

Stages for Severance of Joint Tenancy

1. The Solicitor will take instructions from you and explain the implications of tenants in common and joint tenancy in relation to co-ownership of property and advise you as to what suits your circumstances best to achieve your desired result. It will take less than 30 minutes to take your instructions. This will not usually be a stand-alone piece of work he is undertaking for you so instructions will be taken at the same time as eg. preparing your Will. You may wish to place your share in trust so your co-owner has the right to live in the property during their lifetime but on their death you want to specify who inherits your share of the property. This ensures that your beneficiary inherits rather than relying on your co-owner to benefit them on their death. If they own the whole property on your death it could be taken into account for their care fees or they could spend it thereby depriving your choice of beneficiary
2. The Solicitor will prepare the necessary notices within 10 working days and will attend on you at your next meeting for you to sign. The timescale of the next meeting will depend on you initiating it and the Solicitor's availability. If not all the co-owner(s) are our clients then we will serve a signed copy of the notice of severance on the other co-owner(s). The notice declares your intention to convert your relationship with the other co-owner(s) from being joint tenants to tenants in common. The difference is that when one dies the other(s) do not automatically own the whole property. You each own your own distinct, severed share. Our invoice for our professional charges will be submitted at this stage for settlement
3. The Solicitor will submit an application, within 5 working days of receiving notices signed by all co-owners, to the land registry so that a Form A restriction will be entered on the title. This shows that you own the property as tenants in common, assumed in equal shares. If unequal shares are involved then a Declaration of Trust will also be required. You will have the power to bequeath your share in the property to someone other than your co-owner(s). More than one person has to sign the documentation to enable a sale so this prevents the survivor from selling the property on their own. Even if the surviving co-owner does appoint a second Trustee so that there are two sellers, they are both bound by the terms of the trust in that they hold the property for the benefit of the co-owner and you in the relevant proportions and must divide the net sale proceeds accordingly. If you have died they hold your share for the benefit of your Estate. Your Executors or Beneficiaries cannot force the surviving co-owner to sell if they do not want to sign the paperwork. As with any form of co-ownership if you fall out you would have to buy the other one out or sell to a third party. If you cannot agree then an order for sale from a Court could be sought but Hargreaves Gilman do not advise in this regard
4. The Land Registry complete the application which can take months depending on their workload and provide us with the proof of the restriction being entered on the title. We provide this to you within 5 working days

Anthony Richard Learoyd LL.B qualified June 2015 and specialising in this area of the law ever since

You may also be seen by:-

James Cox LL.B qualified March 2021 and specialising exclusively in this area of the law since March 2022

Deborah Millington - SOLICITOR/PARTNER/SUPERVISOR

LL.B qualified September 1992 and specialising in this area of the law ever since