able to sell the property or give it away etc.

### Tenants in Common

With a Tenancy in Common, the co-owners still own the property jointly, but each will have a distinct share in it. For example, if you own property as Tenants in Common with one other person, you might each have a 50% share of the property. The shares do not have to be equal in a Tenancy in Common, however. The shares might be in different proportion, such as 60/40, perhaps reflecting how much each of you contributed to the purchase price.

In many cases where a property is owned as Tenants in Common, there will be a separate document indicating the share which each Tenant in Common holds in the property. This is called a Declaration of Trust.

More information on trusts can be found in our [help guide](#), 'Trusts: A Detailed Guide'. This also provides a brief look at some of the legal theory behind joint ownership and trust arrangements.

The right of survivorship, which affects Joint Tenancies, does not apply to Tenancies in Common. This means that if you own a property as Tenants in Common, your distinct share of the property can be left to someone in your Will, it will not automatically pass to the other co-owner(s).

The control you have over your share of a property can be useful. For example, if you have children and co-own a property with your spouse, you may want to ensure your children receive your share of the house when you die. A Joint Tenancy would rely on the surviving spouse leaving the property to the children, and it is possible they might not do so – perhaps if they were to re-marry or choose to pass the house on to other people. With a Tenancy in Common, you would be able to pass your share of the house directly on to your children in your Will.

## How Roche Legal can help

Dealing with legal issues can be confusing and stressful. We understand this, and we're always on hand to untangle jargon and offer support.

If you need advice on any of the issues raised in this help guide, please don't hesitate to [get in touch](#). Roche Legal is an award-winning legal practice, offering practical and caring advice.

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