BALANCE consultancy

What happens to my property when I die?

When making a will, knowing how you legally own your property is essential, as this determines what will happen to your property when you die.

Sole Ownership

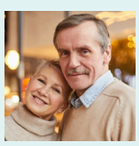
You are the only legal owner. In your will, you can make a specific gift of your property or leave it to be inherited by the beneficiaries of your general estate. The intestacy rules will apply if you do not make a will. It means you have no choice or control over who inherits.

Example: Max wants his home to go to his nephew and the rest of his estate to his nieces. If Max dies without a will, his elderly parents will inherit via intestacy. Max does not want this, so he makes a will to ensure his younger relatives inherit.

Joint Tenants

A joint tenancy is when two owners have equal ownership rights over the whole property.

When a joint tenant dies, property ownership passes automatically to the survivor. Only when the survivor solely owns the property can it be given to others by will.



Example: Clive and Mary are joint tenants. When Clive dies, Mary automatically becomes the sole owner. If Mary owns the property on her death, it will go to the beneficiaries of her will or relatives via intestacy.

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Talk to us about what matters to you.

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■ **CALL TODAY**

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Book a Home Visit / Zoom meeting.

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Tenants in common (+)
Two or more individuals each own a proportion of the property either in equal shares (50/50) or in different amounts e.g. 75% and 25%.

Will	No will
You can gift your share to a specific person or leave this to be inherited as part of your general estate.	The intestacy rules will apply. Your surviving relatives will inherit your share.
You can protect your share of the property by putting this into a trust.	This means the property will be co-owned by the surviving co-owner and your relatives. Conflict may arise.

By making a will, you have control over who inherits rather than leaving this to chance.

Can owning property as tenants in common help to protect my assets?
Many couples choose to change from joint tenants to tenants in common as part of their estate planning because they want to use trusts to protect their assets.

Trusts can reduce the risk of your children's inheritance going to others, e.g. if the survivor makes a new will, remarries or needs care.

Example: Jay and Nita want to set up a trust to protect their most valuable asset for their children. They can include a trust in their will (to come into effect on death) or transfer their property now into trust (a lifetime trust).

For either trust option, they need to change from joint tenants to tenants in common to each have a share of their home that a trust can protect. As part of their estate planning, we assist them with this and advise them on options suitable to their personal circumstances.

How do I change from joint tenants to tenants in common?
The process is called 'severance of tenancy' and involves adding a restriction to the property title at the Land Registry. Don't worry – we can assist you with this as part of your estate planning. Changing from joint tenants to tenants in common does not affect your mortgage or the value of your home or trigger any taxes.

What other things do I need to consider?
You must have **an up-to-date will** to have peace of mind and control over who inherits your property. In addition, having a **Lasting Power of Attorney** means that if you lose mental capacity due to an accident or illness, people you trust have the legal powers they need to protect and deal with your property and financial affairs.

If you have a **mortgage**, you must consider the impact of your death, especially if you want your loved ones to be able to continue living there. For most people, having life insurance gives peace of mind that the mortgage is covered and avoids the need to sell the property.

If you have life insurance, it is important to check your policy to see whether this is payable to your estate (and distributed by your will) or to nominated beneficiaries via a trust.

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