

## **Ownership of the Family Home**

When married couples separate there can be a lot of confusion as to their entitlement to family assets.

Wives often worry that if the family home is in the husband's sole name then they have no entitlement to it and husbands often mistakenly believe that by having an asset in their sole name means that it will not fall into the pool of assets to be divided up on divorce.

If the family home is owned in one parties' sole name the other party can register their interest at the Land Registry which will prevent the owner from dealing with the property without the other's knowledge. This can stop the home being sold or re-mortgaged without both parties' knowledge and agreement.

In divorce cases the court has the discretion and the power to change the ownership of the property and to determine the shares with either party is entitled to. This is always subject to any mortgage on the property.

In cases where parties are not married different rules apply as to the ownership and how the level of interest is determined.

People either own the property as "Joint Tenants" or as "Tenants in Common". Where parties are joint tenants the rule of survivorship exists which means that if one party died their share of the property automatically passes to the surviving owner even if they made a will intending to leave the property to someone else.

This is not the case with Tenants in Common who are free to leave their share of the property by will or the rules of intestacy to anyone they choose.

It is possible to convert a joint tenancy to a tenancy in common and thereby enable you to leave the property to someone other than your joint owner by a simple procedure called severance. The consequences of severance must be considered carefully and all of our solicitors and our vast conveyancing department are able to provide expert guidance in relation to this issue.