

# Joint property. How to safe guard yourself and your partner.

In part 3 of this review of essential law for same sex couples the Community News letter legal adviser discusses the problems and advantages of property owning and tenancies.

I'm afraid I always start from the same point of view, advice is given to avoid problems. Advocates are sometimes looked on as prophets of doom thinking up unlikely scenarios. Well if we didn't we wouldn't be doing our job. The scary family who come along and throw out the recently bereaved lover is a fact of life as is the lover who breaks up the relationship and wants either a large sum or is offered nothing. The latter point will be dealt with by the final article in the series next time when I discuss living together agreements. This time its Home Ownership.

We live in a society which is obsessed with private property and the rights which attach to it. There is little social housing for lesbians or gay men either as singles or couples. To ensure fairness then we must make our own private contractual arrangements and provision. This area is one of great difficulty. Much depends on financial circumstances of the couple involved both jointly and individually.

If you live with someone you love then at some stage you are going to need to agree how the property you own or rent is held by you. As you may have made different contributions you may want to reflect that. You will certainly wish to say what should happen if you part.

The easiest example is the same sex couple who earn approximately the same, have equal savings and want to buy or rent together. They should own jointly. There are two types of joint ownership, tenancies in common and joint tenancies.

In most cases straight couples buy as joint tenants. The house belongs to you both and on the death of the first vests solely in the survivor. The dead persons half share cannot be left by will. Whoever lives longest gets the lot. You may want to leave your property share to your family, children or charity. If so you need a tenancy in common. You each own a specified share, half unless stated otherwise, which can be left by will how you want. Remember if you do this you should consider leaving your partner a life interest in your half should you die first so as to ensure they can live there after you are dead.

If you split up then the property is sold and the proceeds equally divide and you each start again.

Of course there may not be equality of earning power, savings or contribution to mortgage. That can be set out in a short Trust deed. That document can set out who contributed what, what percentage is to belong to each, change those percentages with time, eg if we live together for 5 years the person with the bigger share will give an extra piece to the other and so on. Importantly it can also say what happens if you fall out and want to separate, how the shares are to be valued and who is to have any pre-emption rights.

This may all seem very complicated but you would be surprised how cheap it can be and what is more it will save lots of problems, anguish and possible legal costs later.