

## CO-OWNERSHIP

CO-owners can hold any property in one of two ways: either as joint tenants or as tenants in common.

1. **Joint tenants:** where co-owners hold the Property jointly, none of the co-owners have a distinct percentage share in the Property but will own all of it jointly. The main distinction is the right of survivorship which leads to the Property being left to the ultimate sole surviving joint tenant., no part of it will belong to the estate of a deceased joint tenant and, where the co-owners were married to each other it will not be subject to inheritance tax and you will not need to obtain probate/letters of administration to transfer the property to the surviving spouse.
2. **Tenants in common:** where a tenancy in common exists each co-owners holds a proportion of the Property in their sole name, this proportion of the Property can then be transferred by will and passes on to whomever the deceased proportionate share is left. Note that to hold the Property in this way will make the property subject to inheritance tax rules with regards to the deceased person's portion.

## Severing a Joint Tenancy

Normally, when couples buy a property together, they do so as joint tenants. This means they both own the whole of the property, and ownership automatically transfers to the other owner if one of them dies.

While this arrangement can make sense when a couple first buys a property, it may become unsuitable if their circumstances change. Severance is a process that enables joint tenants to change their legal ownership to tenants in common.

## What is the severance of a joint tenancy?

Severance of a joint tenancy is the legal process by which the owners of property change their legal ownership from joint tenants to tenants in common. More often than not, both parties will agree to sever the joint tenancy. However, this is not necessary. One party can serve notice on the other requiring them to sever the joint tenancy whether they want to or not.

## What are the disadvantages of joint tenancy?

It is not so much about the disadvantages of joint tenancy itself; it is more about whether a joint tenancy is the right arrangement for you. Joint tenancy comes with something called

the right of survivorship. This means the property will automatically pass to the surviving owner(s) when an owner dies.

However, this may not be what you or your co-owner want to happen. Since the right of survivorship takes precedence over a will, severance is absolutely necessary if you want to leave your share of the property to someone else such as a child from a previous relationship.

Furthermore, if a couple breaks up, the property will remain jointly owned even though one of the owners may no longer live there. This can be problematic, and it may prevent a sale of the property until all the owners agree.

## Why would you sever a joint tenancy?

Severing a joint tenancy converts the ownership into a tenancy in common. There are three main reasons for doing this:

1. **To end the automatic right of survivorship.** Along with a will, severing a joint tenancy can be an important part of estate planning to ensure that beneficiaries such as adult children get a share in the property without having to rely on your partner to provide for them. A tenant in common has more control and flexibility over what happens to their property on death than a joint owner has.
2. **Property income.** For rental and income-generating properties, severing the joint tenancy allows the co-owners to receive the income in unequal shares, such as 60-40 or 70-30. Creating a tenancy in common can thus help co-owners share rental income in a more tax-efficient way.
3. **Separation and divorce.** Severing a joint tenancy is common in divorce proceedings, both to prevent an ex-spouse from automatically inheriting the property when you die and to specify what percentage of ownership interest each of you has. This helps to resolve any disputes about how much money you should receive if you eventually sell the property.

## What is the process for severing a joint tenancy?

The process for severing a joint tenancy is relatively straightforward:

1. Serve a notice of severance of joint tenancy on all the other owners. The recipient(s) should sign an acknowledgement to say they have received the notice.
2. If the recipient refuses to sign, you will need some other evidence to show that the notice was served, such as proof of recorded delivery to their last known address.
3. Complete Form SEV

4. Send Form SEV to the Land Registry along with the signed acknowledgement of receipt. The Land Registry will enter a restriction on the title deed to confirm that the property is now held as tenants in common.

This completes the process and allows each party to deal with their respective shares of the property as they wish. In simple cases, where all joint tenants sign the application, this process can be as short as 1-2 weeks.