

## Severing a Joint Tenancy

There are two ways in which two or more people can own property jointly:

### 1. **Joint Tenancy**

This is when each owner has an identical interest in the whole of the property. Each owner is entitled to the whole of the property, so it cannot be divided. None of the owners has an exclusive right to occupy the property. Where the property is held as a joint tenancy the 'right of survivorship' applies. This means that ownership passes automatically on the death of one joint tenant to the survivor(s). The last survivor becomes the sole owner.

### 2. **Tenancy in Common**

This is where two or more owners own a property in equal or unequal shares. There is often a Deed of Trust stating in what shares each owns the property. Each owner is only entitled to his or her share in the property. Each owner may sell or dispose of his or her share as they wish and can leave it to somebody else in their Will. The share will not pass automatically to the other owner(s) upon the death of a co-owner but will form part of the deceased's estate.

### **Why you may wish to sever your Joint Tenancy**

If you have separated from your partner you may not want him or her to automatically inherit your share of the property when you die. You may wish to leave your share to your children, your parents or a charity. In order to do this you will need to sever your joint tenancy so that you become tenants in common.

This is a simple procedure whereby a 'Notice of Severance of the Joint Tenancy' is drawn up and signed by one owner. Duplicate copies are then served on any other joint owners who then need to counter-sign the copy. If they do not sign it voluntarily a process server will need to serve the notice personally. This will ensure that it can be proved that the notice was received.

Once the notice has been served and counter-signed it can be registered at the Land Registry or endorsed on the conveyance, whichever is relevant. It should only take one to two weeks to sever a joint tenancy.

### **Making a Will**

When a joint tenancy is severed the owners will become tenants in common. Each will then own an individual share in the property that will no longer pass according to the rules of survivorship. We therefore strongly advise that a Will is made when a joint tenancy is severed. Please see our 'Reasons for Making a Will' leaflet.

*If you would like to make a Will or update your Will please contact our Wills and Estate Planning Department.*