



Renaissance Legal

Helpful definitions

Declaration of Trust

a legal document setting out how the property is owned and how it would be divided if sold

Tenants in common

a type of property ownership where:

- You can own different shares of the property
- The property doesn't automatically go to the other owners if you die
- You can pass on your share of the property in your Will

Joint tenants

a type of property ownership where:

- You have equal rights to the whole property
- The property automatically goes to the other owners if you die
- You can't pass on your ownership of the property in your will



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, or 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 is a legal record of 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 and

Who might consider a Declaration of Trust?

- Unmarried couples buying a home
- Individuals whose families have lent them money for a deposit
- Friends buying a property together as an investment

Complementary 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 what would happen to 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.

This information sheet is intended as guidelines for clients and other readers. It is not a substitute for considered advice on specific issues. Any action taken depends upon your individual circumstances. Consequently, we cannot accept any responsibility for action which may be taken as a result of reading this information sheet or for errors or omissions contained in this information sheet.

- The mechanism 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?

Life is rarely smooth and straightforward. 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, it is possible that 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.

It is recommended to set up a Declaration of Trust when a property is first purchased as this 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.

How can Renaissance Legal 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 01273 610 611 or email at: info@renaissancelegal.co.uk