



Renaissance Legal

Declaration of Trust

A Declaration of Trust is a statement showing how much of a property is owned by whom. It is often used by unmarried couples, those investing differing amounts in the purchase of a property and where a family member lends money for a deposit.

Who should make a Declaration of Trust?

You should consider making a Declaration of Trust if you are purchasing a property with someone else, moving into someone else's home or contributing to the purchase of a property that will not be in your name.

The Declaration of Trust will record your agreement as to how the sale proceeds of the property are to be divided between you when you come to sell the property. It could also set out:

- the deposit each of you have paid towards the purchase price;
- the amount each of you have contributed to legal costs, stamp duty and removal costs;
- what share of the property you will each own;
- the percentage of the mortgage each person is responsible for;
- how property expenses will be paid;
- the mechanisms that you will each accept if you need to buy out the other's share of the property.

Why do I need to protect my investment?

Problems may arise if there is a relationship breakdown, one of you wishes to sell the property or one of you dies.

Without a Declaration of Trust, a court may order that the sale proceeds should be divided equally amongst the parties. This may be unfair if you have made unequal contributions towards the purchase price of the property or you have spent a significant amount of money on home improvements.

When should the Declaration of Trust be set up?

If you are buying a property with someone else then you will need to decide whether you hold the property as Tenants in Common or Joint Tenants. Your conveyancing lawyer will be able to advise you further on what is most suitable for you.

If you hold the property as Tenants in Common you will usually need a Declaration of Trust to support this type of ownership.

Setting up a Declaration of trust when a property is first purchased will make the position clear from the outset. However, a Declaration of Trust can be set up at any time as long as all of the people involved agree. This might be suitable where, for example, one person pays for substantial repairs to the property or pays off a lump sum on the mortgage.

Complimentary services

When creating a Declaration of Trust it is usually important to support this with a Will. For example, you might want a basic Declaration of Trust merely stating the shares on sale and in the Will make provision for the survivor to use the property for the rest of his or her life.

It may also be a good opportunity for you to review your financial circumstances, any tax planning you have in place and consider making a Lasting Power of Attorney.

As lawyers we are not permitted to provide you with financial planning advice but we work alongside local and national Independent Financial Advisors who we can refer you to.

Please refer to our **Why Make a Will, Inheritance Tax Planning** and **Lasting Power of Attorney** information sheets for further details of these services.

How we can help

Our experienced lawyers can advise you on the decisions that need to be made to enable a Declaration of Trust to be set up. You should note that we are usually only permitted to act for one party to the Declaration of Trust due to the potential conflict of interest between the people involved.

If you would like to discuss this further then please call us on 0845 505 60 50 or email us at info@renaissancelegal.co.uk

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