

CO-OWNERSHIP

When a property is to be owned by two or more people, the method of ownership is known as "Vesting". It is very important to consider how it will be vested between you, as on the death of one of you, that share needs to pass to someone.

There are two ways:-

Undivided shares

This means that the owners of a property each own a separate (not physically) and distinct share, which will pass to their mum, dad, brother or sister as the case may be ("Heirs") upon their death, as opposed to the surviving co-owner.

This form of Vesting is suitable if you don't wish your share to transfer directly to your co-owner. Two simple examples of the benefit of this Vesting is having the ability to:-

1. benefit a child from a previous relationship; or
2. family members.

This form of Vesting does not always provide the security of the other form of Vesting below. The survivor of you may end up sharing ownership of the property with the Heirs of the first of you to die. The Heirs could in practice force a sale of the property, unless it is agreed within the Conveyance that the survivor of you will have the right of enjoyment over the whole of the property. Having said this, it is normally possible for one co-owner to leave their share to the other by Will.

These undivided shares can be of any amount. For example, if you are both putting the same amount of money towards buying the property and are both contributing the same towards the mortgage etc, **undivided one-half shares** would be best. If on the other hand one of you is putting in say three-quarters of the price (including the costs if applicable), then that person could own an **undivided three-quarter share** and the other would own the remaining **quarter**. As with the Vesting below, the financial differences could be reflected in a side agreement or indeed written in to the Conveyance document and could still own it in half shares.

Survivorship

If you purchase a property between you on a survivorship basis, it means that on the death of the first of you, the surviving owner (presuming that there are only two such owners) will become the sole and absolute owner. This is the usual way for a husband and wife to buy property and more so with children within that marriage.

Survivorship provides the basic security of knowing that on one of your deaths, the other owner will have absolute control over the property (especially if you have life assurance or have not borrowed) and no other Heir potentially can make a claim.



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In some cases, this form of vesting may not suit if for instance you wish to leave your share in the property to someone other than the person with whom you are buying the property.

Legal advice

Now that you have read this, it is very important that when you see your Advocate or Clerk (as the case maybe) you make them fully aware of your financial situation and who you would like to benefit/own the property on your death. They will advise you accordingly on the Vesting and also on making a Will.

