

## Buying, owning or renting together

### Your rights and how to avoid disputes

Foot Anstey have one of the largest property teams in the south west specialising in property litigation. Here's some advice from the team on a few common questions on buying and renting together.

#### BUYING TOGETHER

*I am buying with my partner and we are paying different amounts towards the purchase price and mortgage – should I record this?*

When buying a house you can hold the legal title as either “joint tenants” or “tenants in common”. If you hold the property as joint tenants you are generally assumed to own it in equal shares. If you do not wish this to be the case you should hold as tenants in common.

You should also consider arranging for a separate document known as a “declaration of trust” to be drawn up to show the shares in which you wish to hold the property. This will ensure that, in the event that you choose to sell and split the proceeds, the position as to who gets what is clear.

If you have not recorded differing contributions or the property is in one name only the law may still assist you in some cases and you should take legal advice.

#### OWNING TOGETHER

*We own a house and are thinking of getting work done or employing a builder to carry out renovations do you have any advice?*

You should insist on having a written agreement with them. The most common reason for people to end up in dispute with their builder is because they did not agree the cost of work, how long it would take or even the extent of what was to be undertaken at the outset. If possible you should get your builder to agree a fixed price for a job and specify exactly what this fixed price will include to make sure that there will be no hidden extras.

Don't ever pay the full amount for the work up front and, if paying in cash, make sure you get a receipt. You should also make sure that you agree who will pay for materials and any mark up the builder may apply. Above all, remember that time spent producing a comprehensive written agreement at the outset of a job will go a long way towards ensuring your plans to turn your property into your dream home do not turn into a nightmare.

## RENTING TOGETHER

*I have a tenancy with my partner. They have now moved out but my landlord wants me to pay the rent. Do I pay all or half?*

Unfortunately the answer is likely to be all of the rent. Tenancies in the joint names of couples create something called joint and several liability, which means that the landlord can pursue both of you (jointly) or just one of you (separately) for any rent or for breach of any other terms of the tenancy.



You would still have a joint and several liability under a tenancy agreement even if you have moved out.

*What can I do if my landlord does bring a claim against me?*

If a claim is brought against you for unpaid rent under a tenancy in your joint name even though you are not living in the property you notionally have a claim against your joint tenant. The landlord does not need to be concerned whether you are still together as a couple.

## LIVING TOGETHER

*I own a house and would like my partner to move in with me – do you have any advice?*

There are all sorts of reasons you might invite someone to share your home: to help pay the bills, help out a friend or when a relationship becomes serious. In most cases such an arrangement causes no problems but occasionally people do fall out and you could find yourself with a hostile lodger who simply doesn't want to go.

If you have suffered domestic violence or intimidation at the hands of your lodger, you should call the police. Their involvement may be enough to persuade your lodger it's time to move on.

In all cases you should give your lodger notice that you want him or her to leave the property. This can be verbal, but it is better from an evidential point of view if it is given in writing. The amount of notice required will vary depending on circumstances, but generally will be anything between "immediately" and 28 days. A good property litigation solicitor will be able to give you guidance as to what constitutes reasonable notice in a particular case.

If your lodger still refuses to leave after the notice period expires, you can physically exclude him or her from the property as long as you do not threaten or use force. For example, you might change the locks while he or she is out. It is not generally a good idea to put a lodger's belongings "on the street" because if items get damaged or stolen, you could face a claim for their replacement cost. Storing them temporarily in a dry, secure outbuilding or agreeing reasonable supervised access to the property to collect belongings is a better solution.

*I live with my partner and have contributed towards the property, but am not the legal owner. I have put a lot of time and effort into the property. What happens to the property if our relationship breaks down?*

If you live with your partner in a property which they own and you have contributed significantly towards the mortgage and/or upkeep of the property over a period of time you may have gained an interest in it called a 'beneficial interest'.

A beneficial interest is an interest acquired in law from contributions made to the property. This can arise from financial contributions, but would need to be more than merely paying household bills. In very rare cases where one party was promised that the property would be shared an interest could arise from significant non financial contributions such as carrying out substantial work to the property.

The courts are generally reluctant to assume beneficial interests but where they do so they legal owner will then hold a share of the property on trust for the other party.

If you are in a similar situation you should seek legal advice as many people are not aware of the rights they have acquired during a relationship.

**For more information or advice please contact the Living Together team:**

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