

DECLARATION OF TRUSTS

How to protect your interest in a jointly owned property

A Declaration of Trust can be used when two or more people purchase a property together and they have provided different capital sums towards the purchase. A Declaration of Trust can also record contributions made by third parties. For example, a parent might give a deposit to their child towards the purchase of their first home but want to safeguard the investment in the property in case the property is ever sold.

A Declaration of Trust is often prepared at the same time as a purchase of a property and it is important that the parties set out in writing their intentions of how the proceeds of sale of the property are to be dealt with in the future. It is important that a Declaration of Trust is prepared before any disagreements arise as its purpose is to safeguard all parties and make it clear to everybody how the property purchase was funded and how the division of sale proceeds will be dealt with. If you have already bought your property, a Declaration of Trust can still be drawn up provided your co-owner agrees.

When a Declaration of Trust is recommended:

- Property is purchased by two persons and they want to agree how the sale proceeds are to be divided in the future. A Declaration of Trust will ensure that the capital contribution of each is taken into account when the property is sold.
- Property is held in the sole name of one person but he or she has had contributions towards the purchase price of the property from another person. A Declaration of Trust can then record the Contributor's share in the property.

- Property is held by one person in their sole name but it has been bought for two people as their joint property to live in and both pay the mortgage jointly. The Declaration of Trust will then ensure that the property proceeds would be divided equally between the parties upon sale.

- Former matrimonial home originally held by husband and wife in joint names. After they divorce the husband is to be responsible for payment of the mortgage until sale. A Declaration of Trust will safeguard both parties' respective interests in the property.

- Property in the sole name of one party – a Declaration of Trust would be prepared to recognise the contribution by another for improvements to the property.

Inside this issue:

- Declaration of Trust
- Safeguard your capital contributions

Contacts

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