

# FACTSHEET

## Buying + Selling



## How to buy property as cohabitees

**It's safe to say that there are many misconceptions when it comes to buying property together as an unmarried couple. Contrary to popular belief, there's no such thing as common law marriage. In fact, the legal status of common law spouse is a myth.**

As a cohabitee, you don't share the same rights as married couples and civil partners, nor do you have any financial claim on your partner's assets. This is the case no matter how long your relationship lasts.

When buying a home together, we have a cautionary note for cohabitees... property rights for unmarried couples are very different to those for married couples and civil partners.

So if you're buying as cohabitees, we take a look at how you can protect yourself from a legal perspective.

### Buying a property together

Mostly when you buy a property as a couple, you do so jointly. You enter into a joint mortgage and become joint tenants. You split the property equally and are both responsible for any liabilities against it.

By owning your home as joint tenants, you own it jointly and equally. If you separate and sell it, you'll normally get half, regardless of how much you contributed towards it.

Sounds straightforward, doesn't it?

However you can also buy property as tenants in common, which means you'll need to decide whether both parties own an equal share.

If so, you become tenants in common (equal shares) and split ownership of your home on a 50/50 basis, but what if your home isn't to be equally shared? In this situation it's possible to buy the property in joint names and have a written agreement (known as a trust deed) drawn up to specify what each owner is to receive in the event that the property is sold.

This is known as tenants in common (unequal shares).

### What's the difference between these types of ownership?

The main difference between joint tenants and tenants in common (equal shares and unequal shares) relates to what happens to the property if either you or your partner dies.

### Joint tenants

If you or your partner die and you own the property as joint tenants, the deceased's share of your home will automatically pass to the surviving joint owner.

Neither share of the property can be distributed by either owner's Will.

### Tenants in common (equal shares)

Even though you both own a defined 50% of your home, you can choose to leave your share of the property to someone other than your partner by stating your wishes in your Will.

### Tenants in common (unequal shares)

You each own a defined share of the property, with this often representing the differing financial contributions made by each party at the time of purchase.

As with tenants in common (equal shares), you can choose to leave your share of the property to someone other than your partner by writing a Will.

For this type of ownership we recommend that you set out your shares in a **Declaration of Trust**.

### Cohabitation agreement

If you want to protect yourselves further you can also enter into a written agreement which states the amount each of you has contributed and what should happen to your house in the event that you separate.

This is known as a **cohabitation agreement** and is a legally binding contract, drawn up and witnessed by a solicitor.

As unromantic as it sounds, this agreement about your cohabiting rights can save future disputes and significant legal costs if drafted correctly.

### Further Information

You can contact us by calling **0117 325 2929** or visit our website.

[www.barcankirby.co.uk](http://www.barcankirby.co.uk)