

## **Declaration of Trust**

### **What is a Declaration of Trust?**

A Declaration of Trust is a legally binding written agreement (contained in a trust deed) which records the financial arrangements between the owners of a property or people in a relationship who live together.

### **When should a Trust deed be created?**

Ideally as part of any purchase arrangements or when you move in together.

A trust deed can only be signed when the owners agree. It's too late if you have fallen out

It will be relevant and important in all of the following cases:

**If you buying a property with someone else** you may fit into one of the following categories:

Cohabiting unmarried couple

- Sharing friends
- Sharing relatives
- Business partners
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### **If you are moving into a house being owned or being bought in the sole name of your partner**

You are at risk, you may have no claim to a share of the Property and need a trust deed to protect you

### **If you are contributing differing amounts to the deposit, fees, or mortgage payments you need a trust deed to clarify:**

The percentage of the deposit each person will pay A Declaration of Trust can help you protect your financial contribution if you decide to sell the property or your share in the property.

The percentage of the property each person will own

- How much each owner will contribute towards mortgage payments and other outgoings
- How much each owner will contribute towards fees

### **Have you ever thought about what will happen if you want to sell the property?**

Have you thought about what will happen to the property if there is a relationship breakdown or if one party simply wants to sell up?

You need a Trust deed to clarify:

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- What happens if an owner wants to get out and to sell their share or the entire property?
- What proportion of the sale proceeds each owner will receive if the property is sold
- How any mortgage on the property will be paid off? A Trust deed can set out how you wish to contribute to mortgage payments and how you will be repaid for your contribution, should you come to sell the property.

You may need a Declaration of Trust in a trust deed:

**If you are contributing towards purchase expenses, such as legal fees, stamp duty or removal costs**

A Trust deed can set out your financial contribution and specify how you wish to be repaid if the property is sold.

**Have you considered any mechanism for buying out your joint owner's share in the property?**

A Trust deed can specify the terms upon which you transfer the property.

**If you want to avoid prolonged legal disputes over finances if your relationship breaks down**

A Trust deed can set out if and when the property should be sold and how the sale proceeds should be divided between the owners.

**What happens if one of the owners dies?**

Quite often the deeds of the property say that owners own the property jointly. If that's the case then on the death of one of them, the survivor would become the sole owner and in due course the property might pass to their beneficiaries specified in their will or to their next of kin.

You may both agree that that's what you want to happen.

If you want your share of the property to go to your family than you need to make sure that the house deeds make it clear that you own in common, this can be done by either modifying the deeds or having a declaration of trust in a trust deed.

For historical reasons legally joint owners are known as joint tenants and common owners and known as tenants in common. Those expressions are confusing since it's nothing to do with tenancies. You should not own the property as joint tenants if you wish your share to go other than to your co-owner.

If you own a property in common you can leave your share as you wish. As part of this operation it would be sensible to make a will