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SOLICITORS

## Cohabiting Parties – the importance of legal advice.

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If you're an unmarried couple buying a house together, you will need to consider how you wish to acquire the property and what might happen to it if your relationship breaks down. Although no one wants to contemplate a breakup, legal advice prior to your purchase is essential and can prevent real problems at a later date.

If one of you is making a greater financial contribution to the purchase than the other and you want to protect your respective contributions to the property, then you should seek legal advice about the options available to you.

When buying a house in joint names your solicitors should always advise you on the ownership of the property; specifically, you will be asked whether you want to own the property as "joint tenants" or as "tenants in common".

In simple terms, if you buy as "joint tenants", you will not own distinct shares in the property. Regardless of your respective contributions to the purchase price, joint tenants are each entitled to a half share of the property, or the net proceeds of sale of it.

If one of you contributes more than half of the purchase price, but you choose to be "joint tenants", then the person making the greater contribution will not be able to recover more than half of the property; any sum over that half will amount to a gift to your partner, whether intended or not, and you will forfeit the surplus over and above that half share.

If you want to hold different shares in the property, you will need to agree what your respective shares should be. This might be particularly appropriate if one party is contributing more than the other, or perhaps contributing money from their family or from a sale of a property in their sole name.

In such circumstances you will need to buy the property together as "tenants in common" and to agree your shares.

It is advisable to record the agreed shares in a document known as a "Declaration of Trust" as this creates certainty and will avoid any dispute later if the worst happens.

A Declaration of Trust deed will confirm the terms of the property ownership; for example, it may set out that in the event of a sale, any larger deposit paid by one party shall be returned to them before any remaining equity is shared between the parties, or it may simply record the percentage shares of the property held by each owner. You can also include in such a deed, an agreement about who will pay the mortgage or pay for repairs.

In short, if you're unmarried and buying a property with your partner and you want to protect your investment you should be sure to seek legal advice before you buy.

You can contact one of the Hethertons Family Team on **01904 528200**.

